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

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Part 2419

Implementation of the Administrative False Claims Act; Correction

AGENCY: Federal Labor Relations Authority.

ACTION: Final rule; correction.

SUMMARY: The Federal Labor Relations Authority (FLRA) is correcting a final rule that appeared in the **Federal Register** on April 23, 2026. The final rule established procedural regulations for the Administrative False Claims Act (AFCA) at the FLRA. The AFCA is at 31 U.S.C. 3801 through 3812. The AFCA requires the promulgation of rules and regulations necessary to implement the AFCA.

DATES: Effective May 26, 2026.

FOR FURTHER INFORMATION CONTACT: Thomas Tso, Solicitor and Federal Register Liaison, (771) 444–5779, *SolMail@flra.gov.*

SUPPLEMENTARY INFORMATION: In FR Doc. 2026–07877, appearing on page 21713 in the **Federal Register** of April 23, 2026, the following corrections are made:

PART 2419 [CORRECTED]

■ 1. On page 21715, in the first column, the Words of Issuance are corrected to read ''For the reasons stated in the preamble, the FLRA amends 5 CFR chapter XIV by adding part 2419 to subchapter B to read as follows:''

§ 2419.1 [Corrected]

■ 2. On page 21715, in the first column, in § 2419.1, in paragraph (a), ''This subpart implements the Administrative False Claims Act, codified at 31 U.S.C. 3801 through 3812.'' is corrected to read ''This part implements the Administrative False Claims Act, codified at 31 U.S.C. 3801 through 3812.''

Dated: May 6, 2026.

Thomas Tso,

Solicitor, Federal Labor Relations Authority.

[FR Doc. 2026–09148 Filed 5–7–26; 8:45 am]

BILLING CODE 7627–01–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 210, 215, 220, and 226

[FNS–2026–0067]

RIN 0584–AF28

Expanding Fluid Milk Options in Child Nutrition Programs

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Final rule with comment period.

SUMMARY: This final rule with comment period (''final rule'') expands fluid milk options by allowing schools and child and adult care providers participating in Child Nutrition Programs to offer whole and reduced-fat milk to participants two years and older. This rule codifies milkfat requirements following enactment of the Whole Milk for Healthy Kids Act and supports the statutory requirements for meals to align with the goals of the Dietary Guidelines for Americans. By removing previous fluid milkfat-content restrictions, this deregulatory rule restores flexibility to Program operators, allowing them to offer a greater variety of fluid milk options, including whole and reduced-fat milk, to meet the nutrition needs and preferences of the children and adults they serve.

DATES:

Effective date: This rule is effective June 8, 2026.

Comment date: To be assured of consideration, comments on this final rule must be received on or before June 8, 2026.

ADDRESSES: The Food and Nutrition Service, USDA, invites interested persons to submit written comments on this final rule. Comments may be submitted in writing by one of the following methods:

- *Online (preferred):* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Send comments to School Meals Policy Division, Food and Nutrition Service, 1320 Braddock Place, Alexandria, VA 22314.

All written comments submitted in response to this final rule will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. FNS will make the written comments publicly available on the internet via *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: School Meals Policy Division—4th floor, Food and Nutrition Service, 1320 Braddock Place, Alexandria, VA 22314; telephone: 703–305–2054.

SUPPLEMENTARY INFORMATION:

Table of Abbreviations

CACFP—Child and Adult Care Food Program
CNP—Child Nutrition Programs
FNS—Food and Nutrition Service
NSLA—National School Lunch Act
NSLP—National School Lunch Program
SBP—School Breakfast Program
SFA—School Food Authority
SMP—Special Milk Program
USDA—United States Department of Agriculture
WMFHKA—Whole Milk for Healthy Kids Act

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Section 2: Milkfat Requirements for Child Nutrition Programs
Section 3: Procedural Matters

Section 1: Background

On January 7, 2026, the U.S. Department of Health and Human Services and U.S. Department of Agriculture (USDA) jointly released the *Dietary Guidelines for Americans, 2025–2030* [1] (*Dietary Guidelines*). The *Dietary Guidelines* state that ''dairy is an excellent source of protein, healthy fats, vitamins, and minerals'' and recommends including full-fat dairy as a part of a healthy diet. Specifically, the *Scientific Foundation for the Dietary Guidelines* highlight the importance of full-fat dairy to help children meet energy needs and support brain development during early and middle childhood.[2]

[1] U.S. Departments of Agriculture and Health and Human Services, *Dietary Guidelines for Americans, 2025–2030.* Available at: *https://cdn.realfood.gov/DGA_508.pdf.*

[2] U.S. Departments of Agriculture and Health and Human Services, *The Scientific Foundation for the*

Continued

Additionally, the Whole Milk for Healthy Kids Act of 2025 [3] (WMFHKA) (Pub. L. 119–69), enacted on January 14, 2026, amended the National School Lunch Act [4] (NSLA) by expanding the fluid milk options that may be offered to meet the requirements for fluid milk provided in the National School Lunch Program (NSLP) (42 U.S.C. 1758(a)(2)(A)). The WMFHKA specifically allows schools to offer whole and reduced-fat (2 percent) milk in addition to low-fat (1 percent) and fat-free options at school lunch. It also allows school food authorities (SFA) to exclude the saturated fat from fluid milk when calculating the weekly average saturated fat requirement at lunch. Additional provisions of this law are addressed in FNS guidance [5] and will be codified in future rulemaking.

Through this rulemaking, USDA is updating Program regulations to allow whole and reduced-fat milk to be offered to Child Nutrition Program (CNP) participants ages two and up in the NSLP, School Breakfast Program (SBP), Child and Adult Care Food Program (CACFP), and Special Milk Program (SMP). This rule extends the saturated fat exclusion from weekly dietary specifications [6] in NSLP to the SBP. Additionally, this rule expands the option to offer whole and reduced-fat milk in the NSLP afterschool snack service (NSLP afterschool snacks) and the preschool meal pattern for NSLP and SBP and clarifies that whole and reduced-fat milk may now be sold as a compliant beverage for competitive foods, commonly known as Smart Snacks in School (Smart Snacks).[7]

Section 2: Milkfat Requirements for Child Nutrition Programs

Current Requirements

Under section 9 of the NSLA, schools are required to offer students a variety of fluid milk at lunches served under the NSLP (42 U.S.C. 1758(a)(2)(A)). Under section 4 of the Child Nutrition Act of 1966,[8] meals served as part of the SBP must meet the ''minimum nutritional requirements prescribed by the Secretary'' (42 U.S.C. 1773(e)(1)(A)). Additionally, section 9 of the NSLA requires that breakfasts served are ''consistent with the goals of the most recent *Dietary Guidelines for Americans*'' (42 U.S.C. 1758(f)(1)). Under section 17 of the NSLA, the CACFP must ''provide milk in accordance with the most recent version of the *Dietary Guidelines*'' (42 U.S.C. 1766(g)(4)(A)). There is no statutory language regarding the fat content of milk offered in the SMP.

Current regulations for the NSLP (7 CFR 210.10(d)(1)(i)), SBP (7 CFR 220.8(d)), CACFP (7 CFR 226.20(a)(1)), and SMP (7 CFR 215.7a(a)), state that whole and reduced-fat milk are not creditable for children 2 years and older and adult participants. Fluid milk requirements are as follows:

- Children 1 year old must be served unflavored whole milk.
- Children 2 through 5 years old must be served unflavored low-fat or unflavored fat-free milk.[9]
- Children 6 years old and older and adults must be served unflavored or flavored,[10] low-fat or fat-free milk.

For NSLP (7 CFR 210.10(b)(2)(ii)) and SBP (7 CFR 220.8(b)(2)(ii)), current regulations require that the average saturated fat content of the meals offered to each age/grade group must be less than 10 percent of total calories. This includes saturated fat from fluid milk.

Current regulations for NSLP afterschool snacks (7 CFR 210.10(o)(2)(i), (3)(i), and (4)(i)) and preschool lunch and breakfast meal patterns (7 CFR 210.10(p) and 220.8(o)) require that milk offered at meals/snacks meet the requirements for the CACFP, under 7 CFR 226.20(a)(1). Current regulations for Smart Snacks (7 CFR 210.11(l)(1)(ii), (2)(ii), and (3)(ii)) require that milk offered as a competitive food meet the requirements for the NSLP, outlined in 7 CFR 210.10(d)(1).

Final Rule

CNP operators participating in NSLP (including NSLP afterschool snack, the preschool meal pattern, and Smart Snacks), SBP (including the preschool meal pattern), CACFP, and SMP may offer children 2 years and older and adult participants whole, reduced-fat, low-fat, and fat-free fluid milk to meet fluid milk requirements in these Programs. The updated fluid milk requirements for each age group are summarized below:

- Fluid milk served to children 1 year old must be unflavored whole milk;
- Fluid milk served to children 2 through 5 years old may be unflavored whole, reduced-fat, low-fat, or fat-free milk; and
- Fluid milk served to children 6 years and older and adult participants may be unflavored or flavored, whole, reduced-fat, low-fat, or fat-free milk.[11]

SFAs participating in the NSLP and SBP may exclude the saturated fat from fluid milk when calculating the weekly average saturated fat requirement at lunch and breakfast.

Program operators are not required, but are encouraged, to make changes to menus under this provision. Program operators have discretion to decide which varieties of fluid milk to offer. For example, Program operators may choose to offer unflavored, whole milk as an option to all Program participants to align with recommendations from the *Dietary Guidelines* to consume full-fat dairy and less added sugars. The revised regulations under this rulemaking give menu planners more flexibility to offer fluid milk options that meet the dietary preferences of Program participants and are compatible with product availability, cost considerations, and other local factors. Accordingly, this final rule amends 7 CFR 210.10(d)(1)(i), 7 CFR 215.7a(a), 7 CFR 220.8(d), and 7 CFR 226.20(a)(1) of the regulatory text.

Procedural Matters

Issuance of a Final Rule With Comment Period

Child Nutrition Programs are not required to undergo notice-and-comment rulemaking because of the exception in 5 U.S.C. 553(a)(2) for

Dietary Guidelines for Americans, 2025–2030. Available at: *https://cdn.realfood.gov/Scientific%20Report_508.pdf.*

[3] Whole Milk for Healthy Kids Act of 2025 (Pub. L. 119–69). Available at: *https://www.congress.gov/119/plaws/publ69/PLAW-119publ69.pdf.*

[4] Richard B. Russell National School Lunch Act. Available at: *https://www.govinfo.gov/content/pkg/COMPS-10333/pdf/COMPS-10333.pdf.*

[5] U.S. Department of Agriculture Food and Nutrition Service, *Whole Milk for Healthy Kids Act of 2025—Implementation Requirements for the National School Lunch Program,* January 14, 2026. Available at: *https://www.fns.usda.gov/nslp/wmfhka-implementation.*

[6] Average saturated fat content of the meals offered to each age/grade group must be less than 10 percent of total calories (7 CFR 210.10(b)(2)(ii) and 220.8(b)(2)(ii)).

[7] The Summer Food Service Program does not have limits for fat content for fluid milk and current requirements allow whole and reduced-fat milk. The Seamless Summer Option does not have meal pattern requirements in regulations but FNS guidance (SP 09–2017) states that this meal service aligns with the meal pattern established for NSLP and SBP, thus the updated requirements allow whole and reduced-fat milk.

[8] Child Nutrition Act of 1966. Available at: *https://www.govinfo.gov/content/pkg/COMPS-10328/pdf/COMPS-10328.pdf.*

[9] Per FNS Guidance, children between the ages of 24 months to 25 months may be served unflavored whole or reduced-fat to help with the transition to low-fat and fat-free milk. Breastmilk may be served to a child of any age.

[10] Flavored milk must contain no more than 10 grams of added sugars per 8 fluid ounces, or for flavored milk sold as competitive food for middle and high schools, 15 grams of added sugars per 12 fluid ounces. Added sugar limit for flavored milk does not apply to CACFP.

[11] Statute requires schools have the option to offer flavored and unflavored fluid milk in the NSLP (42 U.S.C. 1758(a)(2)(A)(ii)).

matters relating to benefits. While USDA may choose to promulgate Child Nutrition Program regulations through the notice-and-comment procedures laid out in 5 U.S.C. 553(b) and (c), it is not mandatory for rules, such as this one, that relate to benefits. USDA also believes a final rule is optimal in this instance to quickly implement the relatively straightforward provisions of WMFKA and, to ensure consistency across Child Nutrition Programs, extend those policies to SBP, CACFP, and SMP.

Nevertheless, USDA always welcomes input from the public and has provided a comment period with this final rule. Comments will help USDA weigh stakeholder input when considering any future guidance or rulemaking on the expansion of fluid milk options.

Executive Order 12866 and 13563

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 rule is considered an Executive Order 14192 deregulatory action.

This final rule has been determined to be significant under section 3(f) of Executive Order 12866, but not economically significant under section 3(f)(1), and was reviewed by the Office of Management and Budget (OMB) in conformance with Executive Order 12866.

Economic Analysis

An economic analysis was developed for this rule. It is included in the docket for this rulemaking as an Appendix. The analysis presents three possible scenarios for how this rule may impact USDA's Child Nutrition Programs, as well as dairy sector businesses that supply it. Two of the three scenarios project no significant change in costs to Program operators, while the third projects an average annualized savings of about $15 million to Program operators over the next five years due to substitutions of flavored for unflavored milk with a higher fat content. We do not project a net change in revenue for the dairy sector because we expect that the primary impact will be a redistribution of revenue across industry subsectors as opposed to a net increase or decrease in sales to the Program.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires agencies to analyze the impact of rulemaking on small entities and consider alternatives that would minimize any significant impacts on a substantial number of small entities. Pursuant to that review, it has been certified that this rule would not have a significant economic impact on a substantial number of small entities.

Most school districts are small entities for purposes of the Regulatory Flexibility Act. Eleven thousand of the NSLP's 19,000 SFAs enroll fewer than 1,000 students. More than 14,000 enroll fewer than 2,500 students. There are 19,000 sponsoring organizations and independent centers in the CACFP as well as 68,000 day care home providers. These CACFP institutions are primarily small entities. This final rule does not require these entities to make any changes. This rule provides Program operators with additional flexibility to offer fluid milk options that meet the dietary preferences of Program participants and are compatible with product availability, cost considerations, and other local factors. As discussed in this rule's Paperwork Reduction Act section, the rule imposes no additional reporting or record keeping requirement on Program operators, whether or not they take advantage of the rule's added flexibility. In two of three scenarios analyzed in USDA's Economic Analysis, this rule will have no impact on these entities' costs. Under a third scenario, considered the least likely of the three, the rule would result in a modest cost savings.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 of the UMRA, the Department generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local or tribal governments, in the aggregate, or the private sector, of $146 million or more (when adjusted for inflation; GDP deflator source: Table 1.1.9 at *http://www.bea.gov/iTable*) in any one year. When such a statement is needed for a rule, Section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the most cost effective or least burdensome alternative that achieves the objectives of the rule.

This final rule does not contain Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and tribal governments or the private sector of $146 million or more in any one year. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

The NSLP, SMP, SBP, and CACFP are listed in the Catalog of Federal Domestic Assistance under NSLP No. 10.555, SMP No. 10.556, SBP No. 10.553, and CACFP No. 10.558, respectively, and are subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials (see 2 CFR chapter IV). Since the Child Nutrition Programs are State-administered, USDA's FNS Regional Offices have formal and informal discussions with State and local officials, including representatives of Indian Tribal Organizations, on an ongoing basis regarding Program requirements and operations. This provides USDA with the opportunity to receive regular input from Program administrators and contributes to the development of feasible Program requirements.

Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under Section (6)(b)(2)(B) of Executive Order 13132.

The Department has determined that this rule does not have Federalism implications. This rule does not impose substantial or direct compliance costs on State and local governments. Therefore, under Section 6(b) of the Executive Order, a Federalism summary impact statement is not required.

Executive Order 12988, Civil Justice Reform

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full and timely implementation. This rule is not

intended to have retroactive effect unless so specified in the Effective Dates section of the final rule. Prior to any judicial challenge to the provisions of the final rule, all applicable administrative procedures must be exhausted.

Civil Rights Impact Analysis

FNS has reviewed this final rule in accordance with USDA Regulation 4300–4, ''Civil Rights Impact Analysis,'' to identify any major civil rights impacts the rule might have on Program participants on the basis of age, race, color, national origin, sex or disability. After a careful review of the rule's intent and provisions, FNS has determined that this rule is not expected to affect the participation of protected individuals in the NSLP, SBP, CACFP or SMP.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

This rule does not have Tribal implications that rise to the level of triggering Tribal consultation, provided that the final rule does not affect the availability of milk substitutes for participants of the affected Programs. If a Tribe requests consultation, FNS will work with the Office of Tribal Relations to ensure meaningful consultation is provided.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; 5 CFR 1320) requires the Office of Management and Budget (OMB) approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number.

This rule contains information collections that have been approved by OMB under OMB #0584–0006, (The National School Lunch Program), #0584–0012 (The School Breakfast Program), #0584–0005 (The Special Milk Program for Children), and #0584–0280 (The Child and Adult Care Food Program).

This rule relaxes previous restrictions on the fat content of milk that Program operators may serve to children in the NSLP, the SBP, and the SMP; it likewise relaxes the restriction on fat content that Program operators may serve to children and adults in the CACFP. The rule encourages, but does not require Program operators to offer whole milk and reduced-fat (2 percent) milk where they had previously been restricted to offering low-fat (1 percent) and fat-free (skim) milk. Program operators in each of these Programs prepare and maintain menus. To the extent that they elect to offer whole or reduced-fat (2 percent) milk in addition to, or in place of, the options previously permitted, these operators will reflect those changes on updated menus.

In the NSLP and the SBP, schools must maintain meal menu records. These records show that meals offered to school children meet regulatory meal pattern requirements. USDA estimates that schools incur a paperwork burden of 0.25 hours (for lunch menus) and 0.12 hours (for breakfast menus) for each of the 180 days of the average school year to keep these records. Although the types of milk on these menus will change if SFAs and schools elect to take advantage of the rule's relaxation of milk fat standards, the daily burden of maintaining these menu records (under 7 CFR 210.10(a)(3) and 210.15(b)(3) for the NSLP, and 220.8(a)(3) and 220.9(a) for the SBP) is unchanged. The rule does not add to or modify the existing recordkeeping requirement.

Schools and institutions that participate in the SMP must maintain records of their agreement with the state agency to operate the Program, eligibility applications from households, and financial and other records that document their Program operations, as necessary, to support state administrative reviews and federal audits. Permitting SMP operators to offer whole milk and reduced-fat (2 percent) milk to Program participants leaves those recordkeeping requirements, and the associated burden, unchanged.

CACFP institutions, facilities, and day care home providers maintain copies of menus as part of their general recordkeeping to support their claims for reimbursement. USDA captures the burden of keeping menu records as a component of the broader record keeping requirements in 7 CFR 226.10, 226.15, 226.17, and 226.18. Institutions, facilities, and day care home providers that choose to include whole milk or reduced-fat (2 percent) milk on their menus will not incur an increase or realize a reduction in the burden of maintaining those menu records.

E-Government Act Compliance

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

List of Subjects

7 CFR Part 210

Grant programs—education, Grant programs—health, Infants and children, Nutrition, Penalties, Reporting and recordkeeping requirements, School breakfast and lunch programs, Surplus agricultural commodities.

7 CFR 215

Food assistance programs, Grant programs—education, Grant programs—health, Infants and children, Milk.

7 CFR Part 220

Grant programs—education, Grant programs—health, Infants and children, Nutrition, Reporting and recordkeeping requirements, School breakfast and lunch programs.

7 CFR Part 226

Accounting, Aged, Day care, Food assistance programs, Grant programs, Grant programs—health, Individuals with disabilities, Infants and children, Intergovernmental relations, Loan programs, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, 7 CFR parts 210, 215, 220, and 226 are amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

■ 1. The authority citation for part 210 continues to read as follows:

Authority: 42 U.S.C. 1751–1760, 1779.

■ 2. In § 210.10:
■ a. Revise paragraph (b)(2)(ii), table 1 to paragraph (c) introductory text, paragraphs (d)(1)(i), (f)(2), (i)(3)(ii) and table 5 to paragraph (o)(2)(ii);
■ b. Redesignate table 5 to paragraph (o)(3)(ii) as table 6 to paragraph (o)(3)(ii) and revise newly redesignated table 6;
■ c. Redesignate table 6 to paragraph (o)(4)(ii) as table 7 to paragraph (o)(4)(ii);
■ d. Redesignate table 7 to paragraph (p)(2) as table 8 to paragraph (p)(2) and revise newly redesignated table 8;

■ e. Redesignate table 8 to paragraph (q)(2) as table 9 to paragraph (q)(2).

The revisions read as follows:

§ 210.10 Meal requirements for lunches and requirements for afterschool snacks.

* * * * *

(b) * * *

(2) * * *

(ii) Average saturated fat content of the meals offered to each age/grade group must be less than 10 percent of total calories (excluding saturated fat from milk used to meet the fluid milk component requirements);

* * * * *

(c) * * *

TABLE 1 TO PARAGRAPH (c) INTRODUCTORY TEXT—NATIONAL SCHOOL LUNCH PROGRAM MEAL PATTERN

Meal components	Amount of food [1] per week (minimum per day)		
	Grades K–5	Grades 6–8	Grades 9–12
Fruits (cups) [2]	2½ (½)	2½ (½)	5 (1).
Vegetables (cups) [2]	3¾ (¾)	3¾ (¾)	5 (1).
Dark Green Subgroup [3]	½	½	½.
Red/Orange Subgroup [3]	¾	¾	1¼.
Beans, Peas, and Lentils Subgroup [3]	½	½	½
Starchy Subgroup [3]	½	½	½.
Other Vegetables Subgroup [3 4]	½	½	¾.
Additional Vegetables from Any Subgroup to Reach Total	1	1	1½.
Grains (oz. eq.) [5]	8–9 (1)	8–10 (1)	10–12 (2).
Meats/Meat Alternates (oz. eq.) [6]	8–10 (1)	9–10 (1)	10–12 (2).
Fluid Milk (cups) [7]	5 (1)	5 (1)	5 (1).
Dietary Specifications: Daily Amount Based on the Average for a 5-Day Week [8]			
Minimum-Maximum Calories (kcal)	550–650	600–700	750–850.
Saturated Fat (% of total calories) [9]	<10	<10	<10.
Added Sugars (% of total calories)	<10	<10	<10.
Sodium Limit: In place through June 30, 2027	≤1,110 mg	≤1,225 mg	≤1,280 mg.
Sodium Limit: Must be implemented by July 1, 2027	≤935 mg	≤1,035 mg	≤1,080 mg.

[1] Food items included in each group and subgroup and amount equivalents.

[2] Minimum creditable serving is ⅛ cup. One quarter-cup of dried fruit counts as ½ cup of fruit; 1 cup of leafy greens counts as ½ cup of vegetables. No more than half of the fruit or vegetable offerings may be in the form of juice. All juice must be 100 percent full-strength.

[3] Larger amounts of these vegetables may be served.

[4] This subgroup consists of ''Other vegetables'' as defined in paragraph (c)(2)(ii)(E) of this section. For the purposes of the NSLP, the ''Other vegetables'' requirement may be met with any additional amounts from the dark green, red/orange, and bean, peas, and lentils vegetable subgroups as defined in paragraph (c)(2)(ii) of this section.

[5] Minimum creditable serving is 0.25 oz. eq. At least 80 percent of grains offered weekly (by ounce equivalents) must be whole grain-rich as defined in § 210.2 and the remaining grains items offered must be enriched.

[6] Minimum creditable serving is 0.25 oz. eq.

[7] Minimum creditable serving is 8 fluid ounces. All fluid milk must meet the requirements in paragraph (d) of this section.

[8] By July 1, 2027, schools must meet the dietary specification for added sugars. Schools must meet the sodium limits by the dates specified in this chart. Discretionary sources of calories may be added to the meal pattern if within the dietary specifications.

[9] Saturated fat from milk used to meet the fluid milk component requirements is excluded from the weekly dietary specification.

* * * * *

(d) * * *

(1) * * *

(i) Schools must offer students a variety (at least two different options) of fluid milk at lunch daily. Milk may be whole, reduced-fat (2 percent), low-fat (1 percent), or fat-free (skim). Lactose-free and reduced-lactose fluid milk may also be offered.

* * * * *

(f) * * *

(2) *Saturated fat.* School lunches offered to all age/grade groups must, on average over the school week, provide less than 10 percent of total calories from saturated fat (excluding saturated fat from milk used to meet the fluid milk component requirements).

* * * * *

(i) * * *

(3) * * *

(ii) *Analyzed nutrients.* The analysis determines the average levels of calories, saturated fat (excluding saturated fat from milk used to meet the fluid milk component requirements), added sugars, and sodium in the meals offered over a school week. It includes all food items offered by the reviewed school over a one-week period.

* * * * *

(o) * * *

(2) * * *

(ii) * * *

TABLE 5 TO PARAGRAPH (o)(2)(ii)—AFTERSCHOOL SNACK MEAL PATTERN FOR K–12 CHILDREN [AGES 6–18]

[Select two of the five components for a reimbursable snack]

Meal components [1]	Minimum quantities [2]
Fluid Milk [3]	8 fluid ounces.
Meats/meat alternates [4]	1 ounce equivalent.
Vegetable [5]	¾ cup.
Fruits [5]	¾ cup.
Grains [6]	1 ounce equivalent.

[1] Must serve two of the five components for a reimbursable afterschool snack. Only one of the two components may be a beverage.

[2] May need to serve larger portions to children ages 13 through 18 to meet their nutritional needs.
[3] Milk may be unflavored or flavored.
[4] Alternate protein products must meet the requirements in appendix A to part 226 of this chapter. Yogurt must contain no more than 12 grams of added sugars per 6 ounces (2 grams of added sugars per ounce). Information on crediting meats/meat alternates may be found in FNS guidance.
[5] Juice must be pasteurized, full-strength juice. No more than half of the weekly fruit or vegetable offerings may be in the form of juice.
[6] At least 80 percent of grains offered weekly (by ounce equivalents) must be whole grain-rich, as defined in § 210.2, and the remaining grains items offered must be enriched. Grain-based desserts may not be used to meet the grains requirement. Breakfast cereal must have no more than 6 grams of added sugars per dry ounce. Information on crediting grain items may be found in FNS guidance.

(3) * * * (ii) * * *

TABLE 6 TO PARAGRAPH (o)(3)(ii)—AFTERSCHOOL SNACK MEAL PATTERN FOR PRESCHOOLERS

[Select two of the five components for a reimbursable snack]

Meal components [1]	Minimum quantities	
	Ages 1–2	Ages 3–5
Fluid Milk [2]	4 fluid ounces	4 fluid ounces.
Meats/meat alternates [3]	½ ounce equivalent	½ ounce equivalent.
Vegetables [4]	½ cup	½ cup.
Fruits [4]	½ cup	½ cup.
Grains [5]	½ ounce equivalent	½ ounce equivalent.

[1] Must serve two of the five components for a reimbursable afterschool snack. Only one of the two components may be a beverage.
[2] Must be unflavored whole milk for children age one. Must be unflavored milk for children two through five years old.
[3] Alternate protein products must meet the requirements in appendix A to part 226 of this chapter. Through September 30, 2025, yogurt must contain no more than 23 grams of total sugars per 6 ounces. By October 1, 2025, yogurt must contain no more than 12 grams of added sugars per 6 ounces (2 grams of added sugars per ounce). Information on crediting meats/meat alternates may be found in FNS guidance.
[4] Pasteurized full-strength juice may only be offered to meet the vegetable or fruit requirement at one meal, including snack, per day.
[5] At least one serving per day, across all eating occasions, must be whole grain-rich. Grain-based desserts do not count toward meeting the grains requirement. Through September 30, 2025, breakfast cereals must contain no more than 6 grams of total sugars per dry ounce. By October 1, 2025, breakfast cereals must contain no more than 6 grams of added sugars per dry ounce.

* * * * * (2) * * *

(p) * * *

TABLE 8 TO PARAGRAPH (p)(2)—PRESCHOOL LUNCH MEAL PATTERN

[Select the appropriate components for a reimbursable meal]

Meal components [1]	Minimum quantities	
	Ages 1–2	Ages 3–5
Fluid Milk	4 fluid ounces [2]	6 fluid ounces.[3]
Meats/meat alternates [4]	1 ounce equivalent	1½ ounce equivalent.
Vegetables [5]	⅛ cup	¼ cup.
Fruits [5]	⅛ cup	¼ cup.
Grains [6]	½ ounce equivalent	½ ounce equivalent.

[1] Must serve all five components for a reimbursable meal.
[2] Must serve unflavored whole milk to children age 1.
[3] Must serve unflavored milk to children 2 through 5 years old.
[4] Alternate protein products must meet the requirements in appendix A to part 226 of this chapter. Through September 30, 2025, yogurt must contain no more than 23 grams of total sugars per 6 ounces. By October 1, 2025, yogurt must contain no more than 12 grams of added sugars per 6 ounces (2 grams of added sugars per ounce). Information on crediting meats/meat alternates may be found in FNS guidance.
[5] Juice must be pasteurized. Full-strength juice may only be offered to meet the vegetable or fruit requirement at one meal or snack, per day. Vegetables may be offered to meet the entire fruits requirement. When two vegetables are served at lunch or supper, two different kinds of vegetables must be served.
[6] Must serve at least one whole grain-rich serving, across all eating occasions, per day. Grain-based desserts may not be offered to meet the grains requirement. Through September 30, 2025, breakfast cereals must contain no more than 6 grams of total sugars per dry ounce. By October 1, 2025, breakfast cereal must have no more than 6 grams of added sugars per dry ounce. Information on crediting grain items may be found in FNS guidance.

* * * * *

PART 215—SPECIAL MILK PROGRAM FOR CHILDREN

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

Authority: 42 U.S.C. 1772 and 1779.

■ 4. In § 215.7a, revise paragraphs (a)(2) and (3) to read as follows:

§ 215.17a Fluid milk and non-dairy milk substitute requirements.

* * * * *

(a) * * *

(2) *Children 2 through 5 years old.* Children two through five years old may be served whole, reduced-fat (2 percent), low-fat (1 percent), or fat-free (skim) milk. Milk must be unflavored.

(3) *Children 6 years old and older.* Children 6 years old and older may be served whole, reduced-fat (2 percent), low-fat (1 percent), or fat-free (skim) milk. Milk may be flavored or unflavored.

* * * * *

PART 220—SCHOOL BREAKFAST PROGRAM

■ 5. The authority citation for part 220 continues to read as follows:

Authority: 42 U.S.C. 1773, 1779, unless otherwise noted.

■ 6. Amend § 220.8 by revising paragraph (b)(2)(ii), table 1 to paragraph (c) introductory text, paragraphs (d), (f)(2), (i) and table 4 to paragraph (o)(2) to read as follows:

§ 220.8 Meal requirements for breakfasts.

* * * * *

(b) * * *

(2) * * *

(ii) Average saturated fat content of the meals offered to each age/grade group must be less than 10 percent of total calories (excluding saturated fat from milk used to meet the fluid milk component requirements) as specified in paragraph (f) of this section;

* * * * *

(c) * * *

TABLE 1 TO PARAGRAPH (c) INTRODUCTORY TEXT—SCHOOL BREAKFAST PROGRAM MEAL PATTERN

Meal components	Amount of food [1] per week (minimum per day)		
	Grades K–5	Grades 6–8	Grades 9–12
Fruits (cups) [2]	5 (1)	5 (1)	5 (1)
Vegetables (cups) [2]	0	0	0
Dark Green Subgroup	0	0	0
Red/Orange Subgroup	0	0	0
Beans, Peas, and Lentils Subgroup	0	0	0
Starchy Subgroup	0	0	0
Other Vegetables Subgroup	0	0	0
Grains or Meats/Meat Alternates (oz. eq.) [3]	7–10 (1)	8–10 (1)	9–10 (1)
Fluid Milk (cups) [4]	5 (1)	5 (1)	5 (1)
Dietary Specifications: Daily Amount Based on the Average for a 5-Day Week [5]			
Minimum-Maximum Calories (kcal)	350–500	400–550	450–600
Saturated Fat (% of total calories) [6]	<10	<10	<10
Added Sugars (% of total calories)	<10	<10	<10
Sodium Limit: In place through June 30, 2027	≤540 mg	≤600 mg	≤640 mg
Sodium Limit: Must be implemented by July 1, 2027	≤485 mg	≤535 mg	≤570 mg

[1] Food items included in each group and subgroup and amount equivalents.

[2] Minimum creditable serving is ⅛ cup. Schools must offer 1 cup of fruit daily and 5 cups of fruit weekly. Schools may substitute vegetables for fruit at breakfast as described in paragraphs (c)(2)(i) and (ii) of this section.

[3] Minimum creditable serving is 0.25 oz. eq. School may offer grains, meats/meat alternates, or a combination of both to meet the daily and weekly ounce equivalents for this combined component. At least 80 percent of grains offered weekly at breakfast must be whole grain-rich as defined in § 210.2 of this chapter, and the remaining grain items offered must be enriched.

[4] Minimum creditable serving is 8 fluid ounces. All fluid milk must meet the requirements in paragraph (d) of this section.

[5] By July 1, 2027, schools must meet the dietary specification for added sugars. Schools must meet the sodium limits by the dates specified in this chart. Discretionary sources of calories may be added to the meal pattern if within the dietary specifications.

[6] Saturated fat from milk used to meet the fluid milk component requirements is excluded from the weekly dietary specification.

* * * * *

(d) *Fluid milk requirements.* Schools must offer students a variety (at least two different options) of fluid milk at breakfast daily. Milk may be whole, reduced-fat (2 percent), low-fat (1 percent), or fat-free (skim). Lactose-free and reduced-lactose fluid milk may also be offered. Milk may be flavored or unflavored, provided that unflavored milk is offered at each meal service. By July 1, 2025, flavored milk must contain no more than 10 grams of added sugars per 8 fluid ounces, or for flavored milk sold as competitive food for middle and high schools, 15 grams of added sugars per 12 fluid ounces. Schools must also comply with other applicable fluid milk requirements in § 210.10(d) of this chapter.

* * * * *

(f) * * *

(2) *Saturated fat.* School breakfast offered to all age/grade groups must, on average over the school week, provide less than 10 percent of total calories from saturated fat (excluding saturated fat from milk used to meet the fluid milk component requirements).

* * * * *

(i) *Nutrient analyses of school meals.* Any nutrient analysis of school breakfasts conducted under the administrative review process set forth in § 210.18 of this chapter must be performed in accordance with the procedures established in § 210.10(i) of this chapter. The purpose of the nutrient analysis is to determine the average levels of calories, saturated fat (excluding saturated fat from milk used to meet the fluid milk component requirements), added sugars, and sodium in the breakfasts offered to each age grade group over a school week.

* * * * *

(o) * * *

(2) * * *

TABLE 4 TO PARAGRAPH (o)(2)—PRESCHOOL BREAKFAST MEAL PATTERN

[Select the appropriate components for a reimbursable meal]

Meal components and food items [1]	Minimum quantities	
	Ages 1–2	Ages 3–5
Fluid Milk [2]	4 fluid ounces	6 fluid ounces.
Vegetables, Fruits, or portions of both [3]	¼ cup	½ cup.

TABLE 4 TO PARAGRAPH (o)(2)—PRESCHOOL BREAKFAST MEAL PATTERN—Continued

[Select the appropriate components for a reimbursable meal]

Meal components and food items [1]	Minimum quantities	
	Ages 1–2	Ages 3–5
Grains (oz. eq.) [4]	½ ounce equivalent	½ ounce equivalent.

[1] Must serve all three components for a reimbursable meal.
[2] Must be unflavored whole milk for children age one. Must be unflavored milk for children two through five years old.
[3] Pasteurized full-strength juice may only be offered to meet the vegetable or fruit requirement at one meal, including snack, per day.
[4] At least one serving per day, across all eating occasions, must be whole grain-rich. Grain-based desserts do not count toward meeting the grains requirement. Meats/meat alternates may be offered in place of the entire grains requirement, up to 3 times per week at breakfast. One ounce equivalent of a meat/meat alternate credits equal to one ounce equivalent of grains. Through September 30, 2025, breakfast cereals must contain no more than 6 grams of total sugars per dry ounce. By October 1, 2025, breakfast cereals must contain no more than 6 grams of added sugars per dry ounce. Information on crediting grain items and meats/meat alternates may be found in FNS guidance.

* * * * *

PART 226—CHILD AND ADULT CARE FOOD PROGRAM

■ 7. The authority citation for part 226 continues to read as follows:

Authority: Secs. 9, 11, 14, 16, and 17, Richard B. Russell National School Lunch Act, as amended (42 U.S.C. 1758, 1759a, 1762a, 1765 and 1766).

■ 8. Amend § 226.20 by revising paragraphs (a)(1)(ii) through (iv), table 2 to paragraph (c)(1), table 3 to paragraph (c)(2), and table 4 to paragraph (c)(3) to read as follows.

§ 226.20 Requirements for meals.

(a) * * *

(1) * * *

(ii) *Children 2 through 5 years old.* Whole, reduced-fat (2 percent), low-fat (1 percent), or fat-free (skim) milk. Milk must be unflavored.

(iii) *Children 6 years old and older.* Whole, reduced-fat (2 percent), low-fat (1 percent), or fat-free (skim) milk may be served. Milk may be unflavored or flavored.

(iv) *Adults.* Whole, reduced-fat (2 percent), low-fat (1 percent), or fat-free (skim) milk may be served. Milk may be unflavored or flavored. Six ounces (weight) or ¾ cup (volume) of yogurt may be used to fulfill the equivalent of 8 ounces of fluid milk once per day. Yogurt may be counted as either a fluid milk substitute or as a meat alternate, but not as both in the same meal.

* * * * *

(c) * * *

(1) * * *

TABLE 2 TO PARAGRAPH (c)(1)—CHILD AND ADULT CARE FOOD PROGRAM BREAKFAST

[Select the appropriate components for a reimbursable meal]

Meal components and food items [1]	Minimum quantities				
	Ages 1–2	Ages 3–5	Ages 6–12	Ages 13–18 [2]	Adult participants
Fluid milk	4 fluid ounces [3]	6 fluid ounces [4]	8 fluid ounces [5]	8 fluid ounces [5]	8 fluid ounces [6].
Vegetables, fruits, or portions of both [7].	¼ cup	½ cup	½ cup	½ cup	½ cup.
Grains [8]	½ ounce equivalent	½ ounce equivalent	1 ounce equivalent	1 ounce equivalent	2 ounce equivalents.

[1] Must serve all three components for a reimbursable meal. Offer versus serve is an option for at-risk afterschool care and adult day care centers.
[2] At-risk afterschool programs and emergency shelters may need to serve larger portions to children ages 13 through 18 to meet their nutritional needs.
[3] Must serve unflavored whole milk to children age 1.
[4] Must serve unflavored milk to children 2 through 5 years old.
[5] May serve unflavored or flavored milk to children ages 6 and older.
[6] May serve unflavored or flavored milk to adults. Yogurt may be offered in the place of milk once per day for adults. Yogurt may count as either a fluid milk substitute or as a meat alternate, but not both, in the same meal. Six ounces (by weight) or ¾ cup (by volume) of yogurt is the equivalent of 8 ounces of fluid milk. Through September 30, 2025, yogurt must contain no more than 23 grams of total sugars per 6 ounces. By October 1, 2025, yogurt must contain no more than 12 grams of added sugars per 6 ounces (2 grams of added sugars per ounce).
[7] Juice must be pasteurized. Full-strength juice may only be offered to meet the vegetable or fruit requirement at one meal or snack, per day.
[8] Must serve at least one whole grain-rich serving, across all eating occasions, per day. Grain-based desserts may not be used to meet the grains requirement. Meats/meat alternates may be offered in place of the entire grains requirement, up to 3 times per week at breakfast. One ounce equivalent of meats/meat alternates credits equal to one ounce equivalent of grains. Through September 30, 2025, breakfast cereals must contain no more than 6 grams of total sugars per dry ounce. By October 1, 2025, breakfast cereals must contain no more than 6 grams of added sugars per dry ounce. Information on crediting grain items and meats/meat alternates may be found in FNS guidance.

(2) * * *

TABLE 3 TO PARAGRAPH (c)(2)—CHILD AND ADULT CARE FOOD PROGRAM LUNCH AND SUPPER

[Select the appropriate components for a reimbursable meal]

Meal components and food items [1]	Minimum quantities				
	Ages 1–2	Ages 3–5	Ages 6–12	Ages 13–18 [2]	Adult participants
Fluid milk	4 fluid ounces [3]	6 fluid ounces [4]	8 fluid ounces [5]	8 fluid ounces [5]	8 fluid ounces [6].

TABLE 3 TO PARAGRAPH (C)(2)—CHILD AND ADULT CARE FOOD PROGRAM LUNCH AND SUPPER—Continued

[Select the appropriate components for a reimbursable meal]

Meal components and food items [1]	Minimum quantities				
	Ages 1–2	Ages 3–5	Ages 6–12	Ages 13–18 [2]	Adult participants
Meats/meat alternates [7].	1 ounce equivalent ...	1½ ounce equivalents.	2 ounce equivalents ..	2 ounce equivalents ..	2 ounce equivalents.
Vegetables [8]	⅛ cup	¼ cup	½ cup	½ cup	½ cup.
Fruits [8]	⅛ cup	¼ cup	¼ cup	¼ cup	½ cup.
Grains [9]	½ ounce equivalent ..	½ ounce equivalent ..	1 ounce equivalent ...	1 ounce equivalent ...	2 ounce equivalents.

[1] Must serve all five components for a reimbursable meal. Offer versus serve is an option for at-risk afterschool care and adult day care centers.

[2] At-risk afterschool programs and emergency shelters may need to serve larger portions to children ages 13 through 18 to meet their nutritional needs.

[3] Must serve unflavored whole milk to children age 1.

[4] Must serve unflavored milk to children 2 through 5 years old.

[5] May serve unflavored or flavored milk to children ages 6 and older.

[6] May serve unflavored or flavored milk to adults. Yogurt may be offered in place of milk once per day for adults. Yogurt may count as either a fluid milk substitute or as a meat alternate, but not both, in the same meal. Six ounces (by weight) or ¾ cup (by volume) of yogurt is the equivalent of 8 ounces of fluid milk. A serving of fluid milk is optional for suppers served to adult participants.

[7] Alternate protein products must meet the requirements in appendix A to this part. Through September 30, 2025, yogurt must contain no more than 23 grams of total sugars per 6 ounces. By October 1, 2025, yogurt must contain no more than 12 grams of added sugars per 6 ounces (2 grams of added sugars per ounce). Information on crediting meats/meat alternates may be found in FNS guidance.

[8] Juice must be pasteurized. Full-strength juice may only be offered to meet the vegetable or fruit requirement at one meal or snack, per day. A vegetable may be offered to meet the entire fruit requirement. When two vegetables are served at lunch or supper, two different kinds of vegetables must be served.

[9] Must serve at least one whole grain-rich serving, across all eating occasions, per day. Grain-based desserts may not be used to meet the grains requirement. Through September 30, 2025, breakfast cereals must contain no more than 6 grams of total sugars per dry ounce. By October 1, 2025, breakfast cereal must contain no more than 6 grams of added sugars per dry ounce. Information on crediting grain items may be found in FNS guidance.

(3) * * *

TABLE 4 TO PARAGRAPH (C)(3)—CHILD AND ADULT CARE FOOD PROGRAM SNACK

[Select two of the five components for a reimbursable snack]

Meal components and food items [1]	Minimum quantities				
	Ages 1–2	Ages 3–5	Ages 6–12	Ages 13–18 [2]	Adult participants
Fluid milk	4 fluid ounces [3]	4 fluid ounces [4]	8 fluid ounces [5]	8 fluid ounces [5]	8 fluid ounces [6].
Meats/meat alternates [7].	½ ounce equivalent ..	½ ounce equivalents	1 ounce equivalents ..	1 ounce equivalents ..	1 ounce equivalents.
Vegetables [8]	½ cup	½ cup	¾ cup	¾ cup	½ cup.
Fruits [8]	½ cup	½ cup	¾ cup	¾ cup	½ cup.
Grains [9]	½ ounce equivalent ..	½ ounce equivalent ..	1 ounce equivalent ...	1 ounce equivalent ...	1 ounce equivalents.

[1] Must serve two of the five components for a reimbursable snack. Milk and juice may not be served as the only two items in a reimbursable snack.

[2] At-risk afterschool programs and emergency shelters may need to serve larger portions to children ages 13 through 18 to meet their nutritional needs.

[3] Must serve unflavored whole milk to children age 1.

[4] Must serve unflavored milk to children 2 through 5 years old.

[5] May serve unflavored or flavored milk to children ages 6 and older.

[6] May serve unflavored or flavored milk to adults. Yogurt may be offered in place of milk, once per day for adults. Yogurt may count as either a fluid milk substitute or as a meat alternate, but not both, in the same meal. Six ounces (by weight) or ¾ cup (by volume) of yogurt is the equivalent of 8 ounces of fluid milk.

[7] Alternate protein products must meet the requirements in appendix A to this part. Through September 30, 2025, yogurt must contain no more than 23 grams of total sugars per 6 ounces. By October 1, 2025, yogurt must contain no more than 12 grams of added sugars per 6 ounces (2 grams of added sugars per ounce). Information on crediting meats/meat alternates may be found in FNS guidance.

[8] Juice must be pasteurized. Full-strength juice may only be offered to meet the vegetable or fruit requirement at one meal or snack, per day.

[9] Must serve at least one whole grain-rich serving, across all eating occasions, per day. Grain-based desserts may not be used to meet the grains requirement. Through September 30, 2025, breakfast cereals must contain no more than 6 grams of total sugars per dry ounce. By October 1, 2025, breakfast cereal must contain no more than 6 grams of added sugar per dry ounce. Information on crediting grain items may be found in FNS guidance.

* * * * *

Patrick A. Penn,

Acting Administrator.

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271 and 278

[Docket ID FNS–2025–0018]

RIN 0584–AF12

Updated Staple Food Stocking Standards for Retailers in the Supplemental Nutrition Assistance Program

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Final rule.

SUMMARY: This rule codifies a new framework for determining distinct staple food varieties for meeting staple food stocking requirements for retailer participation in the Supplemental Nutrition Assistance Program (SNAP). This rule is needed to implement the previously codified provision of the Agricultural Act of 2014 which increased the minimum number of staple food varieties a SNAP retailer must carry from three to seven in each of four staple food categories and the number of food categories for which at least one perishable variety must be provided from two to three. These changes aim to ensure that SNAP retailers can effectively serve SNAP participants by offering a wider variety of staple foods.

DATES: *Effective date:* This rule is effective July 7, 2026.

Implementation date: SNAP retailers must implement the provisions of this rule no later than November 4, 2026 See the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Patrick Penn, Food and Nutrition Service, 1320 Braddock Place, Alexandria, VA 22314, *patrick.penn@usda.gov.*

SUPPLEMENTARY INFORMATION:

Abbreviations

2014 Farm Bill The Agricultural Act of 2014
CFR Code of Federal Regulations
FNS Food and Nutrition Service
SBREFA Small Business Regulatory Enforcement Fairness Act
SNAP Supplemental Nutrition Assistance Program
RFA Regulatory Flexibility Act
RIA Regulatory Impact Analysis
UMRA Unfunded Mandates Reform Act
U.S.C. United States Code
USDA, the Department United States Department of Agriculture

Executive Summary

Purpose of the Regulatory Action

This rule finalizes the provisions of a proposed rule published on September 25, 2025 (90 FR 46081). With this final rule, the Department is amending 7 CFR 278.1 to codify a framework for determining distinct staple food varieties needed to meet retailer stocking requirements for SNAP participation. The updated framework emphasizes simplicity and consistency for retailer implementation as well as the importance of access to whole, real nutrient-dense foods for SNAP participants.

Upon the implementation date of this final rule, all of the provisions of the 2014 Farm Bill that increased the number of varieties, including perishable varieties that retailers must carry to become authorized to accept SNAP benefits, must be implemented and will be enforced. These provisions were first codified by the final rule, Enhancing Retailer Standards in the Supplemental Nutrition Assistance Program (SNAP) (81 FR 90675), published on December 15, 2016 (herein after referred to as the 2016 Final rule), though certain provisions of this rule have not been enforced due to annual appropriations language blocking implementation.

Additionally, this final rule updates and reorganizes definitions at 7 CFR 271 for greater clarity and to avoid redundancies and possible inconsistencies.

Summary of Changes From Proposed Rule

The final rule incorporates the following substantive changes to the proposed provisions:

* The descriptions of group 1 and group 2 distinct varieties will be revised for clarification, and some food products will be moved from group 2 to group 1 to align with those descriptions.
* A new group 3 will be created for distinct shelf-stable varieties and applicable varieties will move to this group from group 2. This new grouping is solely for clearer organizational purposes and does not involve the creation of new distinct varieties.
* The following distinct varieties will be moved from group 2 to group 1 as single-ingredient staple food varieties that are distinct from multi-ingredient products with the same main ingredient:
  - Shell eggs;
  - Perishable meat, poultry, or fish; and
  - Perishable liquid milk.
* Liquid milk will not be divided into distinct varieties by mammal;
* The following new distinct varieties will be added to group 2 as staple food varieties distinct from any other multi-ingredient products with same main ingredient:
  - Whole grain bread;
  - Whole grain pasta/noodles;
  - Shredded cheese; and
  - Sour cream.
* Breakfast cereals will be its own distinct variety and other breakfast foods will be classified as multi-ingredient foods based on their main ingredient.
* Butter and all jerky will be classified as accessory foods.

Background

The 2014 Farm Bill amended the Food and Nutrition Act to increase the number of staple food varieties that certain SNAP authorized retail food stores must have available on a continuous basis in each of four staple food categories. The staple food breadth of stock standards increased from requiring a minimum of three (3) varieties to seven (7) varieties in each of the four (4) staple food categories and raised the number of varieties that must be perishable from one (1) variety in each of two (2) different staple food categories to one (1) variety in each of three (3) different staple food categories. Although these increased standards were codified in the 2016 final rule, section 765 of the Consolidated Appropriations Act of 2017 and provisions in subsequent appropriations acts have prohibited the Department from implementing, administering, or enforcing the retailer ''Breadth of Stock'' and ''Variety'' provisions of the 2016 final rule until the Department makes regulatory modifications to the definition of ''variety'' that would increase the number of food items that count as acceptable staple food varieties for purposes of SNAP retailer eligibility. This final rule will satisfy the conditions of the appropriations language and allow the SNAP retailer staple food breadth of stock standards in the 2014 Farm Bill to go into effect.

Specially Designated Varieties (Groups 1–3)

Many commenters expressed confusion about the differences between the proposed groups 1 and 2 in the regulatory text. Some commenters also incorrectly believed that multi-ingredient foods that were not specifically identified in the proposed regulatory text, such as canned soup, would not count as staple foods at all. To better define the differences between the groups in the regulatory text, the final rule breaks up and reorganizes the

proposed subparagraph 7 CFR 278.1(b)(1)(ii)(C) into further subparagraphs and revises descriptive language. As a result, the final regulatory text now separates the default definition for determining distinct varieties from specially designated varieties listed under 7 CFR 278.1(b)(1)(ii)(D). Additionally, the final regulatory text includes a third group specifically for specially designated shelf-stable varieties and addresses plant-based alternatives under a separate subparagraph at 7 CFR 278.1(b)(ii)(E). Specific policy changes are discussed further below under section IV. Summary of Comments and Explanation of Revisions.

Default Definition of ''Variety''

For all foods not specifically identified as specially designated varieties under 7 CFR 278.1(b)(ii)(D), the definition of a distinct variety at 7 CFR 278.1(b)(1)(ii)(C) in the final rule applies, including the definition for determining the variety of multi-ingredient products. For example, because there are no specially designated varieties identified for the fruit and vegetable staple food category, the default definition will apply to all fruits and vegetables. This means, for example, that fresh tomatoes, 100% tomato juice, a can of diced tomatoes, and a jar of pasta sauce with tomatoes as the main ingredient all count as one ''tomato'' variety.

Group 1 (Single-Ingredient Varieties)

The purpose of group 1 under 7 CFR 278.1(b)(1)(ii)(D)(*1*), Single-ingredient varieties, is to identify specific single-ingredient foods that count as separate varieties from multi-ingredient food with the same main ingredient. The Department is defining single-ingredient foods as foods that contain no other ingredients, or in which the only other ingredients are fortifying vitamins. The following items that were proposed as distinct varieties under group 2 have been moved to group 1 in the final rule to more accurately reflect the Department's intention to count these items as separate varieties from multi-ingredient products when they do not have any other ingredients: eggs; perishable meat, poultry, or fish; and perishable liquid milk. This reorganization effectively means that several new varieties within group 1 have been created. For example, seasoned chicken breast is now a distinct variety from plain chicken breast because seasoned items are multi-ingredient products. Similarly, flavored or sweetened milk is now a distinct variety from non-flavored or non-sweetened milk. The Department has decided to make this change in the final rule for the sake of simplicity and consistency.

Group 2 (Derivative Food Product Varieties)

In contrast to group 1, the purpose of group 2 under 7 CFR 278.1(b)(1)(ii)(D)(*2*), Derivative food product varieties, is to identify specific multi-ingredient food products that count as separate varieties from not only the single-ingredient items in group 1, but also from any other multi-ingredient products. No products that were identified in the proposed rule were moved into group 2. However, because cream is generally a perishable base ingredient that often contains other ingredients, such as milk, sodium, and/or stabilizers, it does not conform with the purposes of any of the groups. As a result, the Department is removing cream from group 2. Instead, cream will be classified as a separate variety from milk based on its main ingredient according to the default definition of variety. This change is solely for consistent organizational purposes and does not result in a substantive policy change from the proposed rule.

Group 3 (Shelf-Stable Varieties)

Group 3 was created in the final rule under 7 CFR 278.1(b)(1)(ii)(D)(*3*), Shelf-stable varieties, to more clearly account for distinct shelf-stable varieties that may or may not be multi-ingredient products and, therefore, did not neatly fit in either group 1 or 2. For example, without this separate group, FNS would either need to look at the ingredients list for individual canned products to ensure they did not have any other ingredients under group 1, which is not operationally feasible, or count items, such as raw ground pork, as the same variety as potted meat with pork as the main ingredient, which was not the intent. The creation of group 3 does not result in any substantive policy changes from the proposed rule.

Summary of Comments and Explanation of Revisions

The Department received 231 comments on the proposed rule, including 65 copies associated with two different form letter campaigns, 112 other substantive comments, 50 other unique comments, one duplicate, and three non-germane submissions.

Overall, commenters expressed support for the proposed rule's stated goals of improving nutrition and expanding healthy choices for SNAP participants while improving regulatory clarity for participating retailers. Commentors specifically noted that the proposed changes have great potential to improve health by encouraging retailers to offer more whole foods rather than processed foods and to stock a wider range of fruits, vegetables, grains, dairy, and proteins, including plant-based and more culturally relevant foods. They also noted that the changes modernize and clarify staple food definitions, strengthen stocking standards, and align the regulatory expectations with Congressional intent to close loopholes that diminish program integrity by allowing retailers to meet minimum requirements by stocking low-nutrition items.

Several comments urged the Department to go even further by stipulating ''healthy'' standards for staple foods. For example, commenters suggested not counting foods that are high in added sugar, sodium, or saturated fat as staple foods, or requiring that retailers stock a certain percentage of ''healthy'' staple foods as a condition of SNAP authorization. Several commenters also suggested making accessory foods ineligible for purchase with SNAP benefits. Another commenter recommended the Department prohibit SNAP retailers from advertising certain unhealthy products in their stores, such as alcohol and sugary drinks. While the Department appreciates receiving these comments, such changes are outside of the scope of this rulemaking, which is to satisfy the conditions of the appropriations language to provide retailers with additional distinct varieties to better help them meet the increased breadth of stock retailer standards of the 2014 Farm Bill.

The main areas in which commenters expressed opposition were related to the inability of small-format retailers to meet the increased standards in the dairy and grains staple food categories, which they believed would lead to reduced SNAP household access to authorized stores and the creation of food deserts. Multiple commenters also emphasized the need for technical assistance to help smaller and rural retailers meet the new stocking requirements.

The Department has reviewed and considered all comments received. A discussion of the substantive concerns expressed by commenters and any related changes to the proposed provisions follows.

Role of Small-Format Retailers

The Department received multiple comments about the importance of convenience stores, indicating that they offer convenient locations and hours,

providing shoppers with options for fill-in shopping. Moreover, for people with limited mobility, rural communities, or Tribal communities, one nearby convenience store may be the only access point for buying food. The Department appreciates these comments and understands that the Congressionally mandated increase in the number of staple food varieties SNAP retailers must carry may render some currently authorized stores ineligible for continued SNAP participation or prevent other stores from becoming SNAP authorized. While one of the primary goals of the increased stocking standards is to make a greater variety of nutritious foods available to SNAP households, another related goal is to ensure all authorized retailers further the purpose of the program to raise the levels of nutrition among low-income households in order to better protect the overall integrity of the program. In Federal fiscal year 2024, 93 percent of all SNAP retailer sanctions FNS imposed were for violations at small format stores like convenience stores, small grocery stores, and stores whose primary business is not food sales. Convenience stores, specifically, accounted for nearly half (44 percent) of all SNAP retailers and 76 percent of all SNAP sanctions, but only five percent of SNAP redemptions. Such data indicates convenience stores, in general, represent a significant integrity risk and, at the same time, do not provide significant points of access for SNAP households to use their benefits. For small format stores that do provide significant points of access, offering more staple food varieties may help increase their SNAP customer business. Additionally, it was Congress' intent to make the stocking standards more rigorous so that unscrupulous retailers are not able to gain entry into SNAP for the sole purpose of defrauding the program (H.R. Rep No. 113–333, 2014). In a December 2018 report, *SNAP: Actions Needed to Better Measure and Address Retailer Trafficking,* the General Accountability Office (GAO) reiterated its 2006 finding that the minimal requirements for the amount of food that retailers must stock could allow retailers more likely to traffic SNAP benefits (*i.e.,* illegally exchanging SNAP benefits for cash or consideration other than eligible food) into the program.

With all these factors in mind, the Department believes that the final rule balances expanding nutritional choices for SNAP households and making compliance with the increased standards achievable for small retailers that are reputable and effective representatives of the program.

The Department also notes that the ability to make SNAP purchases online for food delivery provides many SNAP households in areas without convenient access to brick-and-mortar grocery stores alternative options for meeting their grocery needs. Further, given the limited retail food store options in low food access areas, the Department believes it is even more important that SNAP-authorized retailers in such areas carry a wide variety of staple foods rather than expecting SNAP households to rely on stores whose primary food sales business is accessory foods.

New Dairy Varieties

Approximately 100 commenters expressed concern that the Department did not provide sufficient flexibility in the dairy staple food category and recommended that the dairy products in group 2 be sub-divided into additional distinct varieties. Multiple advocacy groups, SNAP retailers, and trade associations expressed concern that small retailers, in particular, would not be able to comply with the proposed dairy stocking requirements, noting that refrigerated space is limited for perishable products. They stated that stocking additional products, which are mostly perishable, would lead to waste and higher operating costs. One commenter also indicated that they cannot reliably source milk from non-cow mammals, which have limited demand in convenience retail. Several commenters recommended the Department count full fat and reduced fat milk products as distinct varieties for milk, yogurt, and cheese. Some also asked for different types of cheese to count as distinct varieties, including counting spreadable cheese, soft cheese, and hard cheese as separate varieties. One industry group expressed the importance of providing SNAP households the ability to obtain dairy products in a form that meets their preference for taste, nutritional value, and convenience, indicating that cheese comes in variety of forms, including blocks, shreds, and shapes. Several industry groups and a food manufacturer also recommended that the Department count flavored milk or flavored dairy products as separate varieties. These commenters cited studies demonstrating that consuming flavored milk has similar health benefits to consuming unflavored milk.

While the proposed rule added several other dairy varieties that are not counted under current agency policy, the Department acknowledges that stocking a sufficient number of varieties in the dairy category represents the biggest challenge for small retailers. Therefore, the Department is adding shredded cheese, including grated, shaved, and crumbled cheese, as a separate variety from non-shredded cheese, and sour cream as a separate variety from any other product with cream as the main ingredient under group 2. While the Department understands that under this construct, shredded cheese may be the same kind of cheese as a separate non-shredded variety, the Department has chosen shredded cheese as a separate variety, as well as sour cream, to address small format retailer concerns with meeting the dairy stocking requirement in a way that aligns with common consumer purchasing habits while still ensuring that the varieties are easy to assess when determining retailer eligibility. The Department has chosen not to distinguish any dairy products by fat content because doing so would not further the objective of requiring SNAP retailers to stock not only a sufficient number of staples foods, but also a sufficient variety of staple foods. For example, allowing stores to meet the dairy staple food requirement by only stocking milk and yogurt or milk and cheese because each comes in a variety of fat contents would mean that SNAP households would have very limited choices. Individual households will generally want various types of dairy products, not multiple fat contents of milk, yogurt, or cheese. Also, by moving perishable liquid milk to group 1, multi-ingredient products with milk as the main ingredients become a separate variety. For example, flavored milk, such as chocolate milk, is now a separate dairy variety from plain milk. Given these new dairy varieties, and for the purpose of greater operational simplicity, the Department will no longer distinguish liquid milk by the mammal it comes from in the final rule. This change is in recognition of the very limited impact such a distinction has on the ability for small-format retailers to meet the dairy staple food requirement, adding no meaningful value.

Moving liquid perishable milk to group 1 and adding shredded cheese and sour cream as new varieties under group 2 create another three (3) possible dairy varieties in this final rule. Cream, while not separately listed in group 2, continues to be a separate main ingredient from milk. These changes, plus up to three distinct plant-based dairy alternative varieties that are each a substitute for a traditional dairy variety in either group 1 or 2, ensure that retailers have multiple pathways to

compliance in the dairy staple food category. The corresponding changes have been made at 7 CFR 278.1(b)(1)(ii)(C)(*1*) for cream, 7 CFR 278.1(b)(1)(ii)(C)(*2*)(*i*) for clarification on flavoring, 7 CFR 278.1(b)(1)(ii)(D)(*1*) for perishable liquid milk, and 7 CFR 278.1(b)(1)(ii)(D)(*2*) for shredded cheese and sour cream.

New Grain Varieties

The Department received many comments regarding the burden to small retailers of meeting the increased stocking requirements in the grain staple food category with the proposed varieties. SNAP retailers, trade associations, and an advocacy group wrote that stocking seven distinct grain varieties as defined in the proposed rule is not feasible for small convenience stores. Other commenters, including several trade associations and SNAP retailers, stated that small retailers do not stock items like raw grains and grain-based flour due to limited shelving capacity and lack of customer demand. One trade association highlighted that smaller retailers often stock items to meet the needs of their local, multicultural communities, and would not receive credit for this under the proposed rule's variety requirements.

Commenters recommended that the Department allow retailers to count more than one variety of bread in the grain category, arguing that the proposed rule grouped together breads with different forms, cultural significance, and customer preparation. They also argued that grouping together very different foods into a single ''Breakfast Cereals/Foods'' variety based on the assumption that these foods are eaten in the morning as part of the first meal of the day, contravenes common sense and Congressional intent since the foods have a wide variety of different main ingredients. Commenters also recommended counting all multi-ingredient grain-based food products as separate varieties based on their main ingredient. For example, commentors suggested rice cereal, oat cereal, and wheat cereal should count as three separate varieties. Finally, commenters recommended counting 100% whole grain and less than 100% whole grain products as distinct varieties.

The Department is convinced by the commenters' concerns about the need for more grain varieties and is creating additional grain varieties under group 2 in the final rule. Specifically, the Department is (1) counting whole grain bread as a separate variety from non-whole grain bread; (2) counting whole grain pasta/noodles as a separate variety from the non-whole grain pasta/noodles; and (3) counting breakfast cereals as a separate variety so that other breakfast products will count as separate multi-ingredient varieties based on their main ingredient. These changes provide additional varieties for some commonly stocked whole grain foods, giving retailers multiple pathways to compliance within the grain staple food category requirements without undue operational burden. The Department would also like to clarify that the designated grain products in group 2 count under the grain staple food category regardless of the main ingredient unless the main ingredient is an accessory food. For example, chickpea pasta counts as a ''pasta/noodles'' variety under the grain category even though chickpeas are not a grain and would otherwise count under the protein staple food category. Whole grain products do not need to be 100 percent whole grain; they may contain any amount of whole grain. The corresponding changes have been made at 7 CFR 278.1(b)(1)(ii)(D)(*2*).

Plant-Based Dairy Alternatives

In general, the Department received comments in support of limiting the number of plant-based alternatives that may count towards the dairy category to three. Several commenters, including advocacy groups and a local government, expressed support for the limitation because it would encourage retailers to count both traditional dairy and plant-based dairy alternatives. Commenters also expressed support for including plant-based dairy alternatives to meet the needs of customers who cannot consume dairy. Other commenters expressed support for limiting plant-based alternatives to ensure that traditional dairy products are available to meet the nutritional needs of all customers, especially children. This provision is being finalized as proposed at 7 CFR 278.1(b)(1)(ii)(E).

Accessory Foods

The Department received multiple comments supporting the addition of snack bars, cheese and fruit spreads, and jerky to the accessory foods list, because these items are unlikely to contribute to a healthy diet and the change will help prevent retailers from meeting stocking requirements with less healthy snack foods. Two commenters also recommended categorizing butter as an accessory food alongside other cooking oils and fats that are classified as accessory foods under current policy.

Several advocacy groups expressed concern that excluding accessory foods from counting toward staple food stocking requirements would result in smaller retailers struggling to meet requirements and fewer SNAP-authorized retailers. Commenters recommended the Department work with retailers, States, and local partners to educate families about the need to eat a balanced diet instead of categorizing item as accessory foods. They also expressed concerns that the proposed changes do not acknowledge cultural diversity in purchasing, that the definition would limit the ability of retailers on college campuses to meet stocking rules, and disagreed with the Department's rationale for the requirements that stricter provisions would deter fraud.

Comments on excluding accessory foods from counting towards staple food stocking requirements reflect a fundamental misunderstanding of how the program currently operates. The Food and Nutrition Act already prohibits accessory foods from counting towards the retailer staple food stocking requirements. Other than the foods the Department proposed to add to the current accessory foods list established in guidance, retailers have long been required to meet the stocking requirements under current policy without counting those accessory foods. Also, commenters overwhelmingly agreed that the foods the Department proposed to categorize as accessory foods are not considered part of a balanced diet and the rule makes the accessory foods list clearer by being more comprehensive and consistent across all types of snack foods. Therefore, the Department is moving forward with codifying the existing accessory foods list and adding the additional food categories proposed.

Further, two commenters, including one health-related organization and one State office, specifically cited jerky as being an ultra-processed protein that is high in sodium and sometimes added sugar, whereas other staple foods in the protein category are high in protein without unhealthy additives. However, a trade association requested clarification on why whole-muscle meat jerky is being treated differently from other jerky. Upon further examination, the Department has determined that there is not a meaningful distinction between whole-muscle meat jerky and other jerky. Jerky, regardless of type and protein content, is not a nutrient-dense whole food product due to the high content of sodium, preservatives like nitrates and nitrites, and added sugars. Instead, jerky is considered a snack food because it is a relatively expensive on-the-go option, which is not suitable for

daily consumption. Therefore, the final rule now classifies all types of jerky as accessory foods.

Finally, the Department agrees that counting butter as a staple food is not consistent with the definition of accessory foods or the inclusion of other cooking oils and fats in the accessory foods list, such as lard and vegetable oil. Even with the elimination of butter as a staple dairy variety, the other changes in this final rule still result in a net increase of two (2) distinct dairy varieties. This change will improve the clarity of the regulation and also eliminate a discrepancy in how plant-based dairy alternatives are treated since most non-dairy butters have an accessory food as their main ingredient. Therefore, the final rule now classifies butter as an accessory food. The corresponding changes have been made at 7 CFR 278.1(b)(7).

The Department reminds all stakeholders that while accessory foods are not factored into SNAP retailer eligibility determinations, SNAP households may still purchase accessory foods with SNAP benefits.

Prepared Food

The Department proposed to codify the longstanding agency policy on the definition of prepared food. Commenters expressed support for clarifying that pre-cut fruits and vegetables intended for at-home consumption can count as staple foods in the fruits and vegetables category. This provision is being finalized with a slight change to the wording for clarification purposes only. By removing the second reference to ''for immediate consumption'' in the proposed language, the Department is making it clearer that the definition of prepared food is irrespective of whether the food is eaten on the premises of the store or carried out. The revision has been made at 7 CFR 271.2.

The Department reminds all interested parties that while cold and hot prepared foods are not factored into SNAP retailer eligibility determinations, SNAP households may still purchase cold prepared foods with SNAP benefits. Hot prepared foods remain ineligible for purchase with SNAP benefits.

Tribal Matters and Consultations

The Department received four written responses on this rule from Tribal governments. One Tribal government expressed support for the intent of the rule to ensure that SNAP retailers stock a variety of healthy staple foods. All Tribal governments raised concerns about the unique procurement challenges that Tribal retailers face due to limited access to distribution networks, high transportation costs, and inconsistent supply chains. According to one Tribal government, ''retailers in Tribal and rural communities face higher costs, higher spoilage rates, and limited customer bases for perishable items.'' Three of the Tribal governments expressed concerns that the proposed rule would reduce the number of SNAP-authorized retailers in Tribal communities and limit access for food-insecure Tribal members.

Three respondents urged the Department to consider traditional foods and locally produced food as staple foods, such as bison, blue corn, wild rice, salmon, and chokecherries. The Department appreciates these comments and agrees that traditional foods should count as staple foods. The Department has long treated such foods as staple foods and the final rule continues to treat them as such, with the exception of jerky, as discussed under Accessory foods.

Tribal governments recommended that the Department develop Tribal-specific guidance and/or consider Tribal retailers for special authorization without meeting all the requirements of this rule. The Department appreciates these recommendations and will take them into consideration.

Technical Assistance

The Department received several comments from individuals, advocacy groups, a trade association, and a local government recommending that FNS provide technical assistance or clarify what technical assistance it will provide to help smaller and rural retailers meet the new stocking requirements. Multiple commenters offered specific suggestions on what the technical assistance should address or how it should be developed and presented.

As is standard practice with all regulatory changes impacting SNAP retailers, the Department will notify all currently authorized retailers about the new requirements and will review various resources for how best to present the information, including the resources suggested by commenters.

Implementation Date

Several advocacy groups and an anonymous commenter recommended FNS establish a clear implementation timeline and allow adequate time for retailers to transition operations to comply with new requirements. Other commenters, including an individual, advocacy groups, and anonymous commenters, recommended FNS allow for a gradual, phased-in rollout of the proposed rule and compliance period for small retailers.

The Department understands that providing retailers with guidance and sufficient time to understand the new requirements, adjust their stocking plans, and make any required arrangements with distributors are important factors for ensuring smooth implementation of the new retailer staple food stocking standards without needlessly creating hardships for either retailers or SNAP households. At the same time, timely implementation is also important for providing SNAP households with access to a greater variety of staple foods and removing unscrupulous retailers.

After taking all of the above under consideration, the Department is providing retailers with six (6) months (180 days) to conform with these new stocking standards. Therefore, 180 days after this rule is published, new retailers or current SNAP retailers applying for authorization of a new store location will be assessed for compliance with the new stocking standards at authorization. Current SNAP retailer locations authorized under criterion A will be assessed for compliance with the new stocking standards at reauthorization, which generally occurs within five years from the date of authorization and every five years thereafter. However, since the Department may assess a retailer's eligibility for continued authorization at any time, as provided under current SNAP regulations at 7 CFR 278.1(j), all retailers are encouraged to make the necessary arrangements to come into compliance with the provisions of this final rule by the implementation date. Food items a retailer ordered or received up to 21 calendar days before the store visit will count towards meeting the stocking requirements as long as there is adequate documentation in accordance with SNAP regulations at 7 CFR 278.1(b)(1)(ii)(A).

Retailers who are denied authorization or reauthorization because they did not meet the staple foods stocking requirements will be required to wait six (6) months before applying for authorization again in accordance with SNAP regulations at 7 CFR 278.1(k)(2).

Procedural Matters

Executive Orders 12866 and 13563

Under Executive Order 12866, as amended, agencies must assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, select regulatory approaches that maximize net benefits. The Office of Management and Budget's (OMB)

Office of Information and Regulatory Affairs (OIRA) determines whether a regulatory action is significant as defined by Executive Order 12866 and, therefore, subject to OMB review.

This rule has been determined to be significant under section 3(f)(1) of Executive Order 12866 and was reviewed by OMB. The Regulatory Impact Analysis (RIA) for this rulemaking was published as part of the docket in Supporting Documents on *www.regulations.gov.* A summary of the RIA follows. This rule is considered an E.O. 14192 regulatory action.

Regulatory Impact Analysis

Need for Action: In response to section 765 of the Consolidated Appropriation Act of 2017 and corresponding sections in subsequent enacted appropriations, the United States Department of Agriculture (the Department) Food and Nutrition Service (FNS) is revising the Supplemental Nutrition Assistance Program (SNAP) regulations at sections 271 and 278 to codify a new framework for determining distinct varieties of staple foods for purposes of assessing retail food store eligibility to participate in SNAP. The rulemaking is necessary to implement the enhanced stocking requirements of the Agricultural Act of 2014 (2014 Farm Bill), which increased the minimum number of varieties SNAP retail food stores must carry in each staple food category from three (3) to seven (7) as well as the minimum number of varieties that must be perishable from one variety in each of two (2) different staple food categories to one variety in each of three (3) different staple food categories. This rule will also update and codify the existing criteria for accessory foods (snacks, desserts, and foods meant to complement or supplement meals), which are not counted as staple foods for purposes of meeting the staple food stocking or sales requirements for SNAP retailer eligibility. This rule will primarily affect small SNAP-authorized retailers (convenience stores, small grocery stores, and combination stores) who are currently authorized under Criterion A.

Benefits: The rule will increase the variety of staple food products offered for sale at SNAP-authorized firms, which will help to ensure that SNAP households have access to healthier foods on a continuous basis.

Costs: The Department has estimated the rule's total cost to the Federal Government as approximately $4 million in fiscal year (FY) 2027, and to incur no further costs after implementation. The cost to currently authorized retailers is estimated to be approximately $77 million in the first year and about $1 to $2 million per year over the following four years.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 601 *et seq.*), agencies must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). FNS believes the rule will not present a significant economic impact to a substantial number of small businesses. Although the number of stores impacted is large, we estimate that the cost to those small businesses of the changes in this rule would be nominal, on average about $407 in the first year and $482 over five years for those stores that need additional varieties to comply with this rule.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as a 'major rule', as defined by 5 U.S.C. 804(2).

Unfunded Mandates Reform Act

This rule does not contain Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and Tribal governments, or the private sector of $100 million or more in any one year. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 13175

Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

The proposed rule potentially had issues that required consultation, and FNS held a Tribal Consultation on the provisions of this rule on October 22, 2025. Tribal consulting officials expressed concerns that the proposed rule would reduce the number of SNAP-authorized retailers in Tribal communities and limit access for food-insecure Tribal members. The Department has considered these comments in the changes to provisions described above in the final rule that increase the number of varieties possible to meet staple stocking standards. The changes in the final rule do not rise to the level of requiring further consultation. If a Tribe requests further consultation, FNS will work with the Office of Tribal Relations to ensure meaningful consultation is provided.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; 5 CFR 1320) requires the Office of Management and Budget (OMB) approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number.

In accordance with the Paperwork Reduction Act of 1995, this rule contains information collections that are subject to review and approval by the Office of Management and Budget. The Department solicited public comments on the Notice of Proposed Rulemaking regarding changes in the information collection burden that would result from the finalization of changes in the rule as part of docket FNS–2025–0018, posted September 25, 2025 (90 FR 46081).

Title: SNAP—Store Applications.

OMB Control Number: 0584–0008.

Expiration Date: 4/30/2027.

Type of Request: Revision of a currently approved collection.

Abstract: This rule revises SNAP regulations to codify a new framework for determining distinct varieties of staple foods for purposes of assessing retail food store eligibility to participate in SNAP. To assist authorized retailers with the implementation of this rule, the Department intends to provide written notice to all authorized retailers outlining the changes to staple food stocking requirements. Additionally, the Department may consider new guidance for authorized retailers that further outlines these changes. Finally, the Department anticipates that currently authorized retailers may need to order additional stock to come into compliance with the regulations. These activities are considered one-time burden. There is no additional ongoing burden associated with this information collection. The Department intends to revise the currently approved information collection for SNAP—Store Applications (OMB Control Number 0584–0008, expiration 4/30/2027) to

include the burden associated with these activities while seeking a three-year renewal for the OMB control number.

Commenters on the proposed rule noted that small retailers disproportionately face administrative burdens when navigating new rules, which are manageable for large stores but impose significant time costs on small operators. The Department has addressed these concerns by estimating separate burdens for large and small stores. The final rule adjusts the total burden estimate from 1,126,167.85 hours to 1,548,448.50 hours. The adjusted total burden hours reflects an increase from four (4) hours to eight (8) hours for small SNAP authorized stores and a decrease to half an hour for large SNAP authorized stores to review the notice and guidance and to update stock.

One Time Reporting Burden Estimates for Final Rule

Respondents: Businesses, For Profit.

Estimated Number of Respondents: 269,217. As of April 30, 2025, there were 269, 217 SNAP-authorized retailers. Under this final rule, each authorized retailer would review the written notice of changes to SNAP staple food stocking requirements, review written guidance aligning with the rule, and make any changes to current stock, as necessary.

Estimated Number of Responses: 269,217. Each authorized retailer would be expected to review the written notice and guidance and update store stock, if necessary, one time.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: The estimated total one-time burden for authorized retailers reviewing the notice and guidance and updating stock is 1,548,448.50 hours.

Revised Reporting Burden for 0584–0008, Including Rule Estimates

Respondents: Business.

Estimated Number of Respondents: 269,217.

Estimated Number of Responses per Respondent: 1.46388229.

Estimated Number of Responses: 394,102.

Estimated Time per Response: 4.054149307.

Estimated Total Annual Burden on Respondents: 1,597,748.35.

Respondent category (affected public)	Type of respondents (optional)	Burden activity	Estimated number of respondents	Responses per respondent (Col. H/F)	Total annual responses (Col. F × G)	Estimated hours per response (Col. J/H)	Estimated total burden hours (Col. H × I)	Wage rate	Total annualized cost of respondent burden (J * L)	Previously approved burden hours for 0584–0008	Difference due to adjustments	Differences due to program changes
Businesses, For Profit.	Large SNAP Authorized Retailers.	Reviewing notice, reviewing guidance, and updating stock.	80,705.00	1.00	80,705.00	0.50	40,352.50	$49.89	$2,013,186.23	0	0	40,352.50
Businesses, For Profit.	Small SNAP Authorized Retailers.	Reviewing notice, reviewing guidance, and updating stock.	188,512.00	1.00	188,512.00	8.00	1,508,096.00	49.89	75,238,909.44	0	0	1,508,096.00
Total Start-up Reporting Burden			269,217.00	1.00	269,217.00	5.75	1,548,448.50	49.89	77,252,095.67	0.00	0.00	1,548,448.50
Currently Approved Reporting Burden in 0584–0008			[1] 55,708.00	2.2	124,885.00	0.395	49,299.85	.....	2,427,716.84	49,299.90	0.00	0.00
Grand Total Reporting Burden in 0584–0008			269,217.00	1.46388230	394,102.00	4.0541493307	1,597,748.35	.....	79,679,812.51	49,299.9	0.00	1,548,448.50

[1] These respondents are already included in the overall respondent group of 269,217 retailers.

E-Government Act Compliance

The Department is committed to complying with the E-Government Act, 2002 to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Executive Order 13132; Federalism Summary Impact Statement

The rule does not impact States or local governments, so FNS anticipates that this rule will not have implications for federalism. Therefore, under Section 6(b) of the Executive Order, a federalism summary is not required.

Executive Order 12372

Executive Order 12372 requires Federal agencies to engage in intergovernmental consultation with State and local officials when involved in Federal financial assistance programs and direct Federal development. SNAP is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in this proposed rule, Department of Agriculture Programs and Activities Excluded from Executive Order 12372 (48 FR 29115, June 24, 1983), this Program is excluded from the scope of Executive Order 12372.

Executive Order 12988, Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effects with respect to any State or local laws, regulations, or policies that conflict with its provisions or that would otherwise impede its full implementation. This rule is not intended to have retroactive effects. Prior to any judicial challenge to the provisions of the final rule or the application of its provisions, all applicable administrative procedures must be exhausted.

Civil Rights Impact Analysis

USDA has reviewed the Final Rule, in accordance with the Agriculture Improvement Act of 2018, ''2018 Farm Bill'', Section 12403, Civil Rights Analyses, to identify and address any major civil rights impacts the rule might have on specific groups. FNS does not collect demographic data from retail food stores, and FNS specifically prohibits retailers that participate in SNAP from engaging in discriminatory actions. Due to the unavailability of demographic data, FNS is unable to determine whether this Final Rule will have a civil rights impact on specific groups. However, the current mitigation and outreach strategies outlined within the Civil Rights Impact Analysis provide consideration to SNAP retailers and participants.

After careful review, USDA has determined that the Final Rule only concerns those retail food stores participating in SNAP that would not meet the increased staple food stocking requirements necessary for SNAP authorization that were mandated by the 2014 Farm Bill and codified in the 2016 Final Rule, ''Enhancing Retailer Standards in the Supplemental Nutrition Assistance Program (SNAP)''. The final regulatory changes are intended to make the staple food stocking standards more intuitive so that those retail stores, which are primarily small format retailers, are better able to understand and meet the enhanced stocking requirements of the 2016 final rule. USDA will conduct site visits for the normal procedures involved in retailer authorization, re-authorization, or store investigations to monitor retailer compliance with the new stocking standards. USDA will ensure that all retailers with limited English proficiency are made aware of FNS telephonic translation services and that information is accessible for individuals with disabilities, in accordance with applicable laws, regulations, and directives.

List of Subjects

7 CFR Part 271

Food stamps, Grant programs—Social programs, Reporting and recordkeeping requirements.

7 CFR Part 278

Banks, banking, Food stamps, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements, Surety bonds.

Accordingly, 7 CFR parts 271 and 278 are amended as follows:

■ 1. The authority citation for parts 271 and 278 continues to read as follows:

Authority: 7 U.S.C. 2011–2036.

PART 271—GENERAL INFORMATION AND DEFINITIONS

■ 2. In § 271.2:

■ a. Add definitions for ''Accessory food'' and ''Prepared food'' in alphabetical order;

■ b. Revise paragraph (1) of the definition of ''Retail food store''; and

■ c. Revise the definition of ''Staple food''.

The additions and revisions read as follows:

§ 271.2 Definitions.

* * * * *

Accessory food means food that is generally considered a snack food or dessert, food that is meant to complement or supplement meals, or food used primarily in the meal preparation process as listed at § 278.1(b)(7) of this chapter. Accessory foods are not defined by package size and shall not be considered staple foods for purposes of meeting retail food store staple food stocking or sales requirements for SNAP participation.

* * * * *

Prepared food means hot or cold food or beverages ready for immediate consumption that are assembled, cooked, mixed, or otherwise made ready by the retailer on the premises of the retail food store, except for bread that otherwise counts as staple food. This definition also includes hot or cold food or beverages intended for onsite consumption regardless of whether it is assembled, cooked, mixed, or otherwise made by the retailer. Prepared food does not include food that is only cut or sliced on the premises of the firm, but which is not otherwise made ready for immediate consumption by the retailer or intended for onsite consumption. Prepared foods shall not be considered staple foods for purposes of § 278.1(b) of this chapter.

* * * * *

Retail food store means:

(1) An establishment or house-to-house trade route that sells food for home preparation and consumption and meets the criteria as set forth in § 278.1(b) of this chapter.

* * * * *

Staple food means food intended for home preparation and consumption, excluding accessory foods, in each of the following four categories:

(1) Protein, including plant-based sources;

(2) Grains;

(3) Vegetables or fruits; and

(4) Dairy, including plant-based alternatives.

* * * * *

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND INSURED FINANCIAL INSTITUTIONS

■ 3. In § 278.1:

■ a. Revise paragraphs (b)(1)(i)(A) and (b)(1)(ii); and

■ b. Redesignate paragraph (b)(7) as paragraph (b)(9) and add new paragraphs (b)(7) and (8).

The revisions and additions read as follows:

§ 278.1 Approval of retail food stores and wholesale food concerns.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(A) An establishment or house-to-house trade route shall normally be considered to have food business of a nature and extent that will effectuate the purposes of the program if it sells food for home preparation and consumption and meets either paragraph (b)(1)(ii) or (iii) of this section.

* * * * *

(ii) *Application of Criterion A.* (A) *Stocking standards.* To qualify under Criterion A, retail food stores shall offer for sale no fewer than:

(*1*) Seven (7) distinct varieties of staple food items in each of the four staple food categories, as defined under § 271.2 of this chapter, for a minimum of 28 distinct staple food varieties;

(*2*) Three (3) stocking units of each qualifying staple food variety, for a minimum of 84 stocking units; and

(*3*) One (1) variety of perishable foods in three different staple food categories so that a minimum of three (3) of the 28 varieties and nine (9) of the 84 stocking units are perishable.

(B) *Offer on a continuous basis.* Retail food stores must offer the qualifying staple food items for sale on a continuous basis, as evidenced by displaying the items for sale in a public area on any given day of operation.

(*1*) If a retail food store does not meet the stocking requirements at the time of an FNS store visit, the store may provide documentation that it ordered and/or received the required stock no more than 21 calendar days prior to the date of the store visit. Documentation may include, but is not limited to, invoices and receipts.

(*2*) Failure to provide documentation related to stock or to cooperate with FNS store visits may result in denial or withdrawal of authorization.

(C) *Distinguishing staple food varieties.* Foods that differ by kind of plant (*e.g.,* apple vs. orange), the kind of animal (*e.g.,* cow vs. chicken), or by main ingredient within the same staple food category count as distinct staple food varieties.

(*1*) A multi-ingredient food's staple food category and variety is based on the food's main ingredient. The main ingredient of a multi-ingredient food is the first ingredient other than water, broth, or stock listed on the ingredient list. Cream is a separate main ingredient from milk.

(*2*) Unless specified under paragraph (b)(1)(ii)(D) of this section:

(*i*) Different brands, flavorings, packaging, or preparations do not count as distinct staple food varieties, such as, but not limited to different cuts of meat, whole fruit and cut fruit, vanilla yogurt and plain yogurt, and a gallon of milk and a half gallon of milk.

(*ii*) Different types of the same food do not count as distinct staple food varieties, such as, but not limited to, brown and white rice, pinto and kidney beans, and Granny Smith and Gala apples.

(*3*) No food product can count as a variety in more than one staple food category.

(D) *Specially designated varieties.* Notwithstanding paragraph (b)(1)(ii)(C) of this section, specific food items or groups of foods count as a distinct variety as specified below.

(*1*) *Single-ingredient varieties.* The following foods, with no other ingredients added other than fortifying vitamins, count as distinct staple food varieties from multi-ingredient foods with the same main ingredient. For example, wheat flour is a distinct variety from frozen burritos, frozen lasagna, and canned chicken noodle soup with wheat flour as the main ingredient. Also, seasoned perishable chicken is a distinct variety from plain perishable chicken and flavored perishable milk is a distinct variety from plain perishable milk.

(*i*) Shell eggs;

(*ii*) Perishable meat, poultry, or fish (for each different kind of animal);

(*iii*) Dry beans;

(*iv*) Dry peas;

(*v*) Dry lentils;

(*vi*) Raw grains (for each different kind of grain, *e.g.,* rice and barley);

(*vii*) Flour (for each different kind of grain, *e.g.,* wheat flour and rice flour); and

(*viii*) Perishable liquid milk.

(*2*) *Derivative food product varieties.* Regardless of type, kind, flavoring, or main ingredient, the following foods count as only one distinct staple food variety (*e.g.,* whole grain rice noodles are the same variety as whole grain wheat noodles). Any other food item with the same main ingredient is a separate variety (*e.g.,* a loaf of bread is a distinct variety from a frozen burrito even if they both have wheat as the main ingredient).

(*i*) Tofu/tempeh;

(*ii*) Bread (whole grain);

(*iii*) Bread (non-whole grain);

(*iv*) Pasta/noodles (whole grain);

(*v*) Pasta/noodles (non-whole grain);

(*vi*) Breakfast cereals;

(*vii*) Shredded cheese (including, grated, shaved, and crumbled);

(*viii*) Cheese (non-shredded);

(*ix*) Fermented/cultured dairy beverages;

(*x*) Yogurt (non-liquid);

(*xi*) Sour Cream;

(*xii*) Infant formula; and

(*xiii*) Infant cereal.

(3) *Shelf-stable varieties.* The following foods sold in a shelf-stable form with or without other ingredients count as distinct varieties from the single-ingredients in paragraph (b)(1)(ii)(D)(*1*) of this section as well as from perishable multi-ingredient foods with the same main ingredient. For example, raw ground beef, frozen beef ravioli with beef as the main ingredient, and canned (shelf-stable) beef stew with beef as the main ingredient count as three distinct beef varieties.

(*i*) Meat, poultry, or fish (for each different kind of animal);

(*ii*) Liquid milk; and

(*iii*) Dried/powdered milk.

(E) Plant-based alternatives.

(*1*) Plant-based dairy alternatives shall be considered distinct dairy staple food varieties from the traditional varieties for which they are a substitute and may count for up to three (3) varieties as long as the main ingredient is not an accessory food.

(*2*) Nuts/seeds, beans, peas, and lentils shall count in the protein category.

* * * * *

(7) *Accessory foods.* Accessory foods as defined at § 271.2 of this chapter do not count as staple foods for purposes of retail food store eligibility and include:

(i) *Snack and dessert food items.* (A) Chips and other finger snacks, including but not limited to, potato, corn, wheat, tortilla, pita, vegetable, and fruit chips, crisps, sticks, and straws; onion ring snacks; corn nuts; snack and trail mixes (other than those containing only nuts); crackers; pork rinds; pretzels; pre-popped or un-popped popcorn; and cheese puffs or curls.

(B) Baked, gelatin, and pudding desserts, including but not limited to, doughnuts, brownies, cupcakes, cookies, snack cakes, muffins, pastries, sweet rolls, pies, cakes, churros, scones, pudding, and any packaged mixes intended to create any of the aforementioned products;

(C) Frozen snacks and desserts, including but not limited to, ice cream, ice milk, frozen yogurt, custard, whipped cream, sherbet, sorbet, gelato, granita, Italian ices, frozen carbonated beverages, snow cones, and ice pops;

(D) Candy and chocolate, including but not limited to, mints, chocolate chips, marshmallow, gum, toffee, brittle, fudge, marzipan, nougat, and candy bars;

(E) Snack bars, including but not limited to, protein, granola bars, and baked bars; and

(F) Jerky, including but not limited to, dehydrated meat sticks and slices made from any type of animal, and plant-based substitutes.

(ii) *Food items that complement or supplement meals.* (A) Carbonated and uncarbonated beverages (except milk, cream, plant-based milk and cream alternatives in which the main ingredient is not another accessory food, and 100% fruit or vegetable juice), including but not limited to, soda pop, sports or energy drinks, iced tea, tea bags, fruit punch, mixers for alcoholic beverages, shake powders/mixes, and water;

(B) Condiments, including but not limited to, ketchup, mayonnaise, mustard, salad dressing, hot sauce, vinegar, relish, horseradish, chutney, salsa, and soy sauce;

(C) Cheese or fruit dips and spreads, including but not limited to, cheese sprays, jams, jelly, marmalade, preserves, and compote;

(D) Sweeteners, including but not limited to, sugar, honey, maple syrup, aspartame, molasses, high fructose corn syrup, and any other natural or artificial sweeteners;

(iii) *Edible items primarily used as part of the food preparation process.* (A) Extracts, including vanilla and other flavor extracts;

(B) Powdered, dried, and extracted spices or seasonings;

(C) Baking soda, baking powder, yeast, and starch;

(D) Cooking oils and fats, including but not limited to vegetable oil, olive oil, butter, shortening, and lard;

(E) Broth, stock, gelatin, and bouillon;

(F) Edible but non-caloric and non-digestible food products, including but not limited to, monosodium glutamate, sodium nitrate, olestra, and any other food additives.

(iv) *Other food items.* Any food product with a main ingredient that appears on this list as an accessory food item except infant formula.

(8) *Co-location.* Separate businesses that operate under one roof are considered a single firm for purposes of determining eligibility to participate as a SNAP retail food store if both businesses:

(i) Share the same ownership in whole or in part;

(ii) Sell similar foods; and

(iii) Share inventory.

* * * * *

Stephen Vaden,

Deputy Secretary, U.S. Department of Agriculture.

[FR Doc. 2026–09137 Filed 5–7–26; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2025–3989; Project Identifier MCAI–2025–00160–T; Amendment 39–23324; AD 2026–09–03]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2025–03–06 and AD 2025–17–07, which applied to certain Airbus SAS Model A318 and A320 series airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, –133, –151N, –153N, and –171N airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, –232, –251N, –251NX, –252N, –252NX, –253N, –253NX, –271N, –271NX, –272N, and –272NX airplanes. AD 2025–17–07 also applied to Airbus SAS Model A321–253NY airplanes. AD 2025–03–06 and AD 2025–17–07 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Since the FAA issued AD 2025–03–06 and AD 2025–17–07, new or more restrictive airworthiness limitations have been developed. This AD continues to require certain actions in AD 2025–03–06 and all actions in AD 2025–17–07. This AD also requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations and add new airplane models. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 12, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 12, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of October 1, 2025 (90 FR 41771, August 27, 2025).

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of March 21, 2025 (90 FR 9595, February 14, 2025).

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2025–3989; 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), contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2025–3989.

FOR FURTHER INFORMATION CONTACT: Camille Seay, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817–222–5149; email: *Camille.L.Seay@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2025–03–06, Amendment 39–22954 (90 FR 9595, February 14, 2025) (AD 2025–03–06); and AD 2025–17–07, Amendment 39–23117 (90 FR 41771, August 27, 2025) (AD 2025–17–07).

AD 2025–03–06 applied to certain Airbus SAS Model A318 and A320 series airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, –133, –151N, –153N, and –171N airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, –232, –251N, –251NX, –252N, –252NX, –253N, –253NX, –271N, –271NX, –272N, and –272NX airplanes. AD 2025–03–06 required revising the existing maintenance or inspection program, as applicable, to

incorporate new or more restrictive airworthiness limitations (specified in Airbus A318/A319/A320/A321 Airworthiness Limitations Section (ALS) Part 2, Damage Tolerant Airworthiness Limitation Items (DT–ALI), Revision 10, Issue 02, dated November 30, 2023). The FAA issued AD 2025–03–06 to address fatigue cracking, accidental damage, or corrosion in principal structural elements, which could result in reduced structural integrity of the airplane.

AD 2025–17–07 applied to certain Airbus SAS Model A318, A320, and A321 series airplanes; and Model A319–111, –112, –113, –114, –115, –131, –132, –133, –151N, –153N, and –171N airplanes. AD 2025–17–07 required revising the existing maintenance or inspection program, as applicable, to incorporate new airworthiness limitations (specified in Airbus A318/A319/A320/A321 ALS Part 2, Damage Tolerant Airworthiness Limitation Items (DT–ALI), Variation 10.3, dated August 7, 2024). The FAA issued AD 2025–17–07 to address fatigue cracking, accidental damage, or corrosion in principal structural elements, which could result in reduced structural integrity of the airplane.

The NPRM was published in the **Federal Register** on November 17, 2025 (90 FR 51218). The NPRM was prompted by EASA 2025–0030, dated February 10, 2025 (EASA AD 2025–0030) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states new or more restrictive airworthiness limitations have been developed, as specified in Airbus A318/A319/A320/A321 ALS Part 2, Damage Tolerant Airworthiness Limitation Items (DT–ALI), Revision 11, dated November 4, 2024.

In the NPRM, the FAA proposed to continue to require certain actions in AD 2025–03–06 and all actions in AD 2025–17–07, as specified in EASA 2025–0030. The FAA also proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations and add new airplane models. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2025–3989.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from United Airlines who supported the NPRM without change.

The FAA received additional comments from Delta Air Lines (Delta) and the Citizens Rulemaking Alliance. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Use Previously Approved Alternative Methods of Compliance (AMOCs)

Delta requested the FAA revise paragraph (p) of the proposed AD to specify that AMOCs approved previously for AD 2025–03–06 are approved as AMOCs for the corresponding provisions of EASA AD 2025–0030 that would be required by paragraph (m) of the proposed AD. Delta stated that a modification incorporated under a certain supplemental type certificate prevents accomplishment of certain ALI inspections, but previously approved AMOCs provide an acceptable level of safety for those ALI inspections.

The FAA agrees and has added paragraph (p)(1)(ii) to this AD, accordingly.

Request To Justify Forgoing Notice and Comment or Issue an NPRM

The Citizens Rulemaking Alliance requested that the FAA either provide its justification for finding good cause to bypass notice and comment procedures, or convert this action to an NPRM and delay enforcement until the comment period is complete. The commenter asserted the FAA has not adequately justified use of the good cause exemption to bypass notice and comment and the 30-day delayed effective date.

The FAA notes the comment was submitted in response to an NPRM for which the FAA provided a 45-day comment period. This final rule is effective 35 days after its publication in the **Federal Register**. Therefore, no change to this AD is necessary.

Request To Make Incorporation by Reference (IBR) Materials Reasonably Available

The Citizens Rulemaking Alliance requested that the FAA make IBR material available and free to the public during the comment period.

The FAA clarifies that this AD incorporates by reference EASA AD 2025–0030, not the manufacturer service information referenced in that EASA AD. The FAA posted EASA AD 2025–0030 to the AD docket when the NPRM was published in the **Federal Register**. The FAA notes this AD also retains EASA AD 2024–0208, dated October 25, 2024 (for the actions retained from FAA AD 2025–17–07), and EASA AD 2024–0031, dated January 31, 2024; corrected February 1, 2024 (for the actions retained from FAA AD 2025–03–06), which were previously approved for incorporation by reference. That material is available under Docket No. FAA–2025–0748 and Docket No. FAA–2024–2145, respectively. The material referenced in EASA AD 2025–0030 may only be posted before the final rule's publication if it is already publicly available or if there is written consent from the owner of that material. Additionally, the FAA provided notice in the NPRM that the material referenced in EASA AD 2025–0030 will be available in the AD docket after this AD is published. The FAA did not change this AD as a result of this comment.

Request To Consider Impact on Small Entities

The Citizens Rulemaking Alliance requested that the FAA either provide the factual basis for its Regulatory Flexibility Act (RFA) certification that the AD will not have a significant economic impact on a substantial number of small entities, or prepare an initial regulatory flexibility analysis.

The FAA provides the following clarification. The RFA of 1980 (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) and the Small Business Jobs Act of 2010 (Pub. L. 111–240), 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. 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.

This AD will affect 23 domestic entities, of which 8 are small entities. The table below displays the industries of the small entities, their average annual revenue, and the AD's estimated cost burden relative to average annual revenue.

NUMBER OF SMALL ENTITIES AFFECTED BY INDUSTRY AND COST SIGNIFICANCE

NAICS code	Description	Affected small entities	Average annual revenue	Cost per AD/ annual revenue (%)
336412	Aircraft Engine and Engine Parts Manufacturing	1	$5,200,000	0.15
336413	Other Aircraft Part and Auxiliary Equipment Manufacturing	3	1,565,310	0.49
481211	Nonscheduled Chartered Passenger Air Transportation	1	246,350,000	0.00
532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing.	3	769,443	0.99
Total		8	32,319,283	0.02

While the FAA has determined that this final AD affects a substantial number of small entities, the compliance cost of the AD relative to each small entity's annual revenue is minimal. The FAA estimates the total cost per affected entity to be $7,650 (90 work-hours × $85 per work-hour), which is 0.02% of the average small entity's annual revenue. Therefore, as provided in section 605(b), the FAA certifies this AD will not result in a significant economic impact on a substantial number of small entities. The FAA did not change this AD as a result of this comment.

Request To Provide Additional Cost Information

The Citizens Rulemaking Alliance requested that the FAA reassess the estimated cost of the proposed AD and whether the action is ''significant'' under E.O. 12866. The Citizens Rulemaking Alliance also requested the FAA reopen the comment period for public input on the additional cost information. The commenter stated that the FAA should also provide the fleet size, per airplane labor and parts cost, any assumed downtime or out-of-service impacts, and aggregate costs.

In the Cost of Compliance section of the proposed AD, the FAA disclosed the number of airplanes affected on the U.S. registry, estimated number of work hours provided by the manufacturer, and the aggregate costs. The FAA did not disclose an estimated parts cost since this AD does not require any parts. Additionally, the FAA considered the impact that this AD will have on affected operators and determined this AD will not trigger any downtime costs because revising the existing maintenance or inspection program, as applicable, is an administrative action that can be performed without impacting operations. Since the FAA has assessed and disclosed the total known costs of the AD requirements in the Costs of Compliance section of the proposed AD, and the commenter did not provide additional cost data for the FAA to consider in its cost analysis, it is not necessary to reopen the comment period or provide additional information in the AD docket. Based upon the analysis provided throughout the proposed AD and in the previous comment response, the FAA certifies that this AD is not a ''significant regulatory action'' under Executive Order 12866. The FAA did not change this AD as a result of this comment.

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, considered any comments received, 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, and any other changes described previously, 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 EASA AD 2025–0030, which specifies new or more restrictive airworthiness limitations for airplane structures and safe life limits.

This AD also requires EASA AD 2024–0208, which the Director of the Federal Register approved for incorporation by reference as of October 1, 2025 (90 FR 41771, August 27, 2025).

This AD also requires EASA AD 2024–0031, which the Director of the Federal Register approved for incorporation by reference as of March 21, 2025 (90 FR 9595, February 14, 2025).

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 1,900 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA estimates the total cost per operator for the retained actions from AD 2025–03–06 to be $7,650 (90 work-hours × $85 per work-hour).

The FAA estimates the total cost per operator for the retained actions from AD 2025–17–07 to be $7,650 (90 work-hours × $85 per work-hour).

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

Authority for This Rulemaking

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

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

unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

(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 (AD) 2025–03–06, Amendment 39–22954 (90 FR 9595, February 14, 2025); and AD 2025–17–07, Amendment 39–23117 (90 FR 41771, August 27, 2025); and

■ b. Adding the following new AD:

2026–09–03 Airbus SAS: Amendment 39–23324; Docket No. FAA–2025–3989; Project Identifier MCAI–2025–00160–T.

(a) Effective Date

This airworthiness directive (AD) is effective June 12, 2026.

(b) Affected ADs

(1) This AD replaces AD 2025–03–06, Amendment 39–22954 (90 FR 9595, February 14, 2025) (AD 2025–03–06).

(2) This AD replaces AD 2025–17–07, Amendment 39–23117 (90 FR 41771, August 27, 2025).

(c) Applicability

This AD applies to Airbus SAS Model airplanes identified in paragraphs (c)(1) through (4) of this AD, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before November 4, 2024.

(1) Model A318–111, –112, –121, and –122 airplanes.

(2) Model A319–111, –112, –113, –114, –115, –131, –132, –133, –151N, –153N, –171N, and –173N airplanes.

(3) Model A320–211, –212, –214, –216, –231, –232, –233, –251N, –252N, –253N, –271N, –272N, and –273N airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, –232, –251N, –251NX, –252N, –252NX, –253N, –253NX, –253NY, –271N, –271NX, –272N, and –272NX airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address fatigue cracking, accidental damage, or corrosion in principal structural elements. The unsafe condition, if not addressed, could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Revision of the Existing Maintenance or Inspection Program From AD 2025–03–06, With a New Terminating Action

This paragraph restates the requirements of paragraph (n) of AD 2025–03–06, with a new terminating action. For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before December 19, 2023: Except as specified in paragraph (h) of this AD, comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2024–0031, dated January 31, 2024; corrected February 1, 2024 (EASA AD 2024–0031). Accomplishing the revision of the existing maintenance or inspection program required by paragraph (m) of this AD terminates the requirements of this paragraph.

(h) Retained Exceptions to EASA AD 2024–0031, With No Changes

This paragraph restates the exceptions specified in paragraph (o) of AD 2025–03–06, with no changes.

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2024–0031.

(2) Paragraph (3) of EASA AD 2024–0031 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after March 21, 2025 (the effective date of AD 2025–03–06).

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2024–0031 is at the applicable ''associated thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2024–0031, or within 90 days after March 21, 2025 (the effective date of AD 2025–03–06), whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraphs (4), (5), and (6) of EASA AD 2024–0031.

(5) This AD does not require incorporating Section 4, ''Damage Tolerant—Airworthiness Limitations Items—tasks beyond MPPT,'' of ''the ALS'' specified in EASA AD 2024–0031.

(6) This AD does not adopt the ''Remarks'' section of EASA AD 2024–0031.

(i) Retained Restrictions on Alternative Actions, Intervals, and Critical Design Configuration Control Limitations (CDCCLs) From AD 2025–03–06, With a New Exception

This paragraph restates the requirements of paragraph (p) of AD 2025–03–06, with a new exception. Except as required by paragraphs (j) and (m) of this AD, after the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections), intervals, and CDCCLs are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2024–0031.

(j) Retained Revision of the Existing Maintenance or Inspection Program From AD 2025–17–07, With a New Terminating Action

This paragraph restates the requirements of paragraph (g) of AD 2025–17–07, with a new terminating action. For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before August 7, 2024: Except as specified in paragraph (k) of this AD, comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2024–0208, dated October 25, 2024 (EASA AD 2024–0208). Accomplishing the revision of the existing maintenance or inspection program required by paragraph (m) of this AD terminates the requirements of this paragraph.

(k) Retained Exceptions to EASA AD 2024–0208, With No Changes

This paragraph restates the exceptions specified in paragraph (h) of AD 2025–17–07, with no changes.

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2024–0208.

(2) Paragraph (3) of EASA AD 2024–0208 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after October 1, 2025 (the effective date of AD 2025–17–07).

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2024–0208 is at the applicable ''associated thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2024–0208, or within 90 days after October 1, 2025 (the effective date of AD 2025–17–07), whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraph (4) of EASA AD 2024–0208.

(5) This AD does not adopt the ''Remarks'' section of EASA AD 2024–0208.

(l) Retained Restrictions on Alternative Actions and Intervals From AD 2025–17–07, With a New Exception

This paragraph restates the requirements of paragraph (i) of AD 2025–17–07, with a new exception. Except as required by paragraph (m) of this AD, after the existing maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (*e.g.,* inspections) and intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2024–0208.

(m) New Revision of the Existing Maintenance or Inspection Program

Except as specified in paragraph (n) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2025–0030, dated February 10, 2025 (EASA AD 2025–0030). Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraphs (g) and (j) of this AD.

(n) Exceptions to EASA AD 2025–0030

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2025–0030.

(2) Paragraph (3) of EASA AD 2025–0030 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2025–0030 is at the applicable ''associated thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2025–0030, or within 90 days after the effective date of this AD, whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraphs (4) and (5) of EASA AD 2025–0030.

(5) This AD does not adopt the ''Remarks'' section of EASA AD 2025–0030.

(6) This AD does not require incorporating Section 4, ''Damage Tolerant—Airworthiness Limitations Items—tasks beyond MPPT,'' of ''the ALS'' specified in EASA AD 2025–0030.

(o) New Provisions for Alternative Actions, Intervals, and CDCCLs

After the existing maintenance or inspection program has been revised as required by paragraph (m) of this AD, no alternative actions (*e.g.,* inspections), intervals, and CDCCLs are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2025–0030.

(p) Additional AD Provisions

The following provisions also apply to this AD:

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

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(ii) AMOCs approved previously for AD 2025–03–06 are approved as AMOCs for the corresponding provisions of EASA AD 2025–0030 that are required by paragraph (m) of this AD.

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

(q) Additional Information

For more information about this AD, contact Camille Seay, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817–222–5149; email: *Camille.L.Seay@faa.gov.*

(r) Material Incorporated by Reference

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

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

(3) The following material was approved for IBR on June 12, 2026.

(i) European Union Aviation Safety Agency (EASA) AD 2025–0030, dated February 10, 2025.

(ii) [Reserved]

(4) The following material was approved for IBR on October 1, 2025 (90 FR 41771, August 27, 2025).

(i) EASA AD 2024–0208, dated October 25, 2024.

(ii) [Reserved]

(5) The following material was approved for IBR on March 21, 2025 (90 FR 9595, February 14, 2025).

(i) EASA AD 2024–0031, dated January 31, 2024; corrected February 1, 2024.

(ii) [Reserved]

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

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

(8) 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 23, 2026.

Lona C. Saccomando,

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

[FR Doc. 2026–09169 Filed 5–7–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2025–5404; Project Identifier MCAI–2025–00424–T; Amendment 39–23325; AD 2026–09–04]

RIN 2120–AA64

Airworthiness Directives; Gulfstream Aerospace LP Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Gulfstream Aerospace LP (GALP) Model Gulfstream G280 airplanes. This AD was prompted by reports of the accumulation of water in electrical connectors located in the aft fuselage directly below the empennage, resulting in empennage flight control related crew alerting system (CAS) messages. This AD requires retrofitting the flight controls empennage electrical harness. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 12, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 12, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2025–5404; 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 Civil Aviation Authority of Israel (CAAI) material identified in this AD, contact CAAI, P.O. Box 1101, Golan Street, Airport City, 70100, Israel; telephone 972–3–9774665; fax 972–3–9774592; email *aip@mot.gov.il.* You may find this material on the CAAI website at *www.gov.il/en/pages/israeli-airworthiness-directives.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at regulations.gov under Docket No. FAA–2025–5404.

FOR FURTHER INFORMATION CONTACT: Richard Bolden, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 404–474–5592; email *richard.bolden@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain GALP Model Gulfstream G280 airplanes. The NPRM was published in the **Federal Register** on January 7, 2026 (91 FR 457). The NPRM was prompted by AD ISR I–27–2025–03–06 R1, dated August 28, 2025 (CAAI AD ISR I–27–2025–03–06 R1) (also referred to as the MCAI), issued by CAAI, which is the aviation authority for Israel. The MCAI states that several reports of empennage flight control related CAS messages have been attributed to the accumulation of water in electrical connectors located in the aft fuselage directly below the empennage. The unsafe condition, if not addressed, could, in combination with various specific failures or scenarios, result in loss of controllability of the airplane.

In the NPRM, the FAA proposed to require retrofitting the flight controls empennage electrical harness. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2025–5404.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the cost to the public.

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, considered any comments received, 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

CAAI AD ISR I–27–2025–03–06 R1 specifies procedures for retrofitting the flight controls empennage electrical harness by replacing the backshells of electrical connectors at the vertical tail compartment.

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

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
80 work-hours × $85 per hour = $6,800	$3,200	$10,000	$1,400,000

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

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

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

Regulatory Findings

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 adding the following new airworthiness directive:

2026–09–04 Gulfstream Aerospace LP: Amendment 39–23325; Docket No. FAA–2025–5404; Project Identifier MCAI–2025–00424–T.

(a) Effective Date

This airworthiness directive (AD) is effective June 12, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Gulfstream Aerospace LP Model Gulfstream G280 airplanes, certificated in any category, as identified in Civil Aviation Authority of Israel (CAAI) AD ISR I–27–2025–03–06 R1, dated August 28, 2025 (CAAI AD ISR I–27–2025–03–06 R1).

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of the accumulation of water in electrical connectors located in the aft fuselage directly below the empennage, resulting in empennage flight control related crew alerting system (CAS) messages. The FAA is issuing this AD to address the accumulation of water in electrical connectors located in the aft fuselage directly below the empennage. The unsafe condition, if not addressed, could, in combination with various specific failures or scenarios, result in loss of controllability of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, CAAI AD ISR I–27–2025–03–06 R1.

(h) Exceptions to CAAI AD ISR I–27–2025–03–06 R1

Where CAAI AD ISR I–27–2025–03–06 R1 refers to its effective date, this AD requires using the effective date of this AD.

(i) No Reporting Requirement

Although the material referenced in CAAI AD ISR I–27–2025–03–06 R1 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Additional AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or CAAI; or CAAI's authorized Designee. If approved by the CAAI Designee, the approval must include the Designee's authorized signature.

(k) Additional Information

For more information about this AD, contact Richard Bolden, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 404–474–5592; email: *richard.bolden@faa.gov*.

(l) Material Incorporated by Reference

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

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

(i) Civil Aviation Authority of Israel (CAAI) AD ISR I–27–2025–03–06 R1, dated August 28, 2025.

(ii) [Reserved]

(3) For CAAI material identified in this AD, contact CAAI, P.O. Box 1101, Golan Street, Airport City, 70100, Israel; telephone 972–3–9774665; fax 972–3–9774592; email *aip@mot.gov.il.* You may find this material on the CAAI website at *www.gov.il/en/pages/israeli-airworthiness-directives.*

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

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

Issued on April 23, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–09170 Filed 5–7–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–3871; Project Identifier MCAI–2026–00247–T; Amendment 39–23327; AD 2026–09–06]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A319–153N airplanes; Model A320–251N, –252N, and –271N airplanes; and Model A321–251NX, –252NX, –271NX and –272NX airplanes. This AD was prompted by an Airbus supplier identifying a quality issue in production, which could result in potential deviations from the specified thickness of various fuselage panels. This AD requires, for certain airplanes, doing a ''local thickness mapping,'' doing applicable additional instructions, a general visual inspection (GVI) of certain forward fuselage panels, a full panel thickness measurement, and applicable corrective actions. This AD also requires, for all airplanes, a dispatch restriction from using certain master minimum equipment list (MMEL) items, a prohibition to use certain structural repair manual (SRM) tasks. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 26, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 26, 2026.

The FAA must receive comments on this AD by June 22, 2026.

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

- *Federal eRulemaking Portal:* Go to *regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–3871; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@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, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2026–3871.

FOR FURTHER INFORMATION CONTACT: Taylor Stanley, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 407–852–7677; email: *Taylor.Stanley@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments using a method listed under the **ADDRESSES** section. Include ''Docket No. FAA–2026–3871; Project Identifier MCAI–2026–00247–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Taylor Stanley, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 407–852–7677; email: *Taylor.Stanley@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2026–0055R1, dated April 14, 2026 (EASA AD 2026–0055R1) (also referred to as the MCAI), to correct an unsafe condition for certain Airbus SAS Model A319–153N airplanes; Model A320–251N, –252N, and –271N airplanes; and Model A321–251NX, –252NX, –271NX and –272NX airplanes. The MCAI states that an Airbus supplier identified a quality issue in production, resulting in potential deviations from the specified thickness of various fuselage panels delivered to Airbus. The potential for certain forward fuselage panels to have deviations from the specified thickness, in combination with certain repairs, can affect the structural integrity of the airplane.

The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–3871.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2026–0055R1 specifies procedures for doing a ''local thickness mapping'' if the maintenance history verification determines a ''CAT C/temporary repair'' was done, contacting Airbus to report the repair status and any finding of that mapping and for additional instructions, and doing applicable additional instructions. EASA AD 2026–0055R1 also specifies procedures, for certain airplanes, for a GVI of certain forward fuselage section S12 panels for cracking and other damage (including panel failure or irregularity), a full panel thickness measurement, and applicable corrective actions (*i.e.,* contacting the manufacturer for repair instructions and doing the repair). EASA AD 2026–0055R1 also specifies, for all airplanes, a dispatch restriction from using certain MMEL items, and a prohibition to use certain SRM tasks.

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

FAA's Determination

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

AD Requirements

This AD requires accomplishing the actions specified in EASA AD 2026–0055R1 described previously, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, EASA AD 2026–0055R1 is incorporated by reference in this AD. This AD requires compliance with EASA AD 2026–0055R1 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in EASA AD 2026–0055R1 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2026–0055R1. Material required by EASA AD 2026–0055R1 for compliance will be available

at *regulations.gov* under Docket No. FAA–2026–3871 after this AD is published.

Justification for Immediate Adoption and Determination of the Effective Date

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because the potential for certain forward fuselage panels to have deviations from the specified thickness, in combination with certain repairs, can affect the structural integrity of the airplane. Additionally, the compliance time in this AD is shorter than the time necessary for the public to comment and for publication of the final rule. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

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

Regulatory Flexibility Act

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

Costs of Compliance

The FAA estimates that this AD affects 24 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
33 work-hours × $85 per hour = $2,720	$0	$2,720	$65,280

The FAA estimates the following costs to do any necessary on-condition actions that would be required based on the results of any required actions. The FAA has no way of determining the number of aircraft that might need these on-condition actions:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
Up to 8 work-hours × $85 per hour = $680	$0	Up to $680.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to take approximately 1 hour 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. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–09–06 Airbus SAS: Amendment 39–23327; Docket No. FAA–2026–3871; Project Identifier MCAI–2026–00247–T.

(a) Effective Date

This airworthiness directive (AD) is effective May 26, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A319–153N airplanes; Model A320–251N, –252N, and –271N airplanes; and Model A321–251NX, –252NX, –271NX and –272NX airplanes; certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2026–0055R1, dated April 14, 2026 (EASA AD 2026–0055R1).

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by an Airbus supplier identifying a quality issue in production, which could result in potential deviations from the specified thickness of various fuselage panels delivered to Airbus. The FAA is issuing this AD to address the potential for certain forward fuselage panels to have deviations from the specified thickness, which, in combination with certain repairs, can affect the structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2026–0055R1.

(h) Exceptions to EASA AD 2026–0055R1

(1) Where EASA AD 2026–0055R1 refers to March 20, 2026 (the effective date of EASA AD 2026–0055, dated March 13, 2026), this AD requires using the effective date of this AD.

(2) Where paragraph (1) of EASA AD 2026–0055R1 specifies to ''accomplish the 'local thickness mapping' '', for this AD replace that text with ''accomplish the 'local thickness mapping', as applicable''.

(3) Where paragraph (4) of EASA AD 2026–0055R1 specifies ''if any crack is identified on an affected panel, before next flight, contact Airbus for approved instructions and within the compliance time identified therein, accomplish those instructions accordingly'', this AD requires replacing that text with ''if any cracking or other damage is detected, the cracking and other damage must be repaired before further flight using a method approved by the Manager, AIR–520, Continued Operational Safety Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature''.

(4) Where the service information referenced in EASA AD 2026–0055R1 specifies to send an inspection report to Airbus if the measured thicknesses are within the drawing tolerances, or if the airplane can be released permanently with the panel condition acceptable as-is following the Airbus assessment, for this AD, send the report at the applicable time specified in paragraph (h)(4)(i) or (ii) of this AD.

(i) If the finding was made on or after the effective date of this AD: Submit the report within 14 days after the finding.

(ii) If the finding was made before the effective date of this AD: Submit the report within 14 days after the effective date of this AD.

(5) This AD does not adopt the ''Remarks'' section of EASA AD 2026–0055R1.

(i) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any material referenced in EASA AD 2026–0055R1 that contains paragraphs that are labeled as RC, the instructions in RC paragraphs, including subparagraphs under an RC paragraph, must be done to comply with this AD; any paragraphs, including subparagraphs under those paragraphs, that are not identified as RC are recommended. The instructions in paragraphs, including subparagraphs under those paragraphs, not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the instructions identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to instructions identified as RC require approval of an AMOC.

(j) Additional Information

For more information about this AD, contact Taylor Stanley, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 407–852–7677; email: *Taylor.Stanley@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2026–0055R1, dated April 14, 2026.

(ii) [Reserved]

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

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

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

Issued on April 24, 2026.

Brian Knaup,

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

[FR Doc. 2026–09171 Filed 5–6–26; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–3877; Project Identifier MCAI–2026–00437–T; Amendment 39–23333; AD 2026–08–52]

RIN 2120–AA64

Airworthiness Directives; Embraer S.A. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Embraer S.A. Model EMB–545 and EMB–550 airplanes. The FAA previously sent this AD as an emergency AD to all known U.S. owners and operators of these airplanes. This AD was prompted by reports of in-service pitch trim actuator failures on one load path. This AD requires an operational check of the pitch trim actuator of the horizontal stabilizer, an option to do a pitch trim verification, and applicable on-condition actions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 26, 2026. Emergency AD 2026–08–52, issued on April 20, 2026, which contains the requirements of this amendment, was effective with actual notice.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 26, 2026.

The FAA must receive comments on this AD by June 22, 2026.

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

- *Federal eRulemaking Portal:* Go to *regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–3877; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Agência Nacional de Aviação Civil (ANAC) material identified in this AD, contact ANAC, Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246–190—São José dos Campos—SP, Brazil; telephone 55 (12) 3203–6600; email *pac@anac.gov.br.* You may find this material on the ANAC website at *sistemas.anac.gov.br/certificacao/DA/DAE.asp.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2026–3877.

FOR FURTHER INFORMATION CONTACT: Gabriel Kim, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7343; email: *Gabriel.D.Kim@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments using a method listed under the **ADDRESSES** section. Include ''Docket No. FAA–2026–3877; Project Identifier MCAI–2026–00437–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Gabriel Kim, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7343; email: *Gabriel.D.Kim@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued Emergency AD 2026–08–52, dated April 20, 2026 (the emergency AD), to address an unsafe condition on all Embraer S.A. Model EMB–545 and EMB–550 airplanes. The FAA sent the emergency AD to all known U.S. owners and operators of these airplanes. The emergency AD requires an operational check of the pitch trim actuator of the horizontal stabilizer, an option to do a pitch trim verification, and applicable on-condition actions.

The emergency AD was prompted by ANAC Emergency AD 2026–04–02, effective April 20, 2026 (ANAC Emergency AD 2026–04–02) (also referred to as the MCAI), issued by ANAC, which is the aviation authority for Brazil, to correct an unsafe condition on all Embraer S.A. Model EMB–545 and EMB–550 airplanes. The MCAI states there have been reports of failures on one load path of the pitch trim actuator of the airplane horizontal stabilizer, during the accomplishment of the scheduled maintenance task: operational check of pitch trim actuator irreversibility. This failure increases the risk of failure on both load paths of the pitch trim actuator, and may leave the airplane horizontal stabilizer free to move according to aerodynamic loads, which may result in loss of control of the airplane. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–3877.

Material Incorporated by Reference Under 1 CFR Part 51

ANAC Emergency AD 2026–04–02 specifies procedures for an operational check of the pitch trim actuator of the horizontal stabilizer, an option to do a pitch trim verification, and applicable on-condition actions. The on-condition actions include replacing the pitch trim actuator if the operational check fails (*i.e.,* either the TEST STATUS field is TEST FAILED after five minutes, or the TEST STATUS field is TEST ABORTED after repeating the operational check five times) or if the pitch trim verification fails, and performing an operational check on the replaced pitch trim actuator. ANAC Emergency AD 2026–04–02 also specifies reporting the data from the operational check and pitch trim verification.

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

FAA's Determination

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

AD Requirements

This AD requires accomplishing the actions specified in ANAC Emergency AD 2026–04–02 described previously, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, ANAC Emergency AD 2026–04–02 is incorporated by reference in this AD. This AD requires compliance with ANAC Emergency AD 2026–04–02 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Material required by ANAC Emergency AD 2026–04–02 for compliance will be available at *regulations.gov* under Docket No. FAA–2026–3877 after this AD is published.

Interim Action

The FAA considers that this AD is an interim action. The inspection reports required by this AD would enable the manufacturer to obtain better insight into the nature, cause, and extent of the unsafe condition and eventually to develop final action to address the unsafe condition. Once final action has been identified, the FAA might consider further rulemaking.

Justification for Immediate Adoption and Determination of the Effective Date

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

An unsafe condition exists that required the immediate adoption of Emergency AD 2026–08–52 issued on April 20, 2026, to all known U.S. owners and operators of these airplanes. The FAA found that the risk to the flying public justified forgoing notice and comment prior to adoption of this rule because of reports of in-service pitch trim actuator failures on one load path, which, if not addressed, could increase the risk of losing both load paths of the pitch trim actuator, potentially allowing the horizontal stabilizer to move freely under aerodynamic loads and could result in loss of control of the airplane. Additionally, the compliance time in this AD is shorter than the time necessary for the public to comment and for publication of the final rule. These conditions still exist, therefore, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

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

Regulatory Flexibility Act

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

Costs of Compliance

The FAA estimates that this AD affects 294 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
2 work-hours × $85 per hour = $170	$0	$170	$49,980

ESTIMATED COSTS FOR OPTIONAL ACTIONS

Labor cost	Parts cost	Cost per product
1 work-hour × $85 per hour = $85	$0	$85

The FAA estimates the following costs to do any necessary on-condition actions that would be required based on the results of any required or optional actions. The FAA has no way of determining the number of aircraft that might need these on-condition actions:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
44 work-hours × $85 per hour = $3,740	$150,000	$153,740

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to take approximately 1 hour 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. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–08–52 Embraer S.A.: Amendment 39–23333; Docket No. FAA–2026–3877; Project Identifier MCAI–2026–00437–T.

(a) Effective Date

The FAA issued Emergency Airworthiness Directive (AD) 2026–08–52 on April 20, 2026 (also referred to as the emergency AD), directly to affected owners and operators. As a result of such actual notice, the emergency AD was effective for those owners and operators on the date it was received. This AD contains the same requirements as the emergency AD and, for those who did not receive actual notice, is effective on May 26, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Embraer S.A. Model EMB–545 and EMB–550 airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of in-service pitch trim actuator failures on one load path. The FAA is issuing this AD to address pitch trim actuator failures. The unsafe condition, if not addressed, could increase the risk of losing both load paths of the pitch trim actuator, potentially allowing the horizontal stabilizer to move freely under aerodynamic loads, which could result in loss of control of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Agência Nacional de Aviação Civil (ANAC) Emergency AD 2026–04–02, effective April 20, 2026 (ANAC Emergency AD 2026–04–02).

(h) Exceptions to ANAC Emergency AD 2026–04–02

(1) Where ANAC Emergency AD 2026–04–02 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (a)(1)(i) of ANAC Emergency AD 2026–04–02 specifies ''in case of fail of the airplane HS PTA OPC'', this AD requires replacing that text with ''in case of failure of the airplane HS PTA OPC (*i.e.,* either the TEST STATUS field is TEST FAILED after five minutes, or the TEST STATUS field is TEST ABORTED after repeating the operational check five times)''.

(3) Where paragraph (a)(1)(i) of ANAC Emergency AD 2026–04–02 specifies, in case of failure, to replace the pitch trim actuator and perform an operational check, this AD requires doing those actions before further flight.

(4) Where paragraph (a)(1)(ii)(1) of ANAC Emergency AD 2026–04–02 specifies ''it is

prohibited to take-off the airplane. Report the failure to the applicable maintenance service and replace the PTA P/N 492600–1017 by another airworthy PTA with the same P/N, and perform a new OPC on the new PTA'', this AD requires replacing that text with ''before further flight, report the failure to the applicable maintenance service and replace the PTA P/N 492600–1017 by another airworthy PTA with the same P/N, and perform a new OPC on the new PTA''.

(5) Paragraph (b) of ANAC Emergency AD 2026–04–02 specifies to report data from the operational check and pitch trim verification. For this AD, report the data at the applicable time specified in paragraph (h)(5)(i) or (ii) of this AD.

(i) If the operational check or pitch trim verification was done on or after the effective date of this AD: Submit the report within 10 days after accomplishing the operational check or pitch trim verification, as applicable.

(ii) If the operational check or pitch trim verification was done before the effective date of this AD: Submit the report within 10 days after the effective date of this AD.

(i) Additional AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or the Agência Nacional de Aviação Civil (ANAC); or ANAC's authorized Designee. If approved by the ANAC Designee, the approval must include the Designee's authorized signature.

(j) Additional Information

For more information about this AD, contact Gabriel Kim, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7343; email: *Gabriel.D.Kim@faa.gov*.

(k) Material Incorporated by Reference

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

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

(i) Agência Nacional de Aviação Civil (ANAC) Emergency AD 2026–04–02, effective April 20, 2026.

(ii) [Reserved]

(3) For ANAC material identified in this AD, contact ANAC, Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246–190—São José dos Campos—SP, Brazil; telephone 55 (12) 3203–6600; email *pac@anac.gov.br*.

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

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

Issued on April 28, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–09172 Filed 5–6–26; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2026–0901; Airspace Docket No. 26–AEA–1]

RIN 2120–AA66

Amendment of Class E Airspace Over Honesdale, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace over Honesdale, PA. The portion of the Class E airspace associated with the Honesdale Sports Complex Heliport is being removed due to the heliport being abandoned and associated instrument approach procedures being canceled.

DATES: Effective 0901 UTC, September 3, 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.

ADDRESSES: A copy of the notice of proposed rulemaking (NPRM), all comments received, this final rule, and all background material may be viewed online at *www.regulations.gov* using the FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours a day, 365 days a year. An electronic copy of this document may also be downloaded from *www.federalregister.gov.*

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

FOR FURTHER INFORMATION CONTACT: David Blankenship, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone: (404) 305–5610.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published an NPRM for Docket No. FAA–2026–0901 in the **Federal Register** (91 FR 10013; March 2, 2026), proposing to amend Class E airspace above Honesdale, PA. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received. The commenter inquired as to the future disposition of the airspace. With this final rule, the area of Class E airspace that was associated with the former Honesdale Sports Complex Heliport is removed and will revert to uncontrolled airspace. The Class E airspace surrounding Cherry Ridge Airport (also associated with Honesdale, PA) is unaffected.

Incorporation by Reference

Class E airspace designations are published in paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14

CFR 71.1 on an annual basis. This document amends the latest version of that order, FAA Order JO 7400.11K, dated August 4, 2025, and effective September 15, 2025. These amendments will be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11K, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the **ADDRESSES** section of this document.

The Rule

This action amends 14 CFR part 71 by modifying Class E airspace over Honesdale, PA. The portion of the Class E airspace associated with the Honesdale Sports Complex Heliport is being removed due to the heliport being abandoned and associated instrument approach procedures being canceled.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Order 2100.6B, ''Rulemaking and Guidance Procedure'' (March 10, 2025); and (3) is expected to result in, at most, de minimis costs. Since these amendments are routine and the expected impact to operators is de minimis, the FAA certifies that this proposed rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1G, ''FAA National Environmental Policy Act Implementing Procedures'' paragraph B–2.5(a). This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant the preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11K, Airspace Designations and Reporting Points, dated August 4, 2025, and effective September 15, 2025, is amended as follows:

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

* * * * *

AEA PA E5 Honesdale, PA [Amended]

Cherry Ridge Airport, PA
(Lat. 41°30′56″ N, long. 75°15′06″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Cherry Ridge Airport.

* * * * *

Issued in College Park, Georgia, on May 5, 2026.

Patrick Young,

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

[FR Doc. 2026–09178 Filed 5–7–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2025–5244; Airspace Docket No. 25–AGL–8]

RIN 2120–AA66

Amendment of Jet Routes J–70 and J–94 and Amendment of Very High Frequency Omnidirectional Range Federal Airways V–30, V–55, V–84, V–170, and V–274 and Revocation of Jet Routes J–547 and J–548 in the Vicinity of Pullman, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Jet Routes J–70 and J–94; amends Very High Frequency Omnidirectional Range (VOR) Federal Airways V–30, V–84, V–170, and V–274; and revokes Jet Routes J–547 and J–548 in the vicinity of Pullman, MI. The FAA is taking this action due to the planned decommissioning of the VOR portion of the Pullman, MI, VOR/Distance Measuring Equipment (DME) navigational aid (NAVAID). This NAVAID is being decommissioned as part of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Effective date 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.

ADDRESSES: A copy of the notice of proposed rulemaking (NPRM), all comments received, this final rule, and all background material may be viewed online at *www.regulations.gov* using the FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from *www.federalregister.gov.*

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

FOR FURTHER INFORMATION CONTACT: Steven Roff, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the Air Traffic Services (ATS) route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

History

The FAA published an NPRM for Docket No. FAA–2025–5244 in the **Federal Register** (90 FR 57173; December 10, 2025), proposing to amend Very High Frequency Omnidirectional Range (VOR) Federal Airways V–14, V–192, V–210, and V–221 in the vicinity of Pullman, MI. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Differences From the NPRM

After publication of the NPRM for this airspace action, the FAA determined that the amendments listed in this docket for V–55 have already been accomplished in a previous rulemaking action. *See* 90 FR 42531 (Sept. 3, 2025), as corrected by 90 FR 51097 (Nov. 17, 2025). Because the necessary amendments have already been implemented, the amendments to V–55 proposed in the NPRM for this docket are not included in this final rule. The FAA finds good cause that recirculating the NPRM for further notice and comment is unnecessary. The public was provided notice and an opportunity to comment as part of the separate rulemaking process that already implemented the amendments to V–55.

Incorporation by Reference

Jet Routes are published in paragraph 2004 and VOR Federal Airways are published in paragraph 6010 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11K, dated August 4, 2025, and effective September 15, 2025. These amendments will be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11K, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the **ADDRESSES** section of this document.

The Rule

The FAA is amending 14 CFR part 71 by modifying Jet Routes J–70 and J–94 and VOR Federal Airways V–30, V–84, V–170, and V–274 and revoking Jet Routes J–547 and J–548 in the vicinity of Pullman, MI.

J–70: Prior to this amendment, J–70 extended between the Hoquiam, WA, VOR/VORTAC and the Kennedy, NY, VOR/DME. A portion of J–70, between the Badger, WI, VOR/DME and the Salem, MI, VORTAC will become unusable with the decommissioning of the Pullman, MI, VOR. As amended, J–70 now extends between the Hoquiam VORTAC and the Badger, WI, VOR/DME and between the Salem, MI, VORTAC and the Kennedy VOR/DME.

J–94: Prior to this amendment, J–94 extended between the Mustang, NV, VORTAC and the O'Neill, NE, VORTAC and between the Dubuque, IA, VORTAC and the Flint, MI, VORTAC. A portion of J–94, between the Northbrook, IL, VOR/DME and the Flint VORTAC will become unusable with the decommissioning of the Pullman, MI, VOR. Additionally, the FAA is revoking the portion between the Dubuque VORTAC and the Northbrook VOR/DME as this portion is overlaid by J–82, J–84, J–94, J–100, and J–128. As amended, J–94 extends between the Mustang VORTAC and the O'Neill, NE, VORTAC.

J–547: Prior to this amendment, J–547 extended between the Northbrook, IL, VOR/DME and the Flint, MI, VORTAC. The entire route will become unusable with the decommissioning of the Pullman, MI, VORTAC. Due to this, the FAA is revoking J–547 in its entirety.

J–548: Prior to this amendment, J–548 extended between the Pullman, MI, VOR/DME and the Traverse City, MI, VOR/DME. The entire route will become unusable with the decommissioning of the Pullman VOR. Due to this, the FAA is revoking J–548 in its entirety.

V–30: Prior to this amendment, V–30 extended between the Badger, WI, VOR/DME and the Pullman, MI, VOR/DME and between the Philipsburg, PA, VORTAC and the Solberg, NJ, VOR/DME. A portion of V–30, between the Badger VOR/DME and the Pullman VOR/DME will become unusable with the decommissioning of the Pullman VOR. The FAA is revoking the affected portion. As amended, V–30 extends between the Philipsburg VORTAC and the Solberg VOR/DME.

V–84: Prior to this amendment, V–84 extended between the Northbrook, IL, VOR/DME and the Pullman, MI, VOR/DME and between Geneseo, NY, VOR/DME and the Syracuse, NY, VORTAC. A portion of V–84, between the Northbrook, IL, VOR/DME and the Pullman, MI, VOR/DME will become unusable with the decommissioning of the Pullman VOR. The FAA is revoking the affected portion. As amended, V–84 extends between the Geneseo VOR/DME and the Syracuse VORTAC.

V–170: Prior to this amendment, V–170 extended between the Jamestown, ND, VOR/DME and the Sioux Falls, SD, VORTAC, between the Rochester, MN, VOR/DME and the Salem, MI, VORTAC and between the Slate Run, PA, VORTAC and the INT Andrews, MD, VORTAC 060° and Baltimore, MD, VORTAC 165° radials (POLLA, MD, Fix). A portion of V–170, between the Badger, WI, VOR/DME and the Salem VORTAC will become unusable with the decommissioning of the Pullman VOR. The FAA is revoking the affected portion. As amended, V–170 extends between the Jamestown VOR/DME and the Badger VOR/DME and between the Slate Run VORTAC and the INT Andrews VORTAC 060° and Baltimore VORTAC 165° radials. The airspace within R–5802 is excluded when active.

V–274: Prior to this amendment, V–274 currently extends between the Pullman, MI, VOR/DME and the Saginaw, MI, VOR/DME. A portion of V–274, between the Pullman VOR/DME and the Victory, MI, VOR/DME will become unusable with the decommissioning of the Pullman VOR. The FAA is proposing to revoke the affected portion. As amended, V–274 would extend between the Victory VOR/DME and the Saginaw VOR/DME.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Order 2100.6B, ''Rulemaking and Guidance Procedure'' (March 10, 2025); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action of amending Jet Routes J–70 and J–94 and VOR Federal Airways V–30, V–84, V–170, and V–274; and revoking Jet Routes J–547 and J–548 qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321, *et seq.*) and in accordance with FAA Order 1050.1G, *FAA National Environmental Policy Act Implementing Procedures,* paragraph B–2.5(a) which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas;

Air Traffic Service Routes; and Reporting Points); and paragraph B–2.5(b) which categorically excludes from further environmental impact review, actions regarding establishment of jet routes and Federal airways (see 14 CFR 71.15, Designation of jet routes and VOR Federal airways). As such, this action is not expected to result in any potentially significant environmental impacts. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11K, Airspace Designations and Reporting Points, dated August 4, 2025, and effective September 15, 2025, is amended as follows:

Paragraph 2004. Jet Routes.

* * * * *

J–70 [Amended]

From Hoquiam, WA; Seattle, WA; Ephrata, WA; Mullan Pass, ID; Lewistown, MT; Dickinson, ND; Aberdeen, SD; Gopher, MN; INT Gopher 109° and the Badger, WI, 312° radials; to Badger. From Salem, MI; Jamestown, NY; Wilkes-Barre, PA; Stillwater, NJ; LaGuardia, NY; to Kennedy, NY.

* * * * *

J–94 [Amended]

From Mustang, NV; Lovelock, NV; Battle Mountain, NV; Lucin, UT; Rock Springs, WY; Scottsbluff, NE; to O'Neill, NE.

* * * * *

J–547 [Removed]

* * * * *

J–548 [Removed]

* * * * *

Paragraph 6010. VOR Federal Airways.

* * * * *

V–30 [Amended]

From Philipsburg, PA; Selinsgrove, PA; East Texas, PA; INT East Texas 095° and Solberg, NJ, 264° radials; to Solberg.

* * * * *

V–84 [Amended]

From Geneseo, NY; INT Geneseo 091° and Syracuse, NY, 240° radials; to Syracuse.

* * * * *

V–170 [Amended]

From Jamestown, ND; Aberdeen, SD; to Sioux Falls, SD. From Rochester, MN; Nodine, MN; Dells, WI; INT Dells 097° and Badger, WI, 304° radials; to Badger. From Slate Run, PA; Selinsgrove, PA; Ravine, PA; INT Ravine 125° and Modena, PA, 318° radials; Modena; Dupont, DE; INT Dupont 223° and Andrews, MD, 060° radials; to INT Andrews 060° and Baltimore, MD, 165° radials. The airspace within R–5802 is excluded when active.

* * * * *

V–274 [Amended]

From Victory, MI; to Saginaw, MI.

* * * * *

Issued in Washington, DC, on May 6, 2026.

Alex W. Nelson,

Manager, Rules and Regulations Group.

[FR Doc. 2026–09181 Filed 5–7–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 125, and 135

[Docket No.: FAA–2023–2270; Amdt. Nos. 91–382A, 125–77A, and 135–149A]

RIN 2120–AL92

25-Hour Cockpit Voice Recorder (CVR) Requirement, New Aircraft Production; Correction Amendment

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Correcting amendments.

SUMMARY: On February 2, 2026, FAA published a final rule titled ''25-Hour Cockpit Voice Recorder (CVR) Requirement, New Aircraft Production.'' That final rule contained typographical, grammatical, and formatting errors in three sections of Title 14 of the Code of Federal Regulations. This document corrects those errors in the final regulations.

DATES: Effective May 8, 2026.

FOR FURTHER INFORMATION CONTACT: Charisse Green, Aircraft Maintenance Division, AFS–340, Federal Aviation Administration, 800 Independence Ave. SW, Washington, DC 20591; telephone (202) 267–1675; email *Charisse.Green@faa.gov*.

SUPPLEMENTARY INFORMATION: On February 2, 2026, the ''25-Hour Cockpit Voice Recorder (CVR) Requirement, New Aircraft Production'' final rule (RIN 2120–AL92) was published in the **Federal Register** at 91 FR 4447. That final rule amended the recording time of cockpit voice recorders (CVRs) from the previously mandated 2 hours to 25 hours for all affected future manufactured aircraft. After publication, FAA discovered §§ 91.609, 125.227 and 135.151 contained the following typographical, grammatical, and formatting errors.

Corrections to 14 CFR 91.609

- In § 91.609(i)(2)(i)(B), the text should read ''type-certificated with'' instead of ''type-certificated for.''
- In § 91.609(i)(2)(i)(C), the text should read ''59,524 pounds or less.'' rather than ''59,524 pounds or less; or.''

Correction to 14 CFR 125.227

- In § 125.227(h)(2)(i)(B), the text should read ''more and type-certificated with'' instead of ''more type-certificated for.''

Corrections to 14 CFR 135.151

- In § 135.151(g)(1)(iii)(A), paragraphs (a), (b), and (c) were incorrectly designated and should have been designated as § 135.151(g)(1)(iii)(A)(*1*), (*2*), and (*3*).
- In § 135.151(g)(1)(iii)(A)(b), herein corrected as (*2*), the text should read ''more and type-certificated with'' instead of ''more or type-certificated for.''
- In § 135.151(g)(1)(iii)(A)(c), herein corrected as (*3*), the text should read ''59,524 pounds or less.'' instead of ''59,524 pounds or less; or.''
- Due to the incorrect designations in § 135.151(g)(1)(iii)(A), § 135.151(g)(1)(iii)(B) cross-referenced the incorrectly designated subsections. As such, in § 135.151(g)(1)(iii)(B) the text should read ''requirements found in (g)(1)(iii)(A)(*1*), (g)(1)(iii)(A)(*2*), and (g)(1)(iii)(A)(*3*).''
- In § 135.151(g)(2)(iii)(A), paragraphs (a), (b), and (c) were incorrectly designated and should have been designated as § 135.151(g)(2)(iii)(A)(*1*), (*2*), and (*3*).
- In § 135.151(g)(2)(iii)(A)(b), herein corrected as (*2*), the text should read ''or more and type-certificated with'' instead of ''or more with.''
- Due to the incorrect designations in § 135.151(g)(2)(iii)(A), § 135.151(g)(2)(iii)(B) cross-referenced the incorrectly designated subsections. As such, in § 135.151(g)(2)(iii)(B) the

text should read ''requirements found in (g)(2)(iii)(A)(*1*), (g)(2)(iii)(A)(*2*), and (g)(2)(iii)(A)(*3*).''

This document corrects these various issues contained in the regulatory text.

List of Subjects

14 CFR Part 91

Aircraft, Aviation safety.

14 CFR Part 125

Aircraft, Aviation safety.

14 CFR Part 135

Air taxis, Aircraft, Aviation safety.

Accordingly, 14 CFR part 91, Part 125, and Part 135 are corrected by making the following correcting amendments:

PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(f), 40101, 40103, 40105, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, 47534, Pub. L. 114–190, 130 Stat. 615 (49 U.S.C. 44703 note); Pub. L. 118–383; articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180), (126 Stat. 11).

■ 2. Amend § 91.609 by revising paragraphs (i)(2)(i)(B) and (i)(2)(i)(C) to read as follows:

§ 91.609 Flight data recorders and cockpit voice recorders.

* * * * *

(i) * * *

(2) * * *

(i) * * *

(A) * * *

(B) Manufactured on or after February 2, 2027, for airplanes or rotorcraft with a maximum certified takeoff weight (MCTOW) of 59,525 pounds or more and type-certificated with 29 or fewer passenger seats; or

(C) Manufactured on or after February 2, 2029, for airplanes or rotorcraft with a maximum certified takeoff weight (MCTOW) of 59,524 pounds or less.

* * * * *

PART 125—CERTIFICATION AND OPERATIONS: AIRCRAFT HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE; AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 3. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 106(f), 40113, 44701–44702, 44705, 44710–44711, 44713, 44716–44717, 44722; Pub. L. 118–383.

■ 4. Amend § 125.227 by revising paragraph (h)(2)(i)(B) to read as follows:

§ 125.227 Cockpit voice recorders.

* * * * *

(h) * * *

(2) * * *

(i) * * *

(B) If manufactured on or after February 2, 2027, for airplanes with a maximum certified takeoff weight (MCTOW) of 59,525 pounds or more and type-certificated with 29 or fewer passenger seats;

* * * * *

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 5. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(f), 40113, 41706, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722, 44730, 45101–45105; Pub. L. 112–95, 126 Stat. 58 (49 U.S.C. 44730), Pub. L. 118–383.

■ 6. Amend § 135.151 by revising paragraphs (g)(1)(iii) and (g)(2)(iii) to read as follows:

§ 135.151 Cockpit voice recorders.

* * * * *

(g) * * *

(1) * * *

(iii) Retains at least—

(A) The last 25 hours of recorded information using a recorder that meets the standards of TSO–C123c, or later revision, if:

(*1*) Manufactured on or after May 16, 2025, for a transport category aircraft type-certificated with 30 or more passenger seats; or

(*2*) Manufactured on or after February 2, 2027, for airplanes or rotorcraft with a maximum certified takeoff weight (MCTOW) of 59,525 pounds or more and type-certificated with 29 or fewer passenger seats; or

(*3*) Manufactured on or after February 2, 2029, for airplanes or rotorcraft with a maximum certified takeoff weight (MCTOW) of 59,524 pounds or less.

(B) The last 2 hours of recorded information using a recorder that meets the standards of TSO–C123a, or later revision, unless the airplane or rotorcraft meets the manufacturing date and requirements found in paragraphs (g)(1)(iii)(A)(*1*), (g)(1)(iii)(A)(*2*), or (g)(1)(iii)(A)(*3*) of this section.

* * * * *

(2) * * *

(iii) Retains at least—

(A) The last 25 hours of recorded information using a recorder that meets the standards of TSO–C123c, or later revision, if:

(*1*) Manufactured on or after May 16, 2025, for airplanes or rotorcraft type-certificated with 30 or more passenger seats; or

(*2*) Manufactured on or after February 2, 2027, for airplanes or rotorcraft with a maximum certified takeoff weight (MCTOW) of 59,525 pounds or more and type-certificated with 29 or fewer passenger seats; or

(*3*) Manufactured on or after February 2, 2029, for airplanes or rotorcraft with a maximum certified takeoff weight (MCTOW) of 59,524 pounds or less.

(B) The last 2 hours of recorded information using a recorder that meets the standards of TSO–C123a, or later revision, unless the airplane or rotorcraft meets the manufacturing date and requirements found in paragraphs (g)(2)(iii)(A)(*1*), (g)(2)(iii)(A)(*2*), or (g)(2)(iii)(A)(*3*) of this section.

* * * * *

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 44703 in Washington, DC.

Brandon Roberts,

Executive Director, Office of Rulemaking.

[FR Doc. 2026–09143 Filed 5–7–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 884

[Docket No. FDA–2026–N–4659]

Medical Devices; Obstetrical and Gynecological Devices; Classification of the External Condom for Anal Intercourse or Vaginal Intercourse

AGENCY: Food and Drug Administration, HHS.

ACTION: Final amendment; final order.

SUMMARY: The Food and Drug Administration (FDA) is classifying the external condom for anal intercourse or vaginal intercourse into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for classification of the external condom for anal intercourse or vaginal intercourse. We are taking this action because we have determined that classifying the device into class II will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients' access to beneficial innovative devices, in part by reducing regulatory burdens.

DATES: This order is effective May 8, 2026. The classification was applicable on February 23, 2022.

FOR FURTHER INFORMATION CONTACT: Sharon Andrews, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2640, Silver Spring, MD 20993–0002, 301–796–6529, *Sharon.Andrews@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA (the Agency or we) has classified the external condom for anal intercourse or vaginal intercourse into class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness of the device. In addition, we believe this action will enhance patients' access to beneficial innovation, in part by reducing regulatory burdens by placing the device into a lower device class than the automatic class III assignment.

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified into, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (21 U.S.C. 360c(f)(1)). We refer to these devices as ''postamendments devices'' because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (FD&C Act).

FDA may take a variety of actions in appropriate circumstances to classify or reclassify a device into class I or II. We may issue an order finding a new device to be substantially equivalent under section 513(i) of the FD&C Act (21 U.S.C. 360c(i)) to a predicate device that does not require premarket approval. We determine whether a new device is substantially equivalent to a predicate device by means of the procedures for premarket notification under section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807).

FDA may also classify a device through ''De Novo'' classification, a common name for the process authorized under section 513(f)(2) of the FD&C Act (see also part 860, subpart D (21 CFR part 860, subpart D)). Section 207 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115) established the first procedure for De Novo classification. Section 607 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144) modified the De Novo classification process by adding a second procedure. A device sponsor may utilize either procedure for De Novo classification.

Under the first procedure, the person submits a premarket notification (510(k)) for a device that has not previously been classified. After receiving an order from FDA classifying the device into class III under section 513(f)(1) of the FD&C Act, the person then requests a classification under section 513(f)(2).

Under the second procedure, rather than first submitting a 510(k) and then a request for classification, if the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence, that person requests a classification under section 513(f)(2) of the FD&C Act.

Under either procedure for De Novo classification, FDA is required to classify the device by written order within 120 days. The classification will be according to the criteria under section 513(a)(1) of the FD&C Act. Although the device was automatically placed within class III, the De Novo classification is considered to be the initial classification of the device.

We believe this De Novo classification will enhance patients' access to beneficial innovation, in part by reducing regulatory burdens. When FDA classifies a device into class I or II via the De Novo process, the device can serve as a predicate for future devices of that type, including for 510(k)s (see section 513(f)(2)(B)(i) of the FD&C Act). As a result, other device sponsors do not have to submit a De Novo request or premarket approval application to market a substantially equivalent device (see section 513(i) of the FD&C Act, defining ''substantial equivalence''). Instead, sponsors can use the less burdensome 510(k) process, when necessary, to market their device.

II. De Novo Classification

On December 9, 2021, FDA received Global Protection Corp.'s request for De Novo classification of the ONE Male Condom. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness of the device, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see section 513(a)(1)(B) of the FD&C Act). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on February 23, 2022, FDA issued an order to the requester classifying the device into class II. In this final order, FDA is codifying the classification of the device by adding 21 CFR 884.5305.[1] We have named the generic type of device ''external condom for anal intercourse or vaginal intercourse,'' and it is identified as a barrier device which covers the penis and is used to prevent the transmission of sexually transmitted infections (when used for anal intercourse or vaginal intercourse) and for contraception (when used for vaginal intercourse). This classification does not include condoms intended for vaginal intercourse only.

FDA has identified the risks to health associated with this type of device and the measures required to mitigate these risks in table 1.

[1] FDA notes that the ''ACTION'' caption for this final order is styled as ''Final amendment; final order,'' rather than ''Final order.'' Beginning in December 2019, this editorial change was made to indicate that the document ''amends'' the Code of Federal Regulations. The change was made in accordance with the Office of Federal Register's (OFR) interpretations of the **Federal Register** Act (44 U.S.C. chapter 15), its implementing regulations (1 CFR 5.9 and parts 21 and 22), and the Document Drafting Handbook.

TABLE 1—RISKS TO HEALTH AND MITIGATION MEASURES FOR EXTERNAL CONDOM FOR ANAL INTERCOURSE OR VAGINAL INTERCOURSE

Identified risks to health	Mitigation measures
Transmission of sexually transmitted infection	Acute failure modes clinical study; Non-clinical performance testing; Shelf life testing; and Labeling.
Pregnancy	Acute failure modes clinical study; Non-clinical performance testing; Shelf life testing; and Labeling.
Adverse tissue reaction	Biocompatibility evaluation; and Labeling.
Mechanical injury leading to ulceration, laceration, trauma	Acute failure modes clinical study; Non-clinical performance testing; Shelf life testing; and Labeling.
Use error/improper device use leading to the risks above	Acute failure modes clinical study; and Labeling.

FDA has determined that special controls, in combination with the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness of the device. For a device to fall within this classification, and thus avoid automatic classification in class III, it would have to comply with the special controls named in this final order. The necessary special controls appear in the regulation codified by this final order.

Under the FD&C Act, submission of a premarket notification under section 510(k) is required to reasonably assure the safety and effectiveness of class II devices unless FDA determines that the device type should be exempt under section 510(m) of the FD&C Act. At this time FDA has not made this determination for external condoms for anal intercourse or vaginal intercourse. This device is therefore subject to premarket notification requirements under section 510(k) of the FD&C Act.

III. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not normally have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations and guidance. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in part 860, subpart D, regarding De Novo classification have been approved under OMB control number 0910–0844; the collections of information in 21 CFR part 814, subparts A through E, regarding premarket approval have been approved under OMB control number 0910–0231; the collections of information in part 807, subpart E, regarding premarket notification submissions have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 820 regarding quality management system regulation have been approved under OMB control number 0910–0073; and the collections of information in 21 CFR part 801 regarding labeling have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 884

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 884 is amended as follows:

PART 884—OBSTETRICAL AND GYNECOLOGICAL DEVICES

■ 1. The authority citation for part 884 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

■ 2. Add § 884.5305 to subpart F to read as follows:

§ 884.5305 External condom for anal intercourse or vaginal intercourse.

(a) *Identification.* An external condom for anal intercourse or vaginal intercourse is a barrier device which covers the penis and is used to prevent the transmission of sexually transmitted infections (when used for anal intercourse or vaginal intercourse) and for contraception (when used for vaginal intercourse). This classification does not include condoms intended for vaginal intercourse only.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) Clinical performance data must demonstrate the total rate of clinical failure and rate of individual failure modes of the device based on an acute failure modes study.

(2) Non-clinical performance testing must demonstrate that the device performs as intended under anticipated conditions of use. The data must include an assessment of mechanical and material integrity, including an evaluation of device failure modes. For devices made of materials other than natural rubber latex, viral penetration testing must be conducted to evaluate barrier effectiveness to sexually transmitted infections.

(3) The device must be demonstrated to be biocompatible.

(4) Performance data must support the shelf life of the device by demonstrating device functionality and package integrity over the identified shelf life.

(5) Labeling must include:

(i) If indicated for vaginal intercourse, a contraceptive effectiveness table comparing typical use and perfect use pregnancy rates with the device to other available methods of birth control;

(ii) Statement regarding compatibility with additional lubricant types;

(iii) Statement regarding the adverse events associated with the device, including transmission of infection, pregnancy, adverse tissue reaction, mechanical injury, or improper device use;

(iv) Expiration date; and

(v) The following information, warnings and precautions:

(A) The sexually transmitted infections (STIs) for which the device is most protective, the degree of protection the device provides against specific types of STIs, and the STIs the device does not protect against;

(B) A statement that the device does not completely eliminate the risks of pregnancy and sexually transmitted infections and that risk can be decreased with correct and consistent use;

(C) A warning regarding the risk of device failure during anal intercourse if adequate lubricant is not used;

(D) A warning stating that the device cannot be used multiple times and is limited to one sex act; and

(E) A precaution stating not to use the device if the user is at risk for material related allergic reactions.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–09152 Filed 5–7–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Part 479

[ATF No. 2025R–45F]

RIN 1140–AA83

Changes to National Firearms Act Tax Remittance Provisions

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice.

ACTION: Final rule.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms, and Explosives (''ATF'') is amending Department of Justice (''Department'') regulations on the National Firearms Act (''NFA'') to reflect statutory changes made to the NFA by the One Big Beautiful Bill Act (''OBBBA''). Among other things, the OBBBA reduced the tax remittance rate for certain NFA firearms. This rule is necessary to make conforming changes to ensure that ATF's regulations are current and consistent with the statute.

DATES: This rule is effective on June 10, 2026.

FOR FURTHER INFORMATION CONTACT: Office of Regulatory Affairs, by email at *ora@atf.gov,* by mail at Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave. NE, Washington, DC 20226, or by telephone at (202) 648–7070 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Attorney General is responsible for enforcing the National Firearms Act (''NFA''), as amended, 26 U.S.C. chapter 53.[1] Congress and the Attorney General have delegated the responsibility for administering and enforcing the NFA to the Director of ATF (''Director''), subject to the direction of the Attorney General and the Deputy Attorney General. *See* 28 U.S.C. 599A(b)(1), (c)(1); 28 CFR 0.130(a)(1)–(2); Treas. Order No. 221(2)(a), (d), 37 FR 11696–97 (June 10, 1972).[2] Accordingly, the Department and ATF have promulgated regulations to implement the NFA in 27 CFR part 479.

Firearms subject to NFA provisions include machine guns; shotguns having a barrel or barrels of less than 18 inches in length; weapons made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels less than 18 inches in length; rifles having a barrel or barrels of less than 16 inches in length; weapons made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels less than 16 inches in length; silencers; destructive devices; and any other weapons (''AOWs'') as defined by the Act. 26 U.S.C. 5845(e). Section 5841 of the NFA requires the Attorney General to maintain a central registry of NFA firearms in the United States that the United States does not possess or are not under its control. The registry is called the National Firearms Registration and Transfer Record (''NFRTR''). All firearms must be registered by their maker, manufacturer, or importer. Section 5821 sets forth the tax that persons making NFA firearms must pay, and section 5822 provides that makers must submit a request to the Attorney General and receive approval before making an NFA firearm. The term ''make'' under the NFA includes ''manufacturing (other than by one qualified to engage in such business under this chapter), putting together, altering, any combination of these, or otherwise producing a firearm.'' 26 U.S.C. 5845(i). Section 5811 sets forth the tax that a person wishing to transfer an NFA firearm must pay, and section 5812 provides that transferors must submit a request to the Attorney General and receive approval before transferring an NFA firearm to a given transferee. The NFA provides that a transfer includes ''selling, assigning, pledging, leasing, loaning, giving away, or otherwise disposing of'' a firearm. 26 U.S.C. 5845(j).

Transfer taxes in the amount of $200 were established in 1934 when the NFA was enacted. Taxes on making NFA firearms in the amount of $200 were established in 1968 when the NFA was revised. Under the NFA, ATF also collects special (occupational) taxes from federally licensed importers, manufacturers, and dealers in NFA firearms. 26 U.S.C. 5801. While tax revenues from sales of non-NFA firearms and ammunition are generally allocated to the Federal Aid to Wildlife Restoration Fund for wildlife restoration and hunter education and safety, 16 U.S.C. 669b(a)(1), taxes collected from NFA-generated tax receipts are deposited into the General Fund of the Treasury. Congress has previously considered, but has not passed, various proposals pertaining to changing the taxing and registering provisions for NFA firearms.

On July 4, 2025, the OBBBA became law. Public Law 119–21. Section 70436 of the OBBBA amended 26 U.S.C. 5811(a) to require that the transfer tax for all firearms regulated under the NFA, other than machine guns and destructive devices, be reduced to $0. Similarly, this section amended 26 U.S.C. 5821(a) to require that the making tax for all NFA firearms, except machine guns and destructive devices, also be reduced to $0. Accordingly, ATF is amending 27 CFR 479.61, 479.62, 479.81, 479.82, and 479.84 to reflect the changes to the statute and to make minor agency procedure and plain writing edits as described below.

II. Final Rule

The OBBBA specified that the tax reduction amendments to the NFA would be effective on January 1, 2026, at which point the NFA making and transfer taxes for NFA firearms other than machine guns and destructive devices would be reduced to $0. As a result, those statutory changes have already occurred. ATF is issuing this final rule to make conforming changes to the tax amounts within ATF's corresponding regulatory provisions under 27 CFR part 479. Although ATF is revising its rule to reflect that OBBBA reduced the tax amount for these NFA firearms to $0, all other regulatory provisions of the NFA application and registration process remain in full force and effect. In addition, the rule makes minor administrative edits to allow the ATF approval stamp on making and transfer applications to be electronic and to make the revised provisions easier to read.

[1] Some NFA provisions still refer to the ''Secretary of the Treasury.'' However, the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, transferred the functions of ATF from the Department of the Treasury to the Department of Justice, under the general authority of the Attorney General. 26 U.S.C. 7801(a)(2); 28 U.S.C. 599A(c)(1). Thus, for ease of reference, this final rule refers to the Attorney General where relevant.

[2] In Attorney General Order Number 6353–2025, the Attorney General delegated authority to the Director to issue regulations pertaining to matters within ATF's jurisdiction, including under the NFA, Gun Control Act, and Title XI of the Organized Crime Control Act. ATF's jurisdiction also includes those portions of sec. 38 of the Arms Export Control Act pertaining to permanently importing defense articles and services and the Contraband Cigarette Trafficking Act.

A. Making Tax Amendments (§§ 479.61 and 479.62)

Section 479.61 reiterates the requirement and scope of the making tax on NFA firearms. While the existing section currently mirrors pre-OBBBA statutory language of a $200 tax on ''each firearm made,'' this rule aligns the section with the OBBBA by narrowing the scope of the $200 tax to only machine guns and destructive devices and reducing the tax on silencers, short-barreled rifles, short-barreled shotguns, or AOWs to $0.

In addition, the rule revises § 479.61 to allow the statutorily required NFA stamp, which shows that the maker paid the tax and that ATF has approved the application, to be in electronic form or other form designated by the Director. ATF is doing this in accordance with technological developments and government-wide initiatives to implement electronic transactions. To make this section easier to read, the rule divides it into two paragraphs, with the stamp requirements moved to a new § 479.61(b).

Section 479.62 governs the process by which an individual may legally make an NFA firearm by submitting ATF Form 5320.1, Application to Make and Register NFA Firearm (''Form 1''). ATF must approve the Form 1 application before the person may make the firearm. This rule revises § 479.62(b)(1) to reflect the reduced tax rate of $0 for making silencers, short-barreled rifles, short-barreled shotguns, or AOWs. The existing regulation currently requires the pre-OBBBA remittance of $200 for all firearms made under this provision.

B. Transferring Tax Amendments (§§ 479.81, 479.82, and 479.84)

Section 479.81 reiterates the requirement and scope of the transfer tax as applicable to all NFA firearms transferred within the United States and requires that the tax-paid status be represented by an ''adhesive'' stamp affixed to the application form. This rule revises § 479.81 to allow the statutorily required NFA tax-paid stamp, which shows that the transferor paid the tax and that ATF has approved the application, to be in electronic form or other form designated by the Director. ATF is making this change in accordance with technological developments and government-wide initiatives to implement electronic transactions.

Section 479.82 sets forth the required tax rate for transferring an NFA firearm. The existing section currently mirrors the pre-OBBBA statutory language of a transfer tax ''at the rate of $200 for each firearm transferred, except that the transfer tax on any firearm classified as 'any other weapon' shall be at the rate of $5'' and requires that the transferor pay the transfer tax. This rule amends § 479.82 to reflect the new tax rate of $0 for transferring any NFA firearms except machine guns and destructive devices.

Section 479.84 governs tax-paid transfers of NFA firearms using ATF Form 5320.4, Application to Transfer and Register NFA Firearm (Tax-Paid) (''Form 4''). Similarly to § 479.82, this rule implements conforming changes to § 479.84(b)(1) to reflect the new tax rate of $0 for transferring any NFA firearms except machine guns and destructive devices, in accordance with the OBBBA. The existing section mirrors the pre-OBBBA statutory language requiring a $200 tax for transferring silencers, short-barreled rifles, short-barreled shotguns, machine guns, and destructive devices, and a $5 tax for transferring AOWs. All other requirements for lawfully transferring an NFA firearm remain unchanged.

III. Statutory and Executive Order Review

A. Administrative Procedure Act

Under the Administrative Procedure Act (''APA''), 5 U.S.C. 553(b)(A), the usual requirements of prior notice and comment do not apply to ''interpretive rules,'' meaning those that ''remind parties of existing statutory or regulatory duties, or 'merely track[ ]' '' preexisting requirements and explain something the statute or regulation already required.'' *POET Biorefining, LLC* v. *EPA,* 970 F.3d 392, 407 (D.C. Cir. 2020) (citation omitted); *see also United States* v. *Kriesel,* 508 F.3d 941, 945 (9th Cir. 2007) (a regulation that ''mirror[s] the statute'' is a ''classic interpretive rule''). The usual requirements of prior notice and comment also do not apply to ''rules of agency organization, procedure, or practice.'' 5 U.S.C. 553(b)(A). As described above, this final rule incorporates statutory changes to the tax amount for NFA firearms into existing regulatory provisions that previously aligned with statutory language. These conforming updates to ATF regulations in 27 CFR part 479 ensure that they are consistent with the statute and can be relied on by the public. This final rule also makes minor agency procedural revisions to allow ATF to use electronic approval stamps on NFA forms and minor technical edits to conform with the Plain Writing Act. Even if these revisions were not mere interpretive rules or rules of agency organization, procedure, or practice, they would still be exempt from the APA's notice and comment requirements because they are either technical amendments of little public interest or else conform to statutory requirements so closely that they do not constitute an exercise of agency discretion. Accordingly, ATF has good cause to conclude that notice and comment is unnecessary for this action. 5 U.S.C. 553(b)(B). ATF is issuing this as a final rule, without prior public comment, effective 30 days after the date the **Federal Register** publishes the rule.

B. Executive Orders 12866 and 13563

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.

Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of agencies quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting public flexibility.

The Office of Management and Budget (''OMB'') has determined that this rule is a ''significant regulatory action'' under section 3(f)(1) of Executive Order 12866 because it has an economic impact of $100 million or more.

This final rule makes necessary conforming changes to 27 CFR part 479 by reflecting the statutory amendments that reduce the $200 tax previously imposed for making and transferring all NFA firearms except machine guns and destructive devices to a $0 tax. It also makes minor agency procedural changes to allow ATF's tax approval stamp to be in electronic form.

While an Initial Regulatory Impact Analysis may be required for significant rules, ATF does not include such an analysis for this rule because it is not subject to public notice and comment. However, ATF nonetheless evaluated potential impacts on small businesses and determined that the rule will have only a potentially positive indirect impact on small businesses.

In addition, ATF has laid out the impacts from implementing the OBBBA tax remittance change in ATF's OMB A–4 accounting statement here, in Table 1. Table 1 also illustrates the range of future estimates in a low, primary, and high range as ATF's Circular A–4 sensitivity analysis. ATF then provides its normal regulatory cost-benefit analysis below Table 1.

TABLE 1—OMB CIRCULAR A–4 ACCOUNTING STATEMENT ($ MILLIONS) AND SENSITIVITY ANALYSIS

Category	Primary estimate	Minimum estimate	Maximum estimate	Units		
				Dollar year	Percent discount	Period covered (years)
Benefits						
Annualized monetized benefits	$0	$0	$0	2025	7	10
	0	0	0	2025	3	10
Annualized quantified benefits	n/a	n/a	n/a	2025	7	10
	n/a	n/a	n/a	2025	3	10
Annualized non-monetized benefits	n/a.					
Costs						
Annualized monetized costs	0	0	0	2025	7	10
	0	0	0	2025	3	10
Annualized quantified costs	n/a	n/a	n/a	2025	7	10
	n/a	n/a	n/a	2025	3	10
Annualized non-monetized costs	n/a.					
Transfers						
Federal annualized monetized	234.22	146.61	1,940.63	2025	7	10
	238.68	148.53	2,410.51	2025	3	10
	From: federal government			To: individuals		
Other annualized monetized transfers	n/a	n/a	n/a	2025	7	10
	n/a	n/a	n/a	2025	3	10
Effects						
State, local, and/or tribal governments	The rule will not impose an intergovernmental mandate, have significant or unique effects on small governments, or have federalism or tribal implications.					
Small businesses	For direct costs, this rule is deregulatory and provides savings to individuals and businesses, including small businesses. However, the rule may indirectly benefit businesses, including small businesses, by increasing sales because the cost of purchasing covered firearms will not include a $200 per-item tax.					
Wages	n/a.					
Growth	n/a.					
Distribution effects	Transfer payments normally paid from individuals to the federal government would no longer have to be paid.					
Alternatives	No-change alternative: $0 cost and $0 benefits. This was rejected because it would place the regulation at odds with its generating statute. It is also more stringent without any incremental benefit.					
	Proposed alternative: Transfers $234.2 million annualized at 7 percent. Cost $0. This alternative was chosen because it aligns the regulation with its statute. Benefits exceed costs.					
	Less-stringent alternative: Issuing guidance instead of a rule. This alternative was not chosen because it would not change ATF regulations to reflect changes in statute, creating misalignment.					
Net benefits						
Annualized monetized net benefits	n/a	n/a	n/a	.....	7	10
	n/a	n/a	n/a	.....	3	10

1. Need Statement

This rule incorporates the statutory change to reduce the $200 making and transfer taxes on NFA firearms except machine guns and destructive devices to a $0 tax. The $200 tax was paid with each application to make (Form 1) or transfer (Form 4) NFA firearms (see Table 2 below for estimated taxes paid to the Treasury). Due to the statutory change, individuals making or transferring NFA firearms other than machine guns and destructive devices now pay $0 with each of these applications, so ATF is updating its regulations to conform with this statutory change and prevent confusion.

2. Population, Benefits, and Transfers

ATF maintains a record of NFA applications to make or transfer an NFA firearm. Over the last ten years, the annual number of NFA applications has increased.[3] Table 2 provides the number of applications received annually during the ten years prior to drafting this rule (2016 to 2025) for silencers, short-barreled rifles, short-barreled shotguns, and AOWs. Because destructive devices and machine guns are not included in the reduced NFA tax, they are not

[3] *ATF.gov, National Firearms Act Division, https://www.atf.gov/firearms/national-firearms-act-division.*

impacted by this rule and are thus not included in this analysis. Table 2 provides the historical number of NFA applications that would have been affected by the statutory tax reduction from $200 to $0.

TABLE 2—HISTORICAL NUMBER OF APPLICABLE FORMS 1 AND 4 APPLICATIONS

Year	Applications	Estimated NFA taxes assessed *
2016	303,859	$60,508,745
2017	119,850	23,798,985
2018	176,819	35,363,800
2019	199,861	39,837,650
2020	291,512	58,302,400
2021	372,015	74,228,670
2022	481,917	96,383,400
2023	460,022	91,864,585
2024	832,264	166,452,800
2025	810,099	161,667,240

* **Note:** NFA taxes are estimated because this total does not account for any refunds or interest that might have occurred in specific cases after the taxes were paid.

Based on this data, ATF forecasts future applications for years 2026 to 2035. Table 3 provides the anticipated increase in Forms 1 and 4 applications arising from the statutory change permitting $0-tax transfers over the next ten years.[4]

TABLE 3—PROJECTED NUMBER OF ZERO-TAX NFA APPLICATIONS, BASELINE SCENARIO *

Future years	Low estimate	Main estimate	High estimate
1	635,836	887,793	1,139,749
2	644,488	959,585	1,274,682
3	663,702	1,031,377	1,399,053
4	689,430	1,103,170	1,516,909
5	719,692	1,174,962	1,630,232
6	753,340	1,246,754	1,740,168
7	789,642	1,318,546	1,847,450
8	828,095	1,390,338	1,952,582
9	868,336	1,462,131	2,055,925
10	910,093	1,533,923	2,157,752

* Assuming the annual rate of increase remains constant. It is possible the rate will increase even more once the tax is zero, but ATF has no data from which to predict by how much.

This rule reduces the $200 taxes on most NFA firearms (except machine guns and destructive devices) to $0 tax. Changes in tax collection are not deregulatory savings; instead, they are a transfer from the government to manufacturers and consumers. Table 4 provides the estimated transfers from the government to consumers and manufacturers.

TABLE 4—PROJECTED GOVERNMENT TRANSFERS

Year	Projected affected NFA applications	Undiscounted $200 tax savings	3-Percent discount rate	7-Percent discount rate
1	887,793	$177,558,585	$172,386,976	$165,942,603
2	959,585	191,917,026	180,900,204	167,627,763
3	1,031,377	206,275,467	188,771,273	168,382,226
4	1,103,170	220,633,908	196,030,369	168,320,552
5	1,174,962	234,992,349	202,706,464	167,546,297
6	1,246,754	249,350,789	208,827,360	166,152,959
7	1,318,546	263,709,230	214,419,737	164,224,855
8	1,390,338	278,067,671	219,509,187	161,837,916
9	1,462,131	292,426,112	224,120,265	159,060,429
10	1,533,923	306,784,553	228,276,519	155,953,710
Total	12,108,578	2,421,715,690	2,035,948,354	1,645,049,310

[4] ATF notes that because AOWs were assessed a $5 tax instead of a $200 tax, the future projected taxation is not a calculation directly derived from multiplying the number of NFA applications by the $200 tax. Therefore, estimated projections do not directly reflect the projected number of NFA applications.

TABLE 4—PROJECTED GOVERNMENT TRANSFERS—Continued

Year	Projected affected NFA applications	Undiscounted $200 tax savings	3-Percent discount rate	7-Percent discount rate
Annualized			238,675,257	234,218,013

* The ''Undiscounted'' column represents totals from the underlying costs. Consistent with guidance provided by OMB in Circular A–4, the ''3-percent discount rate'' and ''7-percent discount rate'' columns result from applying an economic formula to the number in each row of this ''Undiscounted'' column to show how these future costs over time would be valued today; they do not contain totals from other tables.

ATF anticipates this rulemaking will have a total, ten-year undiscounted transfer of $2.4 billion, or annualized transfers of $238.7 million at a 3 percent discount rate and $234.2 million at a 7 percent discount rate.

3. Regulatory Alternatives

Alternative 1. Maintaining the Status Quo (No Action Alternative)

ATF considered not updating the regulations to reflect tax changes under the statute. There would be no costs or savings attributed to this alternative as it would not make any changes. However, it would create confusion since the regulatory requirement and the statutory requirement would be inconsistent. There would be a non-monetized benefit to public safety from leaving the regulation as is. However, ATF rejected this alternative because the tax change is statutory and any such increased risks to public safety have therefore already occurred (even if the regulation remains the same).

Alternative 2. Rulemaking

This alternative reduces the existing regulatory requirement to pay $200 taxes on all NFA firearms except machine guns and destructive devices to match the statutory change to $0 tax. This conforms ATF regulations to recent statutory changes reducing the tax amount for these firearms and provides deregulatory savings to individuals wishing to purchase NFA weapons, due to the reduced tax rate of $0 per firearm. ATF accepted this alternative because it brings the regulations into compliance with the statute and provides substantial public benefit without any risk to public safety.

Alternative 3. Issuing Guidance

While this alternative would not impose any additional costs, the current tax rate requirements are in a regulation. This alternative does not have the force and effect of a regulation, and issuing guidance would not align the regulation with the statute. Giving guidance that does not align with the regulation would create more confusion and potential scope issues. Therefore, ATF rejected this alternative.

C. Executive Order 14192

Executive Order 14192 (Unleashing Prosperity through Deregulation) requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed or revised when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation that qualifies as an Executive Order 14192 regulatory action (defined in OMB Memorandum M–25–20 as a final significant regulatory action under section 3(f) of Executive Order 12866 that imposes total costs greater than zero). In furtherance of this requirement, section 3(c) of Executive Order 14192 requires that any new incremental costs associated with such new regulations must, to the extent permitted by law, also be offset by eliminating existing costs associated with at least ten prior regulations. However, this rule is not an Executive Order 14192 regulatory action and provides transfers from the government back to the individual or entity.

D. Executive Order 14294

Executive Order 14294 (Fighting Overcriminalization in Federal Regulations) requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to each element of those offenses. This rule does not create a criminal regulatory offense and is thus exempt from Executive Order 14294 requirements.

E. Executive Order 13132

This final rule does not have substantial direct effects on the states, the relationship between the federal government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132 (Federalism), the Director has determined that this final rule does not impose substantial direct compliance costs on State and local governments, preempt state law, or meaningfully implicate federalism. It thus does not warrant preparing a federalism summary impact statement.

F. Executive Order 12988

This final rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform).

G. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–612, agencies are required to conduct a regulatory flexibility analysis of any final rule subject to notice-and-comment rulemaking requirements unless the agency head certifies, including a statement of the factual basis, that the final rule will not have a significant economic impact on a substantial number of small entities. Small entities include certain small businesses, small 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.

However, in accordance with the RFA, 5 U.S.C. 603, 604, and 605(b), an agency is not required to conduct a regulatory flexibility analysis in a final rule for which it was not required to publish a general notice of proposed rulemaking. This rule will not have a negative impact on small businesses. Reducing the $200 tax to $0 may have positive net benefits for small businesses with respect to increased sales and revenue.

H. Unfunded Mandates Reform Act of 1995

This final rule will not result in expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (as adjusted for inflation), and it will not significantly or uniquely affect small governments. Therefore, ATF has determined that no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

I. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (''PRA''), 44 U.S.C. 3501–3521,

agencies are required to submit to OMB, for review and approval, any information collection requirements a rule creates or any impacts it has on existing information collections. An information collection includes any reporting, record-keeping, monitoring, posting, labeling, or other similar actions an agency requires of the public. *See* 5 CFR 1320.3(c). This final rule does not create any new information collection requirements, but it does impact two existing ones covered by the PRA.

The two impacted information collections are: (1) OMB control number 1140–0011: Application to Make and Register NFA Firearm, which includes ATF Form 53201.1 (''Form 1''); and (2) OMB control number 1140–0014: Application to Transfer and Register NFA Firearm (Tax-Paid), which includes ATF Form 5320.4 (''Form 4''). Both forms contained in these information collections have had a non-substantive change made to the forms to add a $0 remittance option, in accordance with the statute's requirements. In addition, because this rule permits persons to buy and make some kinds of NFA firearms without paying the traditional $200 tax, ATF anticipates that the number of respondents submitting Forms 1 and 4 applications may increase, which would result in a higher total time burden arising from more applications. This would be the only change arising from this rule. Any increase in respondents and resulting increase to the time burden will be reflected in the collections' next renewals.

Impacted ICR 1

Title: Application to Make and Register NFA Firearm.

OMB control number: 1140–0011.

Form number: ATF Form 5320.1 (''Form 1'').

Summary of the information collection: Any person other than a qualified manufacturer who wishes to make and register an NFA firearm must submit a written application to ATF on a form prescribed by ATF. 26 U.S.C. 5822. They must also identify the firearm they are making and themselves as the maker. Finally, individuals must include their fingerprints and a photograph with the application. In § 479.62, ATF prescribed ATF Form 5320.1 (''Form 1''), Application to Make and Register NFA Firearm, for these required purposes.

Need for information and proposed use: ATF's NFA Division uses the information on this form to determine whether the applicant may legally make and register the firearm under federal, state, tribal, and local law. Section 5822 provides that ATF cannot approve an application if making or possessing the firearm would place the person making the firearm in violation of law. The form asks individual applicants to respond, under penalties of perjury, to questions to determine whether they are prohibited by federal law from possessing firearms. For a trust or legal entity, which cannot answer these questions on Form 1 because it is not an individual, each responsible person for that trust or legal entity instead provides this information when it submits Form 5320.23, NFA Responsible Person Questionnaire (covered by OMB control number 1140–0107).

Description of the respondents affected by this proposed rule: Individuals or households.

Number of respondents: 148,975 annually.

Frequency of response: Once.

Response time estimate: 12 minutes (overall reduction from 30 minutes, due to conversion to eForm and other technological changes).

Burden of response: 29,795 hours total for all respondents.

Impacted ICR 2

Title: Application to Transfer and Register NFA Firearm (Tax-Paid).

OMB control number: 1140–0014.

Form number: ATF Form 5320.4 (''Form 4'').

Summary of the information collection: Persons with an NFA firearm must apply to ATF for approval to transfer and register the firearm as required by the NFA. 26 U.S.C. 5812. ATF Form 5320.4 (''Form 4''), is the prescribed means for submitting this application, facilitates and records the firearms transfer, and also serves as proof of registration once approved.

Need for information and proposed use: ATF's NFA Division uses the information on this form to determine whether the applicant may legally make and register the firearm under federal, state, tribal, and local law. The form also identifies the transferor, transferee, and firearm(s). 26 U.S.C. 5812 provides that ATF cannot approve an application if receiving or possessing the firearm would place the person receiving the firearm in violation of law. The form asks individual transferees to respond, under penalties of perjury, to questions to determine whether they are prohibited by federal law from possessing firearms. For a trust or legal entity, which cannot answer these questions on Form 4 because it is not an individual, each responsible person for that trust or legal entity instead provides this information when it submits Form 5320.23, NFA Responsible Person Questionnaire (covered by OMB control number 1140–0107).

Description of the respondents affected by this proposed rule: Individuals or households.

Number of respondents: 546,424 annually.

Frequency of response: Once.

Response time estimate: 12 minutes per (overall reduction from 30 minutes, due to conversion to eForm and other technological changes).

Burden of response: 109,285 hours total for all respondents.

J. Congressional Review Act

Pursuant to the Congressional Review Act, 5 U.S.C. 801 *et seq.,* ATF has determined that this final rule meets the criteria in 5 U.S.C. 804(2) to constitute a major rule. This final rule is a major rule because it will result in an annual effect on the economy of $100 million or more. However, this rule will not cause an increase in prices, nor will it have an adverse effect on the economy, on competition, employment, investment, productivity, innovation, or US enterprises, because this rule provides transfers from the government back to the individual or entity. Pursuant to 5 U.S.C. 808(2), this rule is not subject to the CRA's requirement for a 60-day delayed effective date because, as discussed above, ATF has found good cause to conclude that notice and comment are unnecessary for this rule.

List of Subjects in 27 CFR Part 479

Administrative practice and procedure, Arms and munitions, Exports, Imports, Military personnel, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Taxes, Transportation.

For the reasons discussed in the preamble, ATF amends 27 CFR part 479 as follows:

PART 479—MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS

■ 1. Revise the authority citation for part 479 to read as follows:

Authority: 26 U.S.C. 5801–5822; 26 U.S.C. 7801; 26 U.S.C. 7805.

■ 2. Revise § 479.61 to read as follows:

§ 479.61 Making tax rate.

(a) Except as provided in this subpart, the Director must levy and collect, and a person, upon making a firearm, must pay, a tax at the rate of—

(1) $200 for each firearm made, in the case of a machine gun or a destructive device; and

(2) $0 for any firearm made that is not described in paragraph (a)(1) of this section.

(b) The Director must indicate that the maker paid the tax by adding a stamp of the proper denomination, bearing the words ''National Firearms Act.'' The Director maintains the stamps and must affix or apply one to each approved application form, as provided in this subpart. The stamps may be adhesive, in electronic form, or in another form designated by the Director.

■ 3. Amend § 479.62 by revising the section heading and paragraph (b)(1) to read as follows:

§ 479.62 Applying to make.

* * * * *

(b) * * *

(1) Type of application, *i.e.,* tax-paid or tax-exempt. If making the firearm is taxable, the applicant must remit $200 with the application for a machine gun or destructive device, or $0 for all other firearms, in accordance with the instructions on the form;

* * * * *

■ 4. Revise § 479.81 to read as follows:

§ 479.81 Tax scope.

Except as otherwise provided in this part, each NFA firearm transfer in the United States is subject to a transfer tax. The Director indicates that the transferor has paid the tax and ATF has approved the application by adding a stamp of the proper denomination, bearing the words ''National Firearms Act.'' The Director maintains the stamps and must affix or apply one to each approved application form, as provided in this subpart. The stamps may be adhesive, in electronic form, or in another form designated by the Director.

■ 5. Revise § 479.82 to read as follows:

§ 479.82 Transfer tax rate.

(a) The transfer tax imposed with respect to NFA firearms transferred within the United States is at the rate of—

(1) $200 for each firearm transferred, in the case of a machine gun or a destructive device; and

(2) $0 for any firearm transferred that is not described in paragraph (a)(1) of this section.

(b) The transferor must pay the transfer tax.

■ 6. Amend § 479.84 by revising its heading and paragraph (b)(1) to read as follows:

§ 479.84 Applying to transfer.

* * * * *

(b) * * *

(1) Type of firearm being transferred. The applicant must remit $200 with the application for a machine gun or destructive device, or $0 for all other firearms, in accordance with the instructions on the form;

* * * * *

Robert Cekada,

Director.

[FR Doc. 2026–09155 Filed 5–7–26; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Part 646

[ATF No. 2006R–1F]

RIN 1140–AA31

Implementing PATRIOT Act Improvements: Contraband Cigarettes and Smokeless Tobacco

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice.

ACTION: Final rule.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms, and Explosives (''ATF'') is amending Department of Justice (''Department'') regulations to implement certain provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 (''PATRIOT Improvement Act'') relating to trafficking in contraband cigarettes or smokeless tobacco. This act amended the Contraband Cigarette Trafficking Act (''CCTA'') by, among other things, reducing the threshold amount of cigarettes necessary to trigger jurisdiction under the CCTA from a quantity in excess of 60,000 to a quantity in excess of 10,000; extending the provisions of the CCTA to cover contraband smokeless tobacco; expanding record-keeping requirements; and imposing reporting requirements.

DATES: This final rule is effective June 8, 2026.

FOR FURTHER INFORMATION CONTACT: Office of Regulatory Affairs, by email at *ORA@atf.gov,* by mail at Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Avenue NE; Washington, DC 20226, or by telephone at 202–648–7070 (this is not a toll-free number); *ATTN: RIN 1140–AA31.*

SUPPLEMENTARY INFORMATION:

I. Background

In 1978, the Contraband Cigarette Trafficking Act (''CCTA''), 18 U.S.C. 2341 *et seq.,* was enacted to deter cigarette smuggling between states that had diverse tax rates. The Attorney General has delegated primary responsibility to enforce and administer the CCTA to the Director of ATF (''Director''). *See* 28 CFR 0.130. Accordingly, the Department and ATF have promulgated regulations [1] that implement provisions of the CCTA in 27 CFR part 646.

Since the CCTA was enacted, cigarette smuggling and trafficking has grown in complexity and become a global problem that costs governments throughout the world billions of dollars in lost tax revenue. Criminals smuggle and traffic cigarettes between low-tax and high-tax states and across international borders. ATF's investigations, Congress, and other sources have established that organized crime and terrorist groups divert legal tobacco products into illegal markets.[2] Organized crime and terrorist groups use profits derived from cigarette trafficking to finance additional criminal enterprises.

Further, trafficking in contraband tobacco products poses a serious health risk because selling trafficked tobacco products avoids taxes in the jurisdiction in which the tobacco product is resold. This decreases the cost of those tobacco products and promotes distribution of cheap tobacco, which, in turn, increases tobacco use.[3] The impact of this illicit

[1] In Attorney General Order Number 6353–2025, the Attorney General delegated authority to the Director to issue regulations pertaining to matters within ATF's jurisdiction, including under the National Firearms Act, Gun Control Act, and Title XI of the Organized Crime Control Act. ATF's jurisdiction also includes the Arms Export Control Act and the CCTA.

[2] The legislative history of the PATRIOT Improvement Act, Public Law 109–177, 120 Stat. 192, 221–24 (2006), indicates that the CCTA was amended, and the threshold was lowered from 60,000 to 10,000 cigarettes, in order to prevent criminal organizations and terrorists from funding their activities by purchasing cigarettes in a low-excise tax state and reselling them in a high-excise tax state. 151 Cong. Rec. H6284 (July 21, 2005) (statement of Rep. Coble); *see also United States* v. *Hammoud,* No. 300–CR–00147–GCM–DSC, 2022 WL 17326071, at *1 (W.D.N.C. Nov. 29, 2022) (explaining how a Hezbollah cell orchestrated a cigarette-trafficking scheme from North Carolina, a low-tax state, to Michigan, a high-tax state, to finance Hezbollah activities); *United States* v. *Hammoud,* 381 F.3d 316, 325–26 (4th Cir. 2004) (same); Kate Willson, Alain Lallemand & Aamir Latif, *Terrorism and tobacco: Extremists and insurgents turn to tobacco smuggling,* Int'l Consortium of Investigative Journalists (June 29, 2009), *https://www.icij.org/investigations/tobacco-underground/terrorism-and-tobacco/* [*https://perma.cc/LU79-JSGU*].

[3] The Centers for Disease Control and Prevention (''CDC'') has stated that increasing the price of tobacco products is an effective way to reduce demand and that cigarette smoking in 2018 cost the United States more than $600 billion, including more than $240 billion in health care spending. *See*

trade on health and other public interests is discussed in the National Cancer Institute's Monograph 21, ''The Economics of Tobacco and Tobacco Control.'' [4] That report concludes that ''tax avoidance and tax evasion, especially large-scale smuggling of tobacco products, undermine the effectiveness of tobacco control policies and reduce the health and economic benefits that result from these policies.'' [5] Finally, the sale of contraband products poses a serious financial threat to legitimate manufacturers, wholesalers, and retailers.

II. USA PATRIOT Improvement and Reauthorization Act of 2005

Section 121 of the PATRIOT Improvement Act [6] made several amendments to the CCTA, 18 U.S.C. 2341 *et seq.,* as discussed below.

A. Section 121(a)—Threshold Quantity for Treatment as Contraband Cigarettes

Prior to its amendment, 18 U.S.C. 2342 made it unlawful for any person knowingly to ship, transport, receive, possess, sell, distribute, or purchase contraband cigarettes, defined as any quantity in excess of 60,000 cigarettes bearing no evidence that applicable state cigarette taxes had been paid in the state where such cigarettes were found. Section 121(a) of the PATRIOT Improvement Act amended this portion of the CCTA by reducing the number of cigarettes that trigger application of the CCTA to a quantity in excess of 10,000 cigarettes bearing no evidence that applicable state or local taxes had been paid in the state or locality where such cigarettes are found. 120 Stat. at 221.

B. Section 121(b)—Contraband Smokeless Tobacco

Section 121(b) of the PATRIOT Improvement Act amended the CCTA by extending the CCTA's provisions to include contraband smokeless tobacco. It defined ''smokeless tobacco'' as ''any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral or nasal cavity or otherwise consumed without being combusted.'' 120 Stat. at 221. This amendment also defined ''contraband smokeless tobacco'' as a quantity in excess of 500 single-unit consumer-sized cans or packages of smokeless tobacco, or their equivalent, possessed by any person other than (1) a person holding a permit issued pursuant to chapter 52 of the Internal Revenue Code of 1986 (''IRC'') as a manufacturer of tobacco products or as an export warehouse proprietor, a person operating a customs bonded warehouse pursuant to sections 311 or 555 of the Tariff Act of 1930 (19 U.S.C. 1311, 1555), or an agent of such person; (2) a common carrier transporting such smokeless tobacco under a proper bill of lading or freight bill that states the quantity, source, and designation of such smokeless tobacco; (3) a person who is licensed or otherwise authorized by the state where such smokeless tobacco is found to engage in the business of selling or distributing tobacco products, and has complied with the accounting, tax, and payment requirements relating to such license or authorization with respect to such smokeless tobacco; or (4) an officer, employee, or agent of the United States or a state, or any department, agency, or instrumentality of the United States or a state (including any political subdivision of a state), having possession of such smokeless tobacco in connection with the performance of official duties. *Id.* at 221–22.

C. Section 121(c)—Record-keeping, Reporting, and Inspection

Prior to amendment, the CCTA authorized the Secretary of the Treasury to prescribe limited regulations concerning record-keeping and inspection requirements for any person who distributed any quantity of cigarettes in excess of 60,000 cigarettes in a single transaction. Section 121(c) of the PATRIOT Improvement Act amended these provisions of the CCTA by authorizing the Attorney General, rather than the Secretary of the Treasury, to prescribe regulations concerning record-keeping requirements, including requirements for retaining such information as the Attorney General considers appropriate for the purposes of CCTA enforcement against persons who ship, sell, or distribute [7] any quantity in excess of 10,000 cigarettes or 500 single-unit consumer-sized cans or packages of smokeless tobacco in a single transaction. 120 Stat. at 222.

The act also authorized regulations requiring persons, except for tribal governments, who engage in a delivery sale, and who ship, sell, or distribute any quantity in excess of 10,000 cigarettes or 500 single-unit consumer-sized cans or packages of smokeless tobacco within a single month, to submit to the Attorney General, pursuant to regulations prescribed by the Attorney General, a report setting forth (1) the person's beginning and ending inventories of cigarettes and cans or packages of smokeless tobacco (in total) for such month; (2) the total quantity of cigarettes and cans or packages of smokeless tobacco that the person received within such month from each other person (itemized by name and address); and (3) the total quantity of cigarettes and cans or packages of smokeless tobacco that the person distributed within such month to each person (itemized by name and address) other than a retail purchaser. *Id. at* 222–23.

Finally, the act added the term ''delivery sale,'' which means any sale of cigarettes or smokeless tobacco in interstate commerce to a consumer if (a) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, mail, or the internet or other online service, or by any other means where the consumer is not in the same physical location as the seller when the purchase or offer of sale is made; or (b) the cigarettes or smokeless tobacco are delivered by use of mails, common carrier, private delivery service, or any other means where the consumer is not in the same physical location as the seller when the consumer obtains physical possession of the cigarettes or smokeless tobacco. *Id.* at 223.

D. Section 121(d)—Disposal or Use of Forfeited Cigarettes and Smokeless Tobacco

Section 121(d) of the PATRIOT Improvement Act amended the CCTA to state that the provisions of 18 U.S.C. 981 through 987 relating to civil forfeiture extend to any seizure or civil forfeiture of contraband cigarettes or contraband smokeless tobacco involved in any violation of the CCTA. 120 Stat. at 223. Section 121(d) further provided that any cigarettes or smokeless tobacco so seized will either (1) be destroyed and not resold, or (2) be used for undercover investigative operations for the detection and prosecution of crimes, and then destroyed and not resold. *Id.*

CDC, Economic Trends in Tobacco (Sep. 17, 2024), *https://www.cdc.gov/tobacco/php/data-statistics/economic-trends/index.html* [*https://perma.cc/QS8G-MU73*].

[4] U.S. National Cancer Institute and World Health Organization. (2016). The economics of tobacco and tobacco control. *NCI Tobacco Control Monograph 21, NIH Publication No. 16–CA–8029A. https://cancercontrol.cancer.gov/brp/tcrb/monographs/monograph-21* [*https://perma.cc/TK5B-XEF2*].

[5] *Id.* at 17.

[6] Public Law 109–177, 120 Stat. at 221–24.

[7] The definition of ''distribute'' in the regulations at § 646.143 includes shipping and selling as forms of distributing. As a result, ATF is removing the terms ''ship'' and ''sell'' (and variants thereof) in the provisions in this rule to eliminate confusion about which terms apply in which sections.

E. Section 121(e)—Effect on State and Local Law

Section 121(e) of the PATRIOT Improvement Act clarified that the CCTA is not intended to affect the concurrent jurisdiction of a state or local government to enact and enforce its own cigarette tax laws; to confiscate cigarettes, smokeless tobacco, or other property seized for violation of such laws; or to provide for penalties for the violation of such laws. 120 Stat. at 223. This section also clarified that the CCTA is not intended to inhibit coordinated law-enforcement efforts by state or local governments. *Id.* The existing regulations do not address these subjects, and ATF did not propose any regulatory amendments in relation to these statutory changes.

F. Section 121(f)—Enforcement

Section 121(f) of the PATRIOT Improvement Act created a new civil cause of action allowing state and local governments and federal tobacco permittees under the IRC to bring actions in federal district court to prevent or restrain CCTA violations. 120 Stat. at 223–24. In addition, it authorized state and local governments to seek civil penalties, monetary damages, and injunctive or other equitable relief. *Id.* at 224. The existing regulations do not address these subjects, and ATF did not propose any regulatory amendments in relation to these statutory changes.

G. Section 121(g)—Conforming and Clerical Amendments

Section 121(g) of the PATRIOT Improvement Act made several conforming and clerical amendments to the CCTA, such as changing the title of chapter 114 to read ''Trafficking in Contraband Cigarettes and Smokeless Tobacco'' and changing the section headings of 18 U.S.C. 2343 and 2345. 120 Stat. at 224.

III. Proposed Rule

On July 28, 2010, the Department, on behalf of ATF, published in the **Federal Register** a notice of proposed rulemaking (''NPRM''), titled ''Implementing the USA PATRIOT Improvement and Reauthorization Act of 2005 Regarding Trafficking in Contraband Cigarettes or Smokeless Tobacco (2006R–1P),'' 75 FR 44173, which proposed to implement the provisions of section 121 of the PATRIOT Improvement Act relating to trafficking in contraband cigarettes or smokeless tobacco. (RIN 1140–AA31.) The NPRM proposed to amend ATF regulations to comport with section 121 of the PATRIOT Improvement Act through a number of changes.

First, ATF proposed reducing the amount of cigarettes necessary to trigger jurisdiction under the CCTA from a quantity in excess of 60,000 to a quantity in excess of 10,000, per section 121(a) of the PATRIOT Improvement Act. ATF proposed amendments to carry out this change in 27 CFR 646.141 (revising the stated scope of part 646 to reflect the new threshold amount), § 646.143 (revising the definitions of ''contraband cigarettes,'' ''distributor,'' and ''exempted person'' to reflect the new threshold amount), § 646.146 (revising paragraphs (a) and (b)(1) to reflect the new threshold amount), and § 646.147 (revising paragraphs (1) and (2) to reflect the new threshold amount). 75 FR 44177–78. ATF also proposed to amend § 646.143 by adding a definition for the term ''cigarette.'' 75 FR 44177. The proposed definition reflected the meaning of the term set forth in the CCTA, as amended.

Second, the PATRIOT Improvement Act extended the CCTA to contraband smokeless tobacco, and ATF proposed to account for this by adding the statutory definitions of the terms ''smokeless tobacco'' and ''contraband smokeless tobacco,'' per section 121(b) of the PATRIOT Improvement Act. ATF proposed adding the CCTA's definitions for both terms to 27 CFR 646.143 to match the statutory definitions. 75 FR 44177. It also proposed amending §§ 646.146 and 147 to add ''smokeless tobacco'' and ''cans or packages of smokeless tobacco'' to the list of distributed items covered by the CCTA; and it proposed to amend § 646.154(a) by adding ''or contraband smokeless tobacco'' after ''contraband cigarettes.'' 75 FR 44177–78.

Third, to account for the reporting requirements imposed in section 121(c) of the PATRIOT Improvement Act, ATF proposed to add new CCTA requirements regarding contraband smokeless tobacco to 27 CFR 646.143 (amending the definitions of ''business premises'' and ''distributor'' and adding definitions of ''delivery sale'' and ''interstate commerce'') and to § 646.146 (revising the section heading to read ''Records and Reports'' and incorporating the new reporting and record-keeping CCTA requirements). 75 FR 44177–78. The proposed regulatory language was identical to the statutory language regarding such reporting requirements.

Fourth, to implement the requirement of section 121(d) of the PATRIOT Improvement Act that cigarettes and smokeless tobacco be seized and forfeited under the CCTA and be either used in law-enforcement operations or destroyed, ATF proposed regulatory language in 27 CFR 646.155 that was identical to the statutory language. 75 FR 44178–79.

In addition, the NPRM stated that ATF was considering an amendment of the regulations in § 646.150 concerning distributors' retention of required records. In general, existing § 646.150 provides that each distributor of cigarettes shall retain the records required by §§ 646.146 and 646.147 for three years following the close of the year in which the records are made and shall keep the required records on the distributor's business premises. 75 FR 44175. ATF stated it was considering extending the record retention requirement to five years, thus harmonizing the regulations with the applicable statute of limitations for CCTA violations, which is five years. *See id.* The NPRM solicited comments on this issue.

The comment period for the NPRM closed on October 26, 2010. ATF received ten comments, which were submitted from consumers, industry members, public interest organizations and associations, and a local government agency.

IV. Comment Analysis

A. General Comment Received in Opposition and ATF Response

Comment Received

One commenter generally opposed the NPRM, stating that reducing the threshold amount of cigarettes necessary to trigger jurisdiction under the CCTA from quantities in excess of 60,000 to quantities in excess of 10,000 ''does not address the problem of the extraordinarily high taxation of cigarettes.'' The commenter stated that the purpose of the CCTA is to permit prosecution when organized crime becomes involved in the illegal transportation and sale of cigarettes and asserted that decreasing the threshold to 10,000 would lead to prosecuting individuals crossing state borders to buy cigarettes for themselves and their friends.

ATF Response

ATF is reducing the threshold amount of cigarettes necessary to trigger jurisdiction under the CCTA to quantities in excess of 10,000 because it is implementing the change made by the PATRIOT Improvement Act. Any further change in the threshold amount would require legislative action. ATF does not have the authority to reinstate the 60,000-cigarette threshold. ATF also does not have authority to address

levels of cigarette taxation imposed by other taxing authorities.

B. Issue-Specific Comments and ATF Responses

Nine comments expressed concerns regarding the proposed regulatory changes or the issue of trafficking in contraband tobacco products. These concerns are addressed below.

1. Scope of 27 CFR 646.141

Comments Received

One commenter, a legal association, stated that the proposed revision to the scope of § 646.141—focusing on a single transaction—is not consistent with 18 U.S.C. 2343(b) and that ''[i]t should be expanded to cover persons who ship, sell or distribute cumulatively in excess of 10,000 cigarettes (or their smokeless equivalent) within a single month, where such persons have also made any delivery sales.''

ATF Response

ATF concurs with this recommendation, and this final rule revises § 646.141 concerning the scope of part 646, consistent with the statutory language, to provide that the regulations also apply to persons who have made one or more delivery sales of smokeless tobacco and cigarettes, and who ship, sell, or distribute, either in a single transaction or cumulatively, more than 10,000 cigarettes or 500 single-unit consumer-sized cans or packages of smokeless tobacco within a single calendar month. The final rule also includes a technical amendment substituting the word ''part'' for the word ''subpart'' in the regulatory text.

2. Definition of ''Cigarette''

The NPRM proposed amending § 646.143 by adding a definition of ''cigarette'' to reflect the meaning of the term set forth in 18 U.S.C. 2341(1), as amended by the PATRIOT Improvement Act. This definition includes any roll of tobacco ''wrapped in paper or in any substance not containing tobacco'' and any roll of tobacco wrapped in any substance containing tobacco that, ''because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette.'' 18 U.S.C. 2341(1)(B).

Comment Received

One commenter stated that the final rule should clarify that ATF will define ''cigarette'' to include tobacco products labeled as ''little cigars'' or ''filtered cigars.'' According to the commenter, ATF needs to regularly inform the tobacco industry and others that ATF broadly applies its definition of ''cigarette'' to reach products labeled as ''little cigars'' or ''filtered cigars'' and not as ''cigarettes.''

ATF Response

The definitions of ''cigarette'' and ''smokeless tobacco'' are set by the CCTA, as amended by the PATRIOT Improvement Act, and ATF lacks the authority to alter the statutory definitions. The definition of ''cigarette'' may reach some tobacco products labeled as ''little cigars'' or ''filtered cigars'' if, for example, such products are rolls of tobacco ''wrapped in any substance containing tobacco'' that, ''because of [their] appearance, the type of tobacco used in the filler, or [the] packaging and labeling,'' are ''likely to be offered to, or purchased by, consumers as a cigarette.'' 18 U.S.C. 2341(1)(B). The classification of tobacco products labeled as ''little cigars'' or ''filtered cigars'' is a complex issue because of the wide range of products that use these labels. ATF, therefore, declines to determine on a categorical basis that any product labeled as a ''little cigar,'' or ''filtered cigar'' is a ''cigarette'' under this rule. ATF will apply the statutory definition of ''cigarette'' on a case-by-case basis to determine whether the product at issue falls within that definition. Accordingly, ATF is not adopting the commenter's suggestion.

3. Definition of ''Exempted Person''

The regulations at 27 CFR 646.143 exempt from the definition of contraband cigarettes those cigarettes possessed by specific persons such as manufacturers and export warehouse proprietors holding permits under chapter 52 of the IRC; persons operating customs bonded warehouses; persons operating within foreign-trade zones (''FTZs'') when the cigarettes have been entered under zone-restricted access or, in respect to foreign cigarettes, have been admitted into the zone but not entered into the United States; common or contract carriers; persons licensed or otherwise authorized by a state to pay tobacco taxes; and federal, state, and local authorities when operating in connection with the performance of official duties.

The NPRM proposed to revise § 646.143 to conform to the PATRIOT Improvement Act amendments by changing the number of cigarettes sold from 60,000 to 10,000 and expanding the scope of part 646 to cover smokeless tobacco. In connection with expanding the regulations to cover smokeless tobacco, ATF proposed adding a new paragraph (b) under the definition of ''exempted persons'' to include persons handling smokeless tobacco—not just cigarettes. 75 FR 44177–78. ATF intended for the classes of exempted persons in paragraph (b) to mirror the existing list of exemptions for persons distributing cigarettes. However, ATF inadvertently did not include in paragraph (b) the foreign-trade-zone exemption from the current definition of ''exempted person.'' As a result, ATF is adding that exemption in this final rule to fully align the two provisions. Doing so will ensure that the regulations treat cigarettes and smokeless tobacco in a similar manner, just as the CCTA—as amended by the PATRIOT Improvement Act—treats cigarettes and smokeless tobacco in a similar manner. *Compare* 18 U.S.C. 2341(2)(A)–(D) (setting out exemptions from the definition of ''contraband cigarettes''), *with* 18 U.S.C. 2341(7)(A)–(D) (setting out the same exemptions from the definition of ''contraband smokeless tobacco'').

Comments Received

One commenter stated that ATF's current regulations are inconsistent with the CCTA and that ATF should bring its regulations into line with the act. This commenter was referring to the fact that the exemptions in 18 U.S.C. 2341(2) and 2341(7)—in contrast to ATF's current and proposed definitions of ''exempted person''—do not explicitly exempt from the definitions of ''contraband cigarette'' and ''contraband smokeless tobacco'' certain quantities of cigarettes and smokeless tobacco held by persons operating in FTZs. The commenter argued that ATF should eliminate the FTZ exemption and stated that disallowing the FTZ exemption is particularly important in light of mounting evidence that FTZs play integral roles in the importation and domestic distribution of contraband cigarettes. The commenter said that an exemption for persons operating in FTZs may threaten the goal of reducing or eliminating contraband trafficking. The commenter provided background information on FTZs, such as zones in Buffalo and Las Vegas, being used as central hubs in schemes to smuggle contraband cigarettes into and throughout the United States. The commenter indicated that large quantities of imported cigarettes—all of them untaxed and unstamped—had been flowing through these FTZs and then into states around the country, where they were then sold in black market transactions. Given this existing abuse of FTZs, the commenter urged ATF to use the proposed rule as an opportunity to eliminate that exemption. Accordingly, the commenter

recommended that the definition of ''exempted person'' in § 646.143 be amended by deleting the exemption for persons operating within an FTZ.

A different commenter raised a separate issue with respect to the definition of ''exempted person.'' This commenter encouraged ATF to clarify that simply having a federal permit under the IRC as a manufacturer of tobacco products, or as an export warehouse proprietor, or being an agent of such a permitted entity, does not mean that any and all cigarettes or smokeless tobacco in the permittee's possession are ineligible to be classified as contraband tobacco products. The commenter stated that the definition of ''exempted person'' in § 646.143 should include a manufacturer or export warehouse proprietor that possesses cigarettes and smokeless tobacco that might otherwise qualify as contraband only if the permittee is operating within the legal scope of its permit. Conversely, the commenter continued, the definition of ''exempted person'' should exclude a federally permitted manufacturer or export warehouse proprietor if it operates beyond the scope of its legal activities as a permittee. According to the commenter, the proposed rule, taken literally, inaccurately suggested a form of blanket immunity for those manufacturers or export warehouse proprietors that have federal permits.

ATF Response

The existing regulations provide ''exempted person'' status to any person operating within an FTZ when the cigarettes involved have been entered into the zone under zone-restricted status or, with respect to foreign cigarettes, have been admitted into the zone but have not been entered into the United States. Nothing in the PATRIOT Improvement Act amendments to the CCTA indicated an intention to narrow the scope of the existing FTZ exemption or any other exemption. The legislative history similarly does not reflect any concern with continuing to allow this almost 50-year-old existing exemption in the regulations, nor does it indicate that the list of exemptions in the CCTA and PATRIOT Improvement Act was meant to be exhaustive. The existing FTZ exemption has been in the regulations for decades, so Congress was aware of it and could have acted through the PATRIOT Improvement Act amendments to eliminate it; however, Congress did not choose to do so. ''It is well established that when Congress revisits a statute giving rise to a longstanding administrative interpretation without pertinent change, the congressional failure to revise or repeal the agency's interpretation is persuasive evidence that the interpretation is the one intended by Congress.'' *Commodity Futures Trading Comm'n* v. *Schor,* 478 U.S. 833, 846 (1986) (quotation marks omitted). Here, because Congress ''revisit[ed]'' the CCTA in the PATRIOT Improvement Act but did not ''revise or repeal'' ATF's longstanding exemptions implementing the CCTA, ATF's existing regulatory exemptions—including the FTZ exemption—accurately reflect congressional intent.

In addition, the NPRM for this rule did not raise for public notice and comment the issue of eliminating the FTZ exemption. Because the FTZ exemption has been in effect for almost 50 years, industry business practices for importing and exporting products have been established with this exemption as part of their operations. Removing the exemption could, depending on any final regulatory language that ATF adopts, cause any unstamped cigarettes and smokeless tobacco within covered FTZ areas to become automatically contraband, which could have significant consequences. In addition, eliminating the exemption would cause tobacco products in customs bonded warehouses (''CBWs'') and FTZs to be treated differently, even though the two effectively serve the same function. That inconsistency could also have significant consequences. Moreover, this inconsistent treatment could undermine the efficacy of the commenter's proposal to eliminate the FTZ exemption, as any smuggling activity that would have occurred in an FTZ would simply shift to CBWs. Because of these issues and concerns, ATF believes—at the current time—that the question of removing the FTZ exemption would benefit from a greater opportunity for public comment. Therefore, ATF declines to revise this rule to remove the exemption for FTZs. ATF will, however, continue to vigorously carry out its law enforcement responsibilities and address FTZ abuses.

Next, regarding the concerns raised by a different commenter, the PATRIOT Improvement Act amendments to the CCTA did not amend the statutory definitions of ''manufacturer'' or ''export warehouse proprietor.'' The CCTA merely references those terms as they are presently defined in the IRC, 26 U.S.C. 5702. As such, ATF does not believe that rulemaking pursuant to the CCTA amendments is an appropriate vehicle to define the scope of potential criminal activities by manufacturers, export warehouse proprietors, or other exempted parties. ATF does agree with the commenter that the exemptions in the rule do not grant manufacturers the authority to operate beyond what their federal permits allow; however, ATF emphasizes that whether an exempted party under the CCTA is engaged in activities that are beyond the scope of its licensed activities and would therefore constitute illegal activity, aiding and abetting criminal activity, or a conspiracy to engage in criminal activity, is an issue that federal personnel would have to evaluate and prosecute on a case-by-case basis. Such evaluations and investigations are not appropriate subjects for this rulemaking.

Separately, ATF notes the need for a technical amendment to the definition of ''Exempted person''; the definition should reference the 1986 version of the IRC, not the 1954 version.

4. Definition of ''Contraband Smokeless Tobacco''

The NPRM proposed to define the term ''contraband smokeless tobacco'' as ''any quantity of smokeless tobacco in excess of 500 single-unit consumer-sized cans or packages, or their equivalent, that are in the possession of any person other than an exempted person.'' 75 FR 44177.

Comment Received

A member of the tobacco industry commented, ''[w]hile this regulation tracks the statutory language, its failure to define what constitutes a single-unit consumer-sized can or package may lead to confusion.'' The commenter explained that it sells moist snuff in 1.2-ounce cans and 12-ounce tubs that hold as much moist snuff as ten individual cans. The commenter believed that the term ''contraband smokeless tobacco'' could be clarified by, for example, stating that ''single-unit'' cans include only 1.2-ounce cans or that a total weight requirement, such as 600 ounces of smokeless tobacco, would subject a person to the requirements of part 646.

ATF Response

ATF understands that different types of smokeless tobacco are marketed to consumers in packages of varying sizes. While the commenter referred to a typical ''consumer-sized can'' of moist snuff, a ''consumer-sized can[ ] or package[ ]'' of another variety of smokeless tobacco could be larger or smaller, and ATF has encountered such variations in its enforcement experiences. A ''consumer-sized can'' invariably includes a small amount of the product, but ATF does not believe that it is necessary to set a specific size for purposes of implementing the PATRIOT Improvement Act. ATF has not encountered confusion about what constitutes a single-unit consumer-sized

can or package of smokeless tobacco in the 20 years since the PATRIOT Improvement Act was passed, and the commenter referred only to the potential for confusion, not actual incidents of confusion. Therefore, ATF believes that the statutory definition reflected in the proposed rule is preferable because it allows enforcement flexibility. Indeed, setting a specific size, such as 1.2 ounces, could allow for gamesmanship in which parties begin selling 1.1- or 1.3-ounce containers that—despite being intended for single-unit consumer sales—would fall outside the scope of the regulations.

5. Impact of the Prevent All Cigarette Trafficking Act of 2009 (''PACT Act'')

The PACT Act, Public Law 111–154, 124 Stat. 1087, was enacted on March 31, 2010. Section 4 of the PACT Act, which amended the CCTA at 18 U.S.C. 2343(c), expanded ATF's inspection authority. This provision added to ATF's already-existing inspection authority by authorizing ATF to enter the business premises of delivery sellers to inspect records and tobacco products stored there, authorized federal district courts to compel such inspections, and imposed a civil penalty not to exceed $10,000 for denying access for an inspection or failing to comply with a federal district court order compelling such an inspection. 124 Stat. at 1109. The regulation that implements 18 U.S.C. 2343(c) is 27 CFR 646.153.

Comments Received

Two industry commenters requested that 27 CFR 646.153 be amended to reflect the changes to the CCTA made by section 4 of the PACT Act.

ATF Response

ATF concurs. The provisions of section 4 of the PACT Act that expand ATF's inspection authority are self-executing because section 6(b) of the PACT Act provided that section 4 of that act became effective on the date it was enacted. *See* 124 Stat. at 1110–11. However, ATF believes there is value in having the regulatory language concerning its inspection authority track the corresponding statutory language. Doing so makes the two authorities consistent, thereby reducing confusion, and provides more effective notice to regulated parties. Accordingly, the final rule includes the inspection provision from section 4 of the PACT Act.

6. Reporting Requirements Under 27 CFR 646.146(b)(1)

The NPRM proposed to implement 18 U.S.C. 2343(b) by amending 27 CFR 646.146(b)(1) to provide that, except for a tribal government, each distributor who engages in a delivery sale, and who ships, sells, or distributes any quantity in excess of 10,000 cigarettes, or smokeless tobacco in excess of 500 single-unit consumer-sized cans or packages or their equivalent, within a single month, must prepare and submit to the Director of ATF the ATF Form 5200.25, Tobacco Inventory and Direct Sales Report. However, ATF has since determined that it would be more efficient for persons to submit reports without using a form because of the varying length of lists that could be submitted and because of developments in digital formats. This final rule accordingly removes references to the form itself but retains the report title and reporting requirements from the NPRM, as discussed in section IV.B.7 of this preamble, below. Paragraphs (i) through (iii) in 27 CFR 646.146(b)(1) continue to specify the information that must be included in the report.

Comments Received

Two commenters noted that the NPRM proposed to apply the reporting requirement to ''each distributor'' who engages in a delivery sale, while the PATRIOT Improvement Act applies the requirement to ''each person.'' Both commenters contended that the proposed reporting requirement in the rule was narrower in scope than that specified in the statute.

One of the two commenters stated that because the proposed definition of ''Distributor'' in § 646.143 included persons who distributed more than 10,000 cigarettes, or smokeless tobacco in excess of 500 single-unit consumer-sized cans or packages, in a single transaction, the reporting requirement was more limited than Congress intended. The commenter stated that the definition would exclude persons who ship, sell, or distribute in excess of 10,000 cigarettes in a month, but who do not make any single shipment, sale, or distribution over 10,000 cigarettes. The commenter argued that this was not the intent of the statute, and that Congress instead intended to capture persons making delivery sales for which the total monthly volume of all such person's monthly sales exceeded a certain threshold—*i.e.,* 10,000 cigarettes (or their smokeless equivalent).

According to the two commenters, the term ''distributor'' should be replaced with ''person'' wherever it appears in § 646.146(b)(1). In addition, one of the commenters indicated that the final rule should specify that, in determining whether the person meets the threshold of 10,000 cigarettes (or their smokeless equivalent) in one month, the person must add together all shipments, sales, and distributions, regardless of the volume of any single sale, and must count all cigarettes sold by all locations under the person's common control or ownership.

ATF Response

ATF concurs with the comments. Hence, ATF has replaced the term ''distributor'' with ''person'' wherever it appears in § 646.146(b)(1), which covers the reporting requirement, as suggested by the commenters. ATF also concurs with the suggestion to include all locations under common control in the definition of ''person.'' In light of the fact that many distributors operate from multiple locations, ATF has also revised the definition of ''person'' in § 646.143 to include all locations under a person's common control. Therefore, in determining whether the person meets the threshold for the reporting requirements of 10,000 cigarettes (or their smokeless equivalent) in one month, the person must add together all shipments, sales, and distributions,[8] regardless of volume of any single distribution, and must count all cigarettes and smokeless tobacco sold at all locations under common control of the person.

ATF notes that the definition of ''distributor'' as included in the NPRM is not affected by this change to substitute ''person'' for ''distributor'' in the reporting requirement provisions. ATF is retaining the definition of ''distributor'' because it remains valid with respect to the record-keeping requirements already in ATF regulations.

7. Implementing 27 CFR 646.146(b)(1)(i)–(iii)

As mentioned above, the NPRM proposed to revise paragraphs (i) through (iii) in § 646.146(b)(1) to specify the information persons are required to include under the new reporting requirement, for which ATF was proposing to develop a new form, ATF Form 5200.25. As noted above, ATF has now decided not to develop a form for this purpose, but these paragraphs of the rule will still set out the same information proposed in the NPRM.

Comments Received

The legal association commenter noted that the proposed regulations ''merely quote the statute and do not

[8] As noted in the background section, because the existing definition of ''distribute'' already includes ''ship'' and ''sell'' as distribution types, ATF is modifying the phrases with all three terms in this rule to use solely the term ''distributions'' (and variants thereof, such as ''distribute'').

provide any further guidance on the form or timing of the reports.'' The commenter stated that the statute itself omits many details and offered the following comments:

a. The proposed regulations do not specify the required timeframe for making the reports. The commenter suggested that the final regulations specify that the reports be made no later than the 10th calendar day of the following month, which is consistent with the existing requirement in the Jenkins Act, 15 U.S.C. 376.

b. The proposed regulation in 27 CFR 646.146(b)(1)(i) does not specify exactly what must be reported as part of an ''inventory.'' The commenter suggested that a meaningful inventory must include, at a minimum, the manufacturer and brand family of each product, along with the number of cigarettes or ounces (*e.g.,* Philip Morris, Marlboro, 20,000 cigarettes).

c. The report of cigarettes or smokeless tobacco received should include the manufacturer, brand, and quantity, together with the vendor's name and address.

d. The report of cigarettes or smokeless tobacco distributed should include the manufacturer, brand, and quantity, together with the name and address of each person to whom the cigarettes or smokeless tobacco were distributed. The commenter noted this requirement would be consistent with the Jenkins Act, which requires a memorandum or invoice including the name, address, brand, and quantity. *See* 15 U.S.C. 376(a)(2).

e. The reports of cigarettes or smokeless tobacco distributed should include all distributions of cigarettes or smokeless tobacco (except for face-to-face retail sales), not just delivery sales (*i.e.,* all shipments from one distributor to another should be included in the reports, even where such distributions do not cross state lines).

f. The CCTA at 18 U.S.C. 2343(b) uses the term ''ships, sells, or distributes,'' while 18 U.S.C. 2343(b)(3) uses the term ''distributed'' only. The commenter stated that this difference in terminology should not be interpreted to limit the reporting requirements in section 2343(b), since that section was clearly intended to capture delivery sales to consumers, and that 27 CFR 646.146(b)(1)(iii) should make this clear in the final rule.

A second commenter concurred with several of the comments described above.

ATF Response

ATF agrees with the commenters' suggestions that the timeframe for filing reports should be no later than the 10th calendar day of the following month; that § 646.146(b)(1)(i) should specify what persons must report as part of a cigarette or smokeless tobacco inventory; that § 646.146(b)(1)(i) should also require that the brand name be identified, as well as the number of cigarettes or consumer-sized cans or packages of smokeless tobacco, in conformance with the Jenkins Act (which was previously amended by the PACT Act); that reports of cigarettes or smokeless tobacco under §§ 646.146(b)(1)(ii) and (iii) should identify brands and quantities, together with the name and address of the party from whom the cigarettes were obtained; that, apart from distributions to retail purchasers, the distribution reports prepared by delivery sellers should include all distributions, not just delivery sale distributions; and that the distribution reports required in section 2343(b)(3) should include all dispositions of cigarettes and smokeless tobacco made by a covered person during a given calendar month. However, the existing definition of the term ''distribute'' is ''to sell, ship, issue, give, transfer, or otherwise dispose of,'' and the existing definition of ''disposition'' is ''movement of cigarettes [modified in this proposed rule to add smokeless tobacco] from a person's business premises, wherever situated, by shipment or other means of distribution.'' In other words, in the context of these reporting requirements, all dispositions of cigarettes and smokeless tobacco made by a covered person would also all be distributions, and using either term results in the same effect. The final rule has been amended to make these changes.

Section 2343(b) refers to ''[a]ny person, except for a tribal government, who engages in a delivery sale,'' and section 2343(b)(3) includes a requirement that such a person prepare reports relevant ''to each person (itemized by name and address) other than a retail purchaser.'' A person engaged in a delivery sale who ''ships, sells, or distributes'' pursuant to section 2343(b) must prepare reports in compliance with section 2343(b)(3). As such, all cigarettes and cans or packages of smokeless tobacco that the person distributes (not just those distributed through delivery sales) to persons other than retail purchasers (as now defined in 27 CFR 646.143), must be reported. In other words, engaging in a ''delivery sale'' as defined in 18 U.S.C. 2343(e) triggers the potential application of the reporting requirements in 18 U.S.C. 2343(b). And those reporting requirements encompass all distributions in which the person engaged—not just those sales that specifically qualify as ''delivery sales.''

Concerning the reporting exception for distributions to retail purchasers, ATF notes that the definition of ''retail purchaser'' it has chosen to adopt—as described below in section IV.B.8 of this preamble—specifies that the term applies as to a specific sale. Hence, a person required to prepare reports under 18 U.S.C. 2343(b) must include the information identified in 27 CFR 646.146(b)(1)(iii) for all non-retail distributions, which include all delivery sales, to a given consumer, even if the same consumer also made in-person purchases during the calendar month and was thereby a retail purchaser as to those specific sales.

8. Terms ''Retail Purchaser'' and ''Tribal Government''

Section 2343(b) of the CCTA, as amended by the PATRIOT Improvement Act, provides that any person, except for a tribal government, who engages in a delivery sale, and who ships, sells, or distributes any quantity in excess of 10,000 cigarettes, or any quantity in excess of 500 single-unit consumer-sized cans or packages of smokeless tobacco, or their equivalent, within a single month, must submit to the Attorney General a report that sets forth specified information, including the total quantity of cigarettes and cans or packages of smokeless tobacco that the person distributed within such month to each person (itemized by name and address) other than a retail purchaser. The proposed regulation that implements section 2343(b) is 27 CFR 646.146(b)(1).

Comments Received

Two commenters noted that the proposed regulations do not include a definition of ''retail purchaser.'' One of these commenters suggested the following definition:

Retail purchaser—A consumer who purchases cigarettes or smokeless tobacco in a face-to-face transaction whereby the consumer is physically present at the business premises of the person making the sale; makes the order directly to the seller without using a telephone, mail, the internet, or other means of remote communication; and takes possession of the cigarettes or smokeless tobacco directly from the seller rather than having the cigarettes or smokeless tobacco shipped to the consumer by means of mail, common carrier, or private delivery service.

This commenter also noted that the proposed regulations do not include a

definition of ''tribal government.'' The commenter suggested that the term should be defined in the final rule and be limited to entities that are governments of federally recognized tribes published in the **Federal Register** in accordance with 25 U.S.C. 479(a)(1),[9] and not individual tribal members, persons licensed by the tribe, or other persons selling cigarettes manufactured by tribes or tribal members.

ATF Response

ATF concurs with the commenters regarding the definition of ''retail purchaser,'' and it adopts the definition proposed by the commenter because this definition harmonizes with the definition of ''delivery sale'' in 18 U.S.C. 2343(e). However, ATF does not agree that the term ''tribal government'' should be defined in the final rule. This is a complex issue that is outside the scope of ATF's expertise and is best handled on a case-by-case basis in consultation with the relevant federal agencies, such as the Department of the Interior. (As discussed in section V of this preamble, below (regarding consultations with tribal governments), ATF similarly declines to define ''tribal business'' as a term in the regulations).

9. Extension of the Record Retention Period

In general, the current regulations at 27 CFR 646.150 provide that each distributor of cigarettes must retain the records required by §§ 646.146 and 646.147 for three years following the close of the year in which the records are made. The distributor must keep the required records on the distributor's business premises. In the proposed rule, ATF advised that it was considering extending the record retention requirement to five years. The proposed amendment would harmonize the regulations with the applicable statute of limitations for CCTA violations, which is five years. Accordingly, ATF solicited and received comments on this issue.

Comments Received

One commenter supported an extension of the record retention requirement to five years, stating that ''[s]uch an extension should help to maintain records useful for both discovering and prosecuting contraband trafficking'' and that ''having to keep the records for just two more years, especially in this era of electronic record-keeping, would not unduly burden the tobacco industry businesses.''

Another commenter argued that an extension of the record-keeping period would increase the burden on the industry. However, the commenter stated that the additional burden could be substantially mitigated if the required records could be maintained in electronic form. The commenter recommended that in the final rule ATF clarify that any required records may be maintained in electronic form, without the need for regulated companies to retain hard copies of the same records.

ATF Response

ATF concurs that the records-retention requirement in the regulation should be extended to five years to comport with the statute of limitations on CCTA prosecutions. ATF also concurs that the required records may be kept in electronic form, and the final regulations have been amended accordingly. As discussed below in section VI.F of this preamble, ATF has also amended the final regulation to account for storage in cloud-based databases. The final rule allows persons to store their records remotely using a server located within the United States or its territories, or, if using a host facility, using one that has a business premises within the United States or its territories and that is subject to U.S. legal process.

10. ATF Interaction With the U.S. Food and Drug Administration (''FDA'')

Comment Received

One commenter stated that menthol cigarettes are preferred by over 18 million people, or one third of adult cigarette smokers, and that banning such cigarettes would create an enormous demand for contraband menthol cigarettes. According to the commenter, ATF is the agency with the greatest understanding of the dynamics of the contraband market and of the dangers to Americans from illicit cigarette trafficking, and it is incumbent on ATF to provide FDA with information and recommendations regarding the contraband cigarette issue. The commenter said extensive new trafficking opportunities resulting from a menthol ban would adversely affect ATF's ability to enforce the CCTA.

ATF Response

ATF does not believe that the statutory changes to the CCTA under the PATRIOT Improvement Act relate to this issue. The CCTA does not affect ATF's authority relating to this specific issue, nor does the CCTA affect FDA's authority under the Family Smoking Prevention and Tobacco Control Act.[10] ATF and FDA routinely collaborate, share, and exchange investigative information to ensure compliance with federal laws and regulations. For questions regarding the Family Smoking Prevention and Tobacco Control Act, interested parties should contact the FDA's Center for Tobacco Products by phone at 1–877–287–1373 or online at *https://www.fda.gov/tobacco-products/about-center-tobacco-products-ctp/contact-ctp.*

11. Traceable Tax Stamps

The reporting requirements in 18 U.S.C. 2343(b) (for persons who engage in a delivery sale and who ship, sell, or distribute any quantity of 10,000 cigarettes, or any quantity in excess of 500 single-unit consumer-sized cans or packages of smokeless tobacco, or their equivalent, in a single month) do not apply to tribal governments.

Comment Received

One city agency commenter stated that if, because of the statutory exemption, the reporting requirements cannot be imposed on tribal governments, there are other measures that could help combat illegal sales of tobacco products. For example, the commenter stated that the federal government should require that all tobacco products contain one of two traceable stamps: either a tax stamp or a restricted-sale notice stamp that indicates that the product will be sold at a tax-free location such as an Indian reservation, military base, or duty-free shop. Furthermore, any manufacturer or distributor involved in the sale of tax-free tobacco products should be required to track all such tax-free sales and report them to the federal government, which should disclose these sales to the state and local governments in the states and localities in which the sales occur.

ATF Response

ATF declines to adopt this suggestion in this rulemaking. The commenter did not identify a basis in the statutory changes to the CCTA effectuated by the PATRIOT Improvement Act that would authorize issuing regulations that require traceable tax stamps. Accordingly, any such change would be outside the scope of this rulemaking.

12. Regulating Other Tobacco Products

Comment Received

According to a city agency commenter, governments have

[9] Although the commenter referenced 25 U.S.C. 479(a)(1), that section is now codified in 25 U.S.C. 5129. As a result, ATF treats this comment as referring to the latter section.

[10] Public Law 111–31, div. A, 123 Stat. 1776 (2009).

increased taxes on ''other tobacco products'' (''OTPs''), meaning products other than cigarettes, such as cigarillos or cigars. The commenter suggested that these increased taxes could lead to increased trafficking, as buyers and sellers attempt to avoid the higher taxes. Therefore, the commenter requested that ATF ''consider including language which would designate trafficking rules for OTPs such as small and large cigars, cigarillos, and pipe tobacco.''

ATF Response

As discussed above in section IV.B.2 of this preamble, the statutory changes to the CCTA effected by the PATRIOT Improvement Act do not expand the coverage of the CCTA to products other than cigarettes or smokeless tobacco, such as small or large cigars, cigarillos, or pipe tobacco. Therefore, making a regulatory change to do so is outside the scope of this rule.

V. Consultation With Tribal Governments in Compliance With Executive Order 13175

Section 3(c) of Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments) requires that ''[w]hen undertaking to formulate and implement policies that have tribal implications, agencies shall . . . consult with tribal officials as to the need for federal standards and any alternatives that would limit the scope of federal standards or otherwise preserve the prerogatives and authority of Indian tribes.'' Per Department policy,[11] ''[c]onsultation is the formal process through which the Department of Justice seeks tribal input regarding the development of new or amended policies, regulations, and legislative actions initiated by the Department.''

Accordingly, on February 24 and 25, 2015, the Department invited the leaders of federally recognized tribes to consult on the proposed rule. The consultation process provided the Department useful feedback from tribes and tribal organizations, including the Winnebago Tribe of Nebraska, the Onondaga Tribe of New York, the Shoshone-Bannock Tribes of Idaho, and the Big Sandy Rancheria (Tribes) of California.

The Winnebago Tribe and the Shoshone-Bannock Tribe consultants noted that section 121(c) of the PATRIOT Improvement Act, amending 18 U.S.C 2343(b), requires that all distributors who engage in delivery sales and who sell in excess of 10,000 cigarettes or 500 single-unit consumer-sized cans or packages of smokeless tobacco within a single month, except tribal governments, must submit reports to the Attorney General. During the tribal consultation, ATF indicated that, in its view, a business that was wholly owned and operated by a tribal government would fall within this reporting exemption. Both tribes asked for the regulations to define the term ''tribal business.''

The amended CCTA does not use the term ''tribal business.'' ATF does not believe that it is necessary to create and define the term ''tribal business'' in these regulations or that it is helpful to do so at this time. If any issues arise concerning whether a particular business with a connection to a tribal government has reporting obligations, ATF believes it would be optimal to analyze specific factual situations to ascertain if the specific business is wholly owned and operated by a tribal government and is therefore exempt from the reporting requirements.

The Winnebago Tribe and the Shoshone-Bannock Tribe recommended that section 121(e) of the PATRIOT Improvement Act, amending 18 U.S.C. 2345, be amended to include tribal governments and tribal jurisdiction. These statutory provisions relate to the CCTA's effect on state and local laws. Expanding the scope of the statute is beyond ATF's regulatory authority; the changes recommended by the tribes would require congressional action.

The Winnebago Tribe, Shoshone-Bannock Tribe, and Onondaga Tribe recommended that ATF amend section 121(f) to preclude the creation of new civil enforcement actions against tribal governments or wholly owned tribal companies. The statutory language of the CCTA provides that a state, local government, or person who holds an IRC permit to manufacture or import tobacco cannot bring a civil action against ''an Indian tribe or an Indian in Indian country (as defined in 18 U.S.C. 1151).'' 18 U.S.C. 2346(b)(1). The final rule in no way alters the operation of this provision of the statute. States, local governments, and IRC permit holders will still be barred from bringing new civil enforcement actions against ''Indian tribes'' and ''Indians in Indian country (as defined in 18 U.S.C. 1151)'' under the amended CCTA. ATF cannot amend a statute, and thus the requested change is outside the scope of this or other rulemaking.

Big Sandy Rancheria commented that ATF's proposed rule should make clear that business-to-business transactions will not be included in determining the cumulative monthly total that triggers reporting requirements under 18 U.S.C. 2343(b). ATF does not adopt this recommendation. The statute states that any person who engages in a delivery sale and who ships, sells, or distributes ''any quantity in excess of 10,000 cigarettes, or any quantity in excess of 500 single-unit consumer-sized cans or packages of smokeless tobacco, or their equivalent, within a single month'' is subject to the reporting requirement. The statute does not contain an exemption for business-to-business sales. ATF cannot change a statute. Accordingly, the requested change is outside the scope of this rulemaking. ATF notes that all persons, regardless of whether they are subject to the reporting requirements of 18 U.S.C. 2343(b), must keep detailed records under section 2343(a) and this final rule's §§ 646.146 and 646.147, subject to inspection by ATF, of all sales or shipments in excess of 10,000 cigarettes or 500 single-unit consumer-sized cans or packages of smokeless tobacco in a single transaction pursuant to 18 U.S.C. 2343(a).

The Onondaga Tribe objected to Congress lowering the CCTA threshold from 60,000 to 10,000 cigarettes. ATF notes that only Congress can amend statutory language lowering the threshold amount that triggers reporting requirements under the CCTA; ATF cannot do so through rulemaking.

Lastly, tribal governments noted that the PATRIOT Improvement Act amendments to the CCTA and the enactment of the PACT Act of 2009 were roughly contemporaneous and addressed similar subjects; they accordingly argued that the term ''consumer'' should be defined in these CCTA regulations using the PACT Act definition. However, Congress did not include a definition of ''consumer'' in the CCTA amendments in the PATRIOT Improvement Act. Instead, Congress used the term only to define the term ''delivery sales,'' which it used in turn only to discuss particular reporting obligations from which it specifically exempted tribal governments. ATF does not see any need to define the term ''consumer'' under the PATRIOT Improvement Act amendments to the CCTA at this time.

VI. Final Rule

This final rule implements, with modifications, amendments to the regulations at 27 CFR part 646 that were specified in the NPRM published in the **Federal Register** on July 28, 2010, 75 FR 44173. In addition, the final rule is making minor technical amendments to

[11] DOJ, Policy Statement 0300.01: Tribal Consultation 4 (Nov. 30, 2022), *https://www.justice.gov/d9/2022-12/doj-memorandum-tribal-consultation.pdf* (updating a 2013 policy statement on the implementation of Executive Order 13175) [*https://perma.cc/PUD8-DQD4.*

change the word ''shall'' to ''must'' and other similar plain writing edits, in accordance with current regulatory conventions. The modifications to the NPRM are each discussed in detail below.

A. Headings

Because smokeless tobacco has been added to the scope of the CCTA by the PATRIOT Improvement Act, this final rule amends the heading of part 646, changing it from ''Contraband Cigarettes'' to ''Contraband Cigarettes and Smokeless Tobacco,'' in line with similar changes made in the statute. Likewise, the rule also amends the undesignated heading ''Other Provisions Relating to the Distribution of Cigarettes (§ 646.153)'' to read ''Other Provisions Relating to the Distribution of Cigarettes and Smokeless Tobacco (§ 646.153).'' Finally, this rule amends the undesignated center heading ''Records'' by adding ''and Reports'' to reflect the reporting requirements of the PATRIOT Improvement Act.

B. Section 646.141

For consistency with 18 U.S.C. 2343(b), this final rule amends the NPRM's proposed 27 CFR 646.141 to include delivery sales of smokeless tobacco and cigarettes; and shipping, selling, or distributing, either in a single transaction or cumulatively, more than 10,000 cigarettes or 500 single-unit consumer-sized cans or packages of smokeless tobacco within a single calendar month. In addition, it incorporates a technical amendment changing the word ''subpart'' to the word ''part'' in the text that describes the scope of these rules.

C. Sections 646.143, 646.146(a), 646.146(b), and 646.150

The final rule revises the NPRM's proposed definition of ''exempted person'' in § 646.143(b), by including certain persons operating in FTZs within the list of exempted persons for contraband smokeless tobacco. The exemption for operating within an FTZ when the smokeless tobacco involved has been entered into the zone under zone-restricted status or, in respect to foreign smokeless tobacco, has been admitted into the zone but has not been entered into the United States, is the same as the existing exemption for cigarettes and was inadvertently not included in the proposed rule. ATF adds this exemption to the final rule to align the smokeless tobacco exemptions fully with the FTZ exemption for cigarettes that already exists in the regulations implementing the CCTA.

The final rule removes the NPRM's proposed definition of ''interstate commerce'' in § 646.143 because including the definition for the entire CCTA goes beyond the scope of this rule and is not necessary. For purposes of the amendments made by the PATRIOT Improvement Act, the term ''interstate commerce'' has the definition supplied by the act itself at 18 U.S.C. 2343(f).

The final rule revises the definition of ''person'' in § 646.143 to include all locations under common control of a person. Therefore, in determining whether the person meets the threshold of 10,000 cigarettes (or the smokeless equivalent) in a single month for reporting purposes, the person must add together all shipments, sales, and distributions, regardless of volume of any single sale, shipment, or distribution, and must count all cigarettes and smokeless tobacco sold by all locations under the person's common control.

The final rule also adds to the NPRM's proposed § 646.143 a definition for ''retail purchaser'' that harmonizes with the definition of ''delivery sale'' in 18 U.S.C. 2343(e), makes technical amendments to the definition of ''exempted person'' to track the language in 18 U.S.C. 2341(2)(D), and references the correct 1986 version of the IRC.

In addition, the final rule amends § 646.146(a) and § 646.150 to add that each person who ships, sells, or distributes (which would become only each person who distributes) cigarettes or smokeless tobacco must keep copies of the required documents, which tracks the language in 18 U.S.C. 2343(a). Section 646.146 adds in-line headers to subsections (a) and (b) to identify their topics.

Consistent with two commenters who noted that the NPRM proposed to apply the reporting requirement to ''each distributor'' who engages in a delivery sale, whereas the statute applies the requirement to ''each person,'' the final rule replaces the NPRM's proposed use of the term ''distributor'' with ''person'' wherever it appears in § 646.146(b)(1).

D. Section 646.146(b)(1)(i)–(iii)

The proposed regulation did not provide guidance on the timing for submission of the information required by the reporting requirements. Therefore, the final rule specifies that the report must be prepared and submitted by the 10th day of the calendar month following the month that is the subject of the report. The final rule also specifies what is to be reported, including the brand name of the cigarettes or smokeless tobacco. In addition, the final rule removes a reference to a new ATF form for the purpose of submitting reports. ATF has determined that it would be more efficient to allow persons to submit reports without being required to use a form, especially due to the highly variable length of lists that persons may need to submit.

E. Section 646.147

This final rule makes a technical amendment to the phrase ''more than 10,000 cigarettes or 500 single-unit consumer-sized cans or packages of smokeless tobacco'' in the NPRM's proposed § 646.147; this change ensures consistency with § 646.141.

F. Section 646.150 Retention Period

The final rule extends the record retention requirement in the NPRM's proposed § 646.150 from three years to five years following the close of the year in which the records are made. This amendment harmonizes the regulations with the applicable statute of limitations for CCTA violations, which is five years. In addition, the final rule clarifies that these records may be maintained in electronic form on the person's business premises. Further, the final rule permits persons to use domestic remote data storage facilities or a host facility (*i.e.,* cloud-based storage) for the required records, if the entities that control the storage facilities are subject to service of U.S. legal process and have a business premises within the United States or its territories. In addition, persons required to maintain these records who choose to do so electronically must ensure that they are accessible by ATF on the business premises and are available on request, whether they are in cloud storage or an electronic device physically located at the premises.

This final rule does not apply to Electronic Nicotine Delivery Systems.

VII. Statutory and Executive Order Review

A. Executive Orders 12866 and 13563

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.

Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of agencies quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting public flexibility.

The Office of Management and Budget (''OMB'') determined that the proposed

rule was a ''significant regulatory action'' under section 3(f)(1) of Executive Order 12866 because of facts that applied at the time the proposed rule was published in 2010. Although the factual circumstances have changed, as described below, OMB has reviewed this final rule because of OMB's determination that the prior NPRM was a ''significant regulatory action.''

Most of the provisions in this rule simply incorporate statutory changes to the CCTA effected by the PATRIOT Improvement Act, primarily by modifying record-keeping requirements in the existing regulations to decrease the triggering threshold from 60,000 to 10,000 cigarettes and to include smokeless tobacco. In addition, the rule also implements reporting requirements that ATF originally projected in the NPRM would affect a substantial portion of the tobacco industry. The projected impact of this reporting requirement was the basis for OMB considering the NPRM to be ''significant'' under section 3(f) of Executive Order 12866. However, this rule will no longer have that originally projected impact because of intervening changes.

Five years after the PATRIOT Improvement Act was passed, Congress enacted the PACT Act in 2010, which effectively, as a practical matter, eliminated the ability to make lawful ''delivery sales'' of the sort that would trigger the reporting requirements imposed by the PATRIOT Improvement Act. The PACT Act bans mailing cigarettes and smokeless tobacco; provides that distributing cigarettes and smokeless tobacco must accord with state and local stamping, taxing, and other requirements; and provides that distributors must register with states, follow labeling, age verification, and packaging requirements, and more. In light of the PACT Act's comprehensive statutory requirements and prohibitions, distributors long ago ceased engaging in delivery sales covered by the PATRIOT Improvement Act's reporting requirement. ATF has thus determined that the CCTA reporting requirements incorporated into ATF's regulations via this final rule will have no cost to industry. It is vaguely possible that, at some distant date, one or more distributors might decide to start engaging in delivery sales covered by this requirement despite the PACT Act's disincentives, but ATF's experience over the 15 years since the PACT Act has been in effect indicates that this possibility is too speculative for assessing a projected possible economic impact from this final rule's reporting requirements.

Next, although most portions of this final rule simply incorporate statutory changes to the CCTA effected by the PATRIOT Improvement Act, it is possible this rule could result in a small number of additional distributors being subject to the record-keeping requirements in 27 CFR part 646 because of the decrease in the triggering threshold from 60,000 to 10,000 cigarettes and because the regulations also impose record-keeping requirements for certain shipments, sales, and distributions of smokeless tobacco. ATF has determined this potential increase will likely have a de minimis impact because distributors already generate such records in the regular course of business and likely will not have to make additional records or entries to comply with the rule.

Furthermore, this de minimis potential increase would be more than offset by the savings resulting from the rule's provisions allowing persons to use electronic records and to use commercial business records they generate in the course of regular business to meet the requirements.

1. Need Statement

Since the CCTA was enacted in 1978, cigarette smuggling and trafficking has grown in complexity and become a global problem that costs governments throughout the world billions of dollars in lost tax revenue. ATF's investigations, Congress, and other sources have established that organized crime and terrorist groups divert legal tobacco products into illegal markets. Organized crime and terrorist groups use profits derived from cigarette trafficking, and the more recent market of smokeless tobacco trafficking, to finance additional criminal enterprises. As a result, section 121 of the PATRIOT Improvement Act made several amendments to the CCTA, 18 U.S.C. 2341 *et seq.,* to strengthen the ability to investigate and track cigarette and smokeless tobacco trafficking.

This rulemaking updates ATF's regulations to be consistent with the amendments made by the PATRIOT Improvement Act to the CCTA relating to trafficking in contraband cigarettes and smokeless tobacco and to facilitate enforcing the CCTA.

2. Costs

In this final rule, ATF has largely retained the substance of the regulations proposed by the NPRM, but has made certain modifications, including a modification that allows regulated entities to store records electronically. ATF has adjusted its analysis of the costs imposed by this rule to account for changes in the number of regulated entities since the publication of the NPRM and in response to public comments. In the NPRM, ATF estimated that 3,000 entities would be subject to monthly reporting requirements; in this final rule, ATF estimates that no entities will be subject to monthly reporting requirements. The decline in the number of entities subject to the reporting requirements is due to the implementation of the PACT Act. Because of this change, ATF estimates that there are no quantified costs associated with the monthly reporting requirements.

In response to public comments, and to incorporate current industry standards in light of advancing technology, ATF has amended the regulation proposed in the NPRM to provide that records in electronic form satisfy the rule's record-keeping requirements. This change is consistent with ATF's enforcement practice in recent years. ATF is codifying the permission to use electronic records in this final rule because industry now almost exclusively uses electronic records.

In addition, the final rule extends the current record-keeping requirement from three to five years. ATF estimates that there are no quantified costs associated with retaining records beyond the existing three-year requirement because no further action or capital will be required to implement the time extension, as all records are electronic and already produced in businesses' ordinary course of operations. Most tobacco industry businesses already maintain sales records and invoices electronically as part of standard business practices and to comply with other requirements, such as for tax purposes or as required by states, and this final rule does not require these entities to generate additional records for ATF record-keeping purposes.

3. Benefits

Although, as discussed above, this rule does not include any quantified benefits, it does generate qualitative benefits. ATF's regulations implementing the CCTA already impose record-keeping requirements for manufacturers and wholesalers who sell more than 60,000 cigarettes in one transaction, enabling ATF to inspect their records and find indications of trafficking and other criminal activities. These requirements increase public safety and benefit the economy by reducing trafficking, thus impairing terrorism and other criminal activities funded by trafficking. However, the

cigarette portion of the tobacco products market has been shrinking over the past 20 years, so the number of sales over 60,000 cigarettes in a single transaction has also diminished, and criminal enterprises have instead increased sales of lower transaction amounts. In addition, the decline in cigarette market share has been offset by a massive increase in market share for smokeless tobacco and an increase in illegal smokeless tobacco trafficking. These changes were a primary reason the PATRIOT Improvement Act added smokeless tobacco to the CCTA, added a requirement for keeping records on smokeless tobacco transactions of at least 500 single-unit consumer-sized cans or packages, and lowered the cigarette sale record-keeping threshold from more than 60,000 cigarettes to more than 10,000 cigarettes in a single transaction. These changes, and the change to the records retention period, permit ATF to inspect more records that aid it in finding traffickers.

This rule benefits the public by conforming ATF regulations with the statutory changes discussed above, thereby reducing confusion and providing clarity to regulated parties by eliminating discrepancies between the two. It also provides additional detail to industry on the scope of the record-keeping requirements, which helps inform regulated parties about their duties.

B. Executive Order 14192

Executive Order 14192 (Unleashing Prosperity Through Deregulation) requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed or revised when the agency publicly proposes for notice-and-comment or otherwise promulgates a new regulation that qualifies as an Executive Order 14192 regulatory action (defined in OMB Memorandum M–25–20 as a final significant regulatory action under section 3(f) of Executive Order 12866 that imposes total costs greater than zero). In furtherance of this requirement, section 3(c) of Executive Order 14192 requires that any new incremental costs associated with such new regulations must, to the extent permitted by law, also be offset by eliminating existing costs associated with at least ten prior regulations. However, this final rule is not an Executive Order 14192 regulatory action because it does not impose any more than de minimis regulatory costs.

C. Executive Order 14294

Executive Order 14294 (Fighting Overcriminalization in Federal Regulations) requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to each element of those offenses. This final rule does not create a criminal regulatory offense and is thus exempt from Executive Order 14294 requirements.

D. Executive Order 13132

This rule will not have substantial direct effects on the states, the relationship between the federal government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132 (Federalism), the Director has determined that this final rule does not impose substantial direct compliance costs on state and local governments, preempt state law, or meaningfully implicate federalism. It thus does not warrant preparing a federalism summary impact statement.

E. Executive Order 12988

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform).

F. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, (5 U.S.C. 601–612), agencies are required to conduct a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements unless the agency head certifies, including a statement of the factual basis, that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include certain small businesses, small 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.

Although there might be small entities that distribute sufficient tobacco products to trigger the thresholds for applying the PATRIOT Improvement Act, costs to these small entities would be de minimis because ATF is not requiring businesses to retain records more extensive than those that businesses retain in their normal course of operating, nor is ATF requiring that businesses deviate from their typical practice of storing records electronically. Also, as discussed in section VII.A of this preamble, the reporting requirements described in this rulemaking are obsolete because of the PACT Act, and these requirements accordingly will not affect any businesses, including small ones. Furthermore, because records covered by this rule are businesses' normal commercial records, ATF has already been inspecting them and providing awareness and feedback to businesses for the approximately two decades since the PATRIOT Improvement Act was enacted. Familiarization costs arising from this rule would thus be de minimis as well. Therefore, the Director certifies, after consideration, that this final rule will not have a significant impact on a substantial number of small entities.

F. Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not likely to have a significant economic impact on a substantial number of small entities under the Small Business Regulatory Enforcement Fairness Act of 1996, 15 U.S.C. 657 and 5 U.S.C. 601 note, as it neither imposes additional costs nor adds any barriers that would impact small businesses, as described above.

ATF does not anticipate taking enforcement actions against small businesses related to this rule; small businesses generally do not meet the threshold sales level for shipments, sales, or distributions that would trigger the record-keeping requirements. However, ATF has worked with and will continue to work with small businesses to ensure training, awareness, and compliance by such businesses. In addition, should an enforcement action be brought against a small business, ATF includes in the enforcement process steps that ensure small businesses are able to fully participate in and respond to any enforcement actions, in compliance with the Small Business Regulatory Enforcement Fairness Act.

G. Unfunded Mandates Reform Act of 1995

This rule does not include a federal mandate that might result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, ATF has determined that no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

H. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (''PRA''), 44 U.S.C. 3501–3521, agencies are required to submit to OMB,

for review and approval, any information collection requirements a rule creates or any impacts it has on existing information collections. An information collection includes any reporting, record-keeping, monitoring, posting, labeling, or other similar actions an agency requires of the public. *See* 5 CFR 1320.3(c). The NPRM indicated that this rule would necessitate a new information collection under the PRA. The NPRM proposed a new information collection to capture the new reporting requirement proposed in that rule.

In addition, 27 CFR part 646 already includes an information collection in the form of record-keeping requirements, and this rule revises the threshold that triggers those record-keeping requirements, so ATF discusses that record-keeping here. Although those record-keeping requirements pre-date this rule and are not created by it, ATF did not previously include this record-keeping requirement under an OMB-approved information collection request (''ICR'') because it did not involve a form. However, this was an oversight, which ATF is now correcting by creating a new ICR to cover the existing record-keeping requirement in addition to the reporting requirement.

This ICR will also account for the new thresholds, created by the PATRIOT Improvement Act and implemented by this rule, that trigger the record-keeping requirement at 10,000 cigarettes or 500 single-unit consumer-sized cans or packages of smokeless tobacco sales in one transaction (instead of only cigarettes at 60,000 in a transaction). Similarly, the ICR will account for the reporting requirement triggered when a person engages in a delivery sale and ships, sells, or distributes at least 10,000 cigarettes or 500 single-unit consumer-sized cans or packages of smokeless tobacco, or their equivalent, in a single month. As described in section VII.A.2 of this preamble, these requirements do not result in more than a de minimis hour burden or cost, so the description below of the ICR as impacted by this rule shows a zero-hour burden. This rule changes the threshold for keeping records and the period for retaining them but otherwise makes no change to the record-keeping requirement.

The record-keeping portion of the information collection is associated with §§ 646.146, 646.147, and 646.150, and the reporting portion of the information collection is associated with § 646.146. The information collection is necessary because covered persons are required to maintain records on individual cigarette and smokeless tobacco shipments, sales, or distributions that meet the stated threshold requirements and to submit reports on monthly transaction totals of such sales that meet the stated threshold requirements. This information is required to implement the provisions of the CCTA, as amended by the PATRIOT Improvement Act, regarding trafficking in contraband cigarettes or smokeless tobacco. The likely respondents are businesses.

Title: Cigarettes and Smokeless Tobacco Record-keeping and Reporting Requirements.

OMB Control Number: 1140–[TBD].

Summary of the information collection: Each person who ships, sells, or distributes cigarettes or smokeless tobacco must keep copies of invoices, bills of lading, or other suitable commercial records equivalent thereto on each disposition of more than 10,000 cigarettes or of smokeless tobacco in excess of 500 single-unit consumer-sized cans or packages, in accordance with the requirements in 27 CFR 646.146(a), 646.147, and 646.150. These records may be maintained in electronic format and must be retained for five years.

In addition, each person, except for a tribal government, who engages in a delivery sale and who ships, sells, or distributes more than 10,000 cigarettes or 500 single-unit consumer-sized cans or packages of smokeless tobacco, or their equivalent, within a single month, must submit a Tobacco Industry and Direct Sales Report (''report'') by the 10th day of the following calendar month, in accordance with requirements in § 646.146(b). The person must include in the report the beginning and ending inventories of cigarettes and cans or packages of smokeless tobacco (in total) for such month, including the brand name and number of cigarettes or ounces of smokeless tobacco; the total quantity of cigarettes and cans or packages of smokeless tobacco that the person received within such month from each other person (itemized by name and address), including the brand name of the tobacco products; and the total quantity of cigarettes and cans or packages of smokeless tobacco the person distributed within such month to each person (itemized by name and address) other than a retail purchaser, including the brand name of the tobacco products. The person must submit a copy of each such report to the Director, ATF, and to the attorneys general and the tax administrators of the states from where the shipments, deliveries, or distributions both originated and concluded.

Need for the information: The purpose of the record-keeping and reporting requirements is so that revenue agencies and law enforcement officers can inspect and identify persons who are moving tobacco products into the black market or otherwise violating the law.

Proposed use of the information: ATF will inspect the records for law-enforcement purposes.

Description of the respondents: For record-keeping requirement: Any distributor, as defined in 27 CFR 646.143, is required to maintain this information in commercial dated records for each disposition meeting the statutory threshold as described in § 646.147. For reporting requirement: Any person except a tribal government who engages in a delivery sale is required to report this information for each calendar month in which the person meets the statutory threshold as described in § 646.146(b).

Number of respondents: For record-keeping requirement: 3,309 wholesalers and manufacturers. For reporting requirement: 0 persons.

Frequency of response: For record-keeping requirement: per sales transaction above the threshold described in § 646.147. For reporting requirement: per calendar month in which the person engages in a delivery sale and sells more than the threshold described in § 646.146(b) during that month.

Time burden of response: Burden hours due to rule: 0. The record-keeping requirement involves records that are already kept in the ordinary course of business. In addition, no persons have engaged in delivery sales for more than a decade, and ATF has no basis for anticipating a change in that number in the future, so no persons will trigger the reporting requirement. As a result, ATF assesses the impact from this rule to be 0 hours.

Estimate of total annual time burden: Total annual burden hours due to rule: 0 hours.

I. Congressional Review Act

This rule is not a major rule as defined by the Congressional Review Act, 5 U.S.C. 804.

Severability

ATF has determined that this rule implements and is fully consistent with governing law. However, in the event any provision of this rule, an amendment or revision made by this rule, or the application of such provision or amendment or revision to any person or circumstance, is held to be invalid or unenforceable by its terms, the remainder of this rule, the amendments or revisions made by this

rule, and application of the provisions of the rule to any person or circumstance shall not be affected and shall be construed so as to give them the maximum effect permitted by law.

List of Subjects in 27 CFR Part 646

Administrative practice and procedure, Cigars and cigarettes, Excise taxes, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds, Tobacco.

Accordingly, for the reasons discussed in the preamble, ATF amends 27 CFR part 646 as follows:

PART 646—CONTRABAND CIGARETTES AND SMOKELESS TOBACCO

■ 1. The authority citation for part 646 continues to read as follows:

Authority: 18 U.S.C. 2341–2346, unless otherwise noted.

■ 2. Revise the part heading as set forth above.

■ 3. Revise § 646.141 to read as follows:

§ 646.141 Scope of part.

The regulations in this part relate to delivery sales of smokeless tobacco and cigarettes, and to distributing, either in a single transaction or cumulatively, more than 10,000 cigarettes or 500 single-unit consumer-sized cans or packages of smokeless tobacco within a single month.

■ 4. Amend § 646.143 by:
■ a. Revising the definition for ''Business premises'';
■ b. Adding the definition for ''Cigarette'' in alphabetical order;
■ c. Revising the definition for ''Contraband cigarettes'';
■ d. Adding the definitions for ''Contraband smokeless tobacco'' and ''Delivery sale'' in alphabetical order;
■ e. Revising the definitions for ''Disposition'', ''Distributor'', ''Exempted person'', and ''Person''; and
■ f. Adding the definitions for ''Retail purchaser'' and ''Smokeless tobacco'' in alphabetical order.

The revisions and additions read as follows:

§ 646.143 Meaning of terms.

* * * * *

Business premises. When used with respect to persons who sell cigarettes or smokeless tobacco, the property on which the cigarettes or smokeless tobacco are kept or stored.

The business premises include the property where distributors keep their cigarette and smokeless-tobacco records.

Cigarette. A cigarette is:

(1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco; and

(2) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (1) of this definition.

* * * * *

Contraband cigarettes. Any quantity of cigarettes in excess of 10,000, if:

(1) The cigarettes bear no evidence that applicable state or local cigarette taxes in the state or locality where such cigarettes are found has been paid;

(2) The state or local government in which the cigarettes are found requires a stamp, impression, or other indication to be placed on packages or other containers of cigarettes to evidence payment of cigarette taxes; and

(3) The cigarettes are possessed by any person other than an exempted person.

Contraband smokeless tobacco. Any quantity of smokeless tobacco in excess of 500 single-unit consumer-sized cans or packages, or their equivalent, that any person other than an exempted person possesses.

Delivery sale. Any sale of cigarettes or smokeless tobacco in interstate commerce to a consumer if:

(1) The consumer submits the order for such sale by means of a telephone or other method of voice transmission, mail, the internet or other online service, or by any other means in which the consumer is not in the same physical location as the seller when the purchase or sales offer occurs; or

(2) The cigarettes or smokeless tobacco are delivered through mail, common carrier, private delivery service, or any other means in which the consumer is not in the same physical location as the seller when the consumer physically obtains possession of the cigarettes or smokeless tobacco.

Disposition. The movement of cigarettes or smokeless tobacco from a person's business premises, wherever situated, by distribution.

* * * * *

Distributor. Any person who distributes more than 10,000 cigarettes, or 500 single-unit consumer-sized cans or packages of smokeless tobacco, in a single transaction.

Exempted person. An exempted person is:

(1) With respect to cigarettes in excess of 10,000, any person who is:

(i) Holding a permit issued pursuant to chapter 52 of the Internal Revenue Code of 1986 as a manufacturer of tobacco products or as an export warehouse proprietor;

(ii) Operating a customs bonded warehouse pursuant to section 311 or section 555 of the Tariff Act of 1930 (19 U.S.C. 1311 or 1555);

(iii) An agent of a tobacco products manufacturer, an export warehouse proprietor, or an operator of a customs bonded warehouse;

(iv) A common or contract carrier transporting the cigarettes involved under a proper bill of lading or freight bill that states the cigarettes' quantity, source, and destination;

(v) Licensed or otherwise authorized by the state in which the person possesses cigarettes to account for and pay cigarette taxes imposed by that state; and who has complied with the license or authorization's accounting and payment requirements with respect to the cigarettes involved;

(vi) An officer, employee, or other agent of the United States or a state, or any department, agency, or instrumentality of the United States or a state (including any political subdivision of a state) possessing cigarettes in connection with performing official duties; or

(vii) Operating within a foreign-trade zone established under 19 U.S.C. 81b, when the cigarettes involved have been entered into the zone under zone-restricted status or, in respect to foreign cigarettes, have been admitted into the zone but have not been entered into the United States.

(2) With respect to smokeless tobacco in excess of 500 single-unit consumer-sized cans or packages, any person who is:

(i) Holding a permit issued pursuant to chapter 52 of the Internal Revenue Code of 1986 as a tobacco products manufacturer or as an export warehouse proprietor;

(ii) Operating a customs bonded warehouse pursuant to section 311 or section 555 of the Tariff Act of 1930 (19 U.S.C. 1311 or 1555);

(iii) An agent of a tobacco products manufacturer, an export warehouse proprietor, or a customs bonded warehouse operator;

(iv) A common or contract carrier transporting the smokeless tobacco under a proper bill of lading or freight bill that states the smokeless tobacco's quantity, source, and destination;

(v) Licensed or otherwise authorized by the state in which the person possesses smokeless tobacco to account for and pays smokeless tobacco taxes imposed by that state; and who has complied with the license or authorization's accounting and payment

requirements with respect to the smokeless tobacco involved;

(vi) An officer, employee, or agent of the United States or a state, or any department, agency, or instrumentality of the United States or a state (including any political subdivision of a state) possessing smokeless tobacco in connection with performing official duties; or

(vii) Operating within a foreign-trade zone established under 19 U.S.C. 81b, when the smokeless tobacco involved has been entered into the zone under zone-restricted status or, in respect to foreign smokeless tobacco, has been admitted into the zone but has not been entered into the United States.

Person. Any individual, corporation, company, association, firm, partnership, society, or joint stock company. The term includes within the definition of ''person'' any business that operates at different locations that function under common control, as well as businesses that conduct commercial tobacco enterprises on tribal land.

Retail purchaser. With reference to a particular cigarettes or smokeless tobacco sale, a consumer who purchases cigarettes or smokeless tobacco in a face-to-face transaction in which the consumer is physically present at the business premises of the person making the sale; makes the order directly to the seller without using a telephone, mail, the internet, other online service, or other means of remote communication; and who physically obtains possession of the cigarettes or smokeless tobacco in the same physical location as the seller, not by having the cigarettes or smokeless tobacco delivered by mail, common carrier, or private delivery service.

Smokeless tobacco. Any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral or nasal cavity or otherwise consumed without being combusted.

* * * * *

■ 5. Revise the undesignated center heading preceding § 646.146 to read as follows:

Records and Reports

■ 6. Revise § 646.146 to read as follows:

§ 646.146 General record-keeping and reporting requirements.

(a) *Persons subject to record-keeping requirements.* Each person who distributes cigarettes or smokeless tobacco must keep copies of invoices, bills of lading, or other suitable commercial records equivalent thereto relating to each disposition of more than 10,000 cigarettes, or smokeless tobacco in excess of 500 single-unit consumer-sized cans or packages. Dividing a single agreement for the disposition of more than 10,000 cigarettes, or smokeless tobacco in excess of 500 single-unit consumer-sized cans or packages, into delivery of smaller components of 10,000 cigarettes or less, or smokeless tobacco of not more than 500 single-unit consumer-sized cans or packages, does not exempt persons from the record-keeping requirements of this part. Such distributors must include the information prescribed in § 646.147 in their commercial disposition records. Records persons generate in the ordinary course of business suffice to satisfy this section.

(b) *Reporting requirements and persons subject to them.* (1) Except for a tribal government, each person who engages in a delivery sale, and who distributes cigarettes in excess of 10,000, or smokeless tobacco in excess of 500 single-unit consumer-sized cans or packages, or their equivalent, within a single calendar month, must prepare and submit to the Director, ATF, a Tobacco Inventory and Direct Sales Report (''report''), in accordance with instructions on ATF's website, by the 10th day of the calendar month following the month in which the delivery or distribution occurred. The report must include the following information:

(i) The person's beginning and ending inventories of cigarettes and cans or packages of smokeless tobacco (in total) for such month, including the cigarettes' or smokeless tobacco's manufacturer and brand family names, and the number of cigarettes or ounces of smokeless tobacco inventoried.

(ii) The total quantity of cigarettes and cans or packages of smokeless tobacco—including the cigarettes' or smokeless tobacco's manufacturer and brand family names—the person received within such month from each other person (itemized by name and address).

(iii) The total quantity of cigarettes and cans or packages of smokeless tobacco—including the cigarettes' or smokeless tobacco's manufacturer and brand family names—that the person disposed of within such month to each person (itemized by name and address) other than a retail purchaser.

(2) Each person described in paragraph (b)(1) of this section must also submit a copy of each completed report to the attorneys general and the tax administrators of the States from where the deliveries or distributions both originated and concluded.

(Approved by the Office of Management and Budget under control number 1140–[TBD])

■ 7. Revise § 646.147 to read as follows:

§ 646.147 Required record-keeping information.

(a) *Distributors who are exempted persons.* Distributors who are exempted persons as defined in § 646.143 must show the following information in their commercial records:

(1) For each disposition of more than 10,000 cigarettes, or 500 single-unit consumer-sized cans or packages of smokeless tobacco, to an exempted person; or for each disposition of more than 10,000 cigarettes, or 500 single-unit consumer-sized cans or packages of smokeless tobacco, to a person who is not an exempted person, which is delivered by the distributor to the recipient's place of business, the distributor must show on dated records—

(i) The full name of the purchaser (or the recipient if there is no purchaser);

(ii) The street address (including city and State) to which the cigarettes or smokeless tobacco are destined; and

(iii) The quantity of cigarettes or smokeless tobacco disposed of.

(2) For each disposition of more than 10,000 cigarettes, or 500 single-unit consumer-sized cans or packages of smokeless tobacco, other than the dispositions specified in paragraph (a)(1) of this section, the distributor must show on dated records—

(i) The full name of the purchaser (if any);

(ii) The name, address (including city and state), and signature of the person receiving the cigarettes or smokeless tobacco;

(iii) The street address (including city and state) to which the cigarettes or smokeless tobacco are destined;

(iv) The quantity of cigarettes or smokeless tobacco disposed of;

(v) The driver's license number of the individual receiving the cigarettes or smokeless tobacco;

(vi) The license number of the vehicle in which the cigarettes or smokeless tobacco are removed from the distributor's business premises;

(vii) A declaration by the individual receiving the cigarettes or smokeless tobacco of the specific purpose for the items (such as personal use, resale, delivery to another person, etc.); and

(viii) A declaration, by the person receiving the cigarettes or smokeless tobacco when acting as an agent, of the name and address of their principal.

(b) *Distributors who are not exempted persons.* Each distributor who is not an exempted person as defined in

§ 646.143 must show on dated commercial records the information specified in paragraphs (a)(2)(i) through (viii) of this section for each disposition of more than 10,000 cigarettes or 500 single-unit consumer-sized cans or packages of smokeless tobacco.

(Approved by the Office of Management and Budget under control number 1140–[TBD])

■ 8. Amend § 646.150 by revising the section heading and paragraphs (a) and (b)(2) to read as follows:

§ 646.150 Retaining records.

(a) *General.* Each distributor that distributes more than 10,000 cigarettes, or 500 single-unit consumer-sized cans or packages of smokeless tobacco in a single transaction must retain the records required by §§ 646.146 and 646.147 for five years following the close of the year in which the records are made. Such distributors must keep the required records on their business premises (or otherwise make the records available from the business premises) and may keep them in electronic form. If storing records electronically, the distributors must maintain an electronic record-keeping system, including stored information, on their business premises or remotely, using a server located within the United States or its territories, or, if using a host facility, the facility must have a business premises within the United States or its territories that is subject to U.S. legal process. The distributors must also ensure that ATF can access the electronic records on the premises by request.

(b) * * *

(2) The tobacco products manufacturer will retain the required record for each disposition of more than 10,000 cigarettes, or 500 single-unit consumer-sized cans or packages of smokeless tobacco, from the agent's premises for the full retention period specified in paragraph (a) of this section; and

* * * * *

(Approved by the Office of Management and Budget under control number 1140–[TBD])

■ 9. Revise the undesignated center heading preceding § 646.153 to read as follows:

Other Provisions Relating to Distributing Cigarettes and Smokeless Tobacco

■ 10. Revise § 646.153 to read as follows:

§ 646.153 Authority of appropriate ATF officers to enter business premises.

Any ATF officer may, during normal business hours, enter the business premises of any person described in § 646.146 to inspect the records required under §§ 646.146 and 646.147, or to inspect any cigarettes or smokeless tobacco kept or stored by the person at the premises.

§ 646.154 [Amended]

■ 11. Amend § 646.154(a) by adding the text ''or contraband smokeless tobacco'' after the text ''contraband cigarettes''.

■ 12. Revise § 646.155 to read as follows:

§ 646.155 Forfeitures.

(a) Any contraband cigarettes or contraband smokeless tobacco involved in any violation of the provisions of 18 U.S.C. chapter 114 are subject to seizure and forfeiture. The provisions of 18 U.S.C. chapter 46 relating to civil forfeitures extend to any seizure or civil forfeiture under this section. Any cigarettes or smokeless tobacco so seized and forfeited must be either—

(1) Destroyed and not resold; or

(2) Used for undercover investigative operations for detecting and prosecuting crimes, and then destroyed and not resold.

(b) Any vessel, vehicle, or aircraft used to transport, carry, convey, conceal, or possess any contraband cigarettes or contraband smokeless tobacco with respect to which there has been committed any violation of any provision of 18 U.S.C. chapter 114 or the regulations in this part is subject to seizure and forfeiture pursuant to 49 U.S.C. 80302–03. The provisions of 18 U.S.C. chapter 46 relating to civil forfeitures extend to any seizure or civil forfeiture under this section.

Robert Cekada,

Director.

[FR Doc. 2026–09160 Filed 5–7–26; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2025–1108]

RIN 1625–AA08

Special Local Regulations; Marine Events Within the USCG East District

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending a special local regulation for certain waters of the Patapsco River, in Baltimore, MD by adding a new period during which this regulation would be subject to enforcement. This action is necessary to provide for the safety of life on these navigable waters during the 3rd and 4th weeks of June, during Fleet Week events. This rule prohibits persons and vessels from entering the regulated area during this enforcement period unless authorized by the Captain of the Port Maryland-National Capital Region or the Coast Guard Patrol Commander.

DATES: This rule is effective June 8, 2026. In 2026, the rule will be subject to enforcement from 10 a.m. to 6 p.m. each day from June 24 to June 28.

ADDRESSES: To view available documents go to *https://www.regulations.gov* and search for USCG–2025–1108.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email LCDR Kate Newkirk, U.S. Coast Guard Sector Maryland-National Capital Region; telephone 410–576–2674, email *Kate.M.Newkirk@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background and Authority

''Historic Ships in Baltimore, Inc.'' is the sponsor of an event titled ''Air Show Baltimore,'' which is held every two years, on the Patapsco River, including the Inner Harbor, in Baltimore, MD. To address potential hazards arising from the event, the Coast Guard has promulgated a Special Local Regulation (SLR) which is codified in 33 CFR 100.501. Normally, Air Show Baltimore is held on one four-day (Thursday through Sunday) weekend in September or October, as provided in Table 2 to Paragraph (i)(2) to § 100.501. This year, however, ''Historic Ships in Baltimore, Inc.,'' together with Fleet Week 2026, and Sail250, Inc., all of Baltimore, MD, have notified the Coast Guard that they will be conducting the Air Show Baltimore in conjunction with a Fleet Week celebration from 12 noon to 4 p.m. daily from June 24, 2026, to July 1, 2026.

The biennial air show consists of various types of military aircraft performing low-flying, high-speed precision maneuvers and aerial stunts. The U.S. Navy's Blue Angels flight demonstration squadron aircraft will fly between 12 noon and 4 p.m. on June 24–28, 2026. The new enforcement period would begin two hours before and end two hours after the hours during which air shows would be scheduled to occur. To address this, the Coast Guard proposed to change the existing rule by adding the new enforcement period to the existing entry in Table 2 to Paragraph (i)(2) to § 100.501 on January 27, 2026 (91 FR 3401.)

III. Discussion of Comments and the Rule

During the comment period that ended on February 26, 2026, we received four comments, but all of them were outside the scope of the rulemaking.

There are no changes in the regulatory text of this rule from the text of the rule proposed in the NPRM. This rule establishes a safety zone which will be subject to enforcement this year from 12 noon on June 24, 2026 until 4 p.m. on June 28, 2026. The existing SLR is subject to all the requirements which pertain generally to SLRs in § 100.501, as well as to specific requirements set out in paragraph (h)(2) of that section. The regulated area, which would not change, and periods during which the SLR are currently subject to enforcement are set out in the first row of Table 2 to paragraph (i)(2) of § 100.501. The existing SLR is currently only subject to enforcement on one of three four-day (Thursday through Sunday) weekends in September or October on alternating years. The sole purpose of the rule would is to create four new potential enforcement periods. This year, from 10 a.m. to 6 p.m. from June 24 to July 1.

Except for Air Show Baltimore participants and vessels already at berth, a vessel or person would be required to get permission from the COTP or PATCOM before entering the regulated area during the enforcement period. Vessel operators would request permission to enter and transit through the regulated area by contacting the COTP or PATCOM on VHF–FM channel 16. A person or vessel not registered with the event sponsor as a participant or assigned as official patrols would be considered a non-participant. Official Patrols are any vessel assigned or approved by the Commander, Coast Guard Sector Maryland-National Capital Region with a commissioned warrant, or petty officer on board and displaying a Coast Guard ensign.

If permission is granted by the COTP or PATCOM, a non-participant would be allowed to enter the regulated area or pass directly through the regulated area as instructed. Vessels would be required to operate at a safe speed that minimizes wake while within the regulated area, in a manner that would not endanger event participants or any other craft. Official patrol vessels would direct non-participants while within the regulated area. The air show aerobatics areas located within the regulated areas is restricted to Air Show Baltimore participants.

IV. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analysis based on a number of these statutes and Executive orders.

A. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

The Coast Guard certifies that, although some small entities may intend to transit the safety zone above, this rule will not have a significant economic impact on a substantial number of small entities. Vessel traffic will be able to safely transit around this safety zone. This safety zone will only impact a small designated area for a few hours. It is during a time when vessel traffic is normally low. In addition, the Coast Guard will issue a Broadcast Notice to Marines via VHF FM marine channel 16, which will allow small entities to adjust their transit plans, and the rule allows vessels to request permission to enter the zone from the COTP.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), if this rule will affect your small business, organization, or governmental jurisdiction and you have questions, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247).

B. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

C. Federalism and Indian Tribal Governments

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in that Order.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

D. Unfunded Mandates Reform Act

As required by The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Coast Guard certifies that this rule will not result in an annual expenditure of $100,000,000 or more (adjusted for inflation) by a State, local, or tribal government, in the aggregate, or by the private sector.

E. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

This rule is a safety zone. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100— SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. In § 100.501, amend table 2 to paragraph (i)(2) by revising the entry for ''Air Show Baltimore'' to read as follows:

§ 100.501 Special Local Regulations; Marine Events Within the USCG East District.

* * * * *

(i) * * *

(2) * * *

TABLE 2 TO PARAGRAPH (I)(2)

Event	Regulated area	Enforcement period(s) [1]	Sponsor
Air Show Baltimore.	Regulated area: All navigable waters of the Patapsco River, within an area bounded by a line connecting position latitude 39°16′00″ N, longitude 076°36′30″ W, thence east to latitude 39°16′00″ N, longitude 076°33′00″ W, thence south to latitude 39°14′30″ N, longitude 076°33′00″ W, thence west to latitude 39°14′30″ N, longitude 076°36′30″ W, thence north to point of origin, located between Port Covington and Seagirt Marine Terminal, Baltimore, MD. Spectator Area: All navigable waters of Patapsco River located between the northern boundary defined by a line drawn from the vicinity of North Locust Point Marine Terminal, Pier 1 thence east to Canton Industrial area, Pier 5; the south boundary is defined by a line drawn from vicinity of Whetstone Point thence east to Lazaretto Point. This area is located generally where Northwest Harbor, East Channel joins Patapsco River, Fort McHenry Channel, near Fort McHenry National Monument, Baltimore, MD. This area is bound by a line to the north commencing at position latitude 39°16′01″ N, longitude 076°34′46″ W, thence east to latitude 39°16′01″ N, longitude 076°34′09″ W, and bound by a line to the south commencing at position latitude 39°15′39″ N, longitude 076°35′23″ W, thence east to latitude 39°15′26″ N, longitude 076°34′03″ W. This spectator area is restricted to certain vessels as described in this paragraph (i)(2)..	Biennial, even years: ..... 1. The 2nd Thursday in September, following a Friday, Saturday and Sunday; or. 2. The Thursday, Friday, Saturday and Sunday before Columbus Day (observed); or. 3. The Thursday, Friday, Saturday and Sunday after Columbus Day (observed); or. 4. from 10 a.m. to 6 p.m. from June 24 to July 1.	Historic Ships in Baltimore, Inc.
*	* *	* * *	*

* * * * *

Dated: May 05, 2026.

Patrick C. Burkett,

Captain, U.S. Coast Guard, Captain of the Port, Maryland-National Capital Region.

[FR Doc. 2026–09166 Filed 5–7–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2026–0336]

RIN 1625–AA00

Safety Zone; Hudson River, Manhattan, NY

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters of the Hudson River in the vicinity of Pier 66, New York City, Manhattan, NY. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with the Hudson Tunnel Project construction activities. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, New York, or their designated representative.

DATES: This rule is effective without actual notice from May 8, 2026, through January 20, 2029. For the purposes of enforcement, actual notice will be used from May 1, 2026, until May 8, 2026.

ADDRESSES: To view available documents referred to as being available in the docket, go to *https://www.regulations.gov* and search for USCG–2026–0336.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact Mr. Jeff Yunker, Sector New York Waterways Management Division,

U.S. Coast Guard; telephone 571–607–2628, or email *Jeffrey.M.Yunker@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port New York
DHS Department of Homeland Security
FR Federal Register
HTP Hudson Tunnel Project
NAD North American Datum
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code
WGS 84 World Geodetic System

II. Background and Authority

The Gateway Development Commission, acting on behalf of the Port Authority of New York and New Jersey, has submitted a request, under 33 CFR 165.5(b), that the Coast Guard create a safety zone within the Hudson River Federal Channel, and pierhead line, near Pier 66, Manhattan, NY. Per 33 CFR 165.20, a safety zone is a water area, shore area, or water and shore area to which, for safety or environmental purposes, access is limited to authorized persons, vehicles, or vessels.

The Gateway Development Commission is a public authority which is facilitating and coordinating activities to effectuate the Gateway Program, a suite of rail infrastructure projects on the Northeast Corridor, between Newark, New Jersey and New York Penn Station. The Commission has submitted this request in support of the Hudson Tunnel Project (HTP), which will (a) build nine miles of new passenger rail track between New York and New Jersey, including nearly five miles of tunnel boring to construct a new, two-tube tunnel under the Hudson River, and (b) rehabilitate the existing rail tunnel beneath the Hudson River. The existing tunnel, known as the North River Tunnel, which is used by Amtrak for intercity passenger rail service and by NJ TRANSIT for commuter rail service, has been in service since 1910.[1]

Boring the new tunnel involves two major marine construction packages: the Hudson River Ground Stabilization Project and the Manhattan Tunnel Project. Hazards from these projects include but are not limited to cofferdam installation and removal, soil mixing, crane and deck barge operations, and the construction of temporary marine structures that create hazards for the public. The Captain of the Port (COTP) New York has determined that potential hazards associated with the construction are a safety concern for anyone within the work area. Therefore, the COTP is issuing this rule under the authority in 46 U.S.C. 70034, which is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone.

The Coast Guard is issuing this rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The Coast Guard became aware of the hazardous situation this project is creating on February 12, 2026, and must establish this safety zone as soon as possible to protect personnel, vessels, and the marine environment. Therefore, the Coast Guard does not have enough time to solicit and respond to comments.

For the same reasons, the Coast Guard finds that under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

III. Discussion of the Rule

This rule establishes a safety zone from 12:01 a.m. on May 1, 2026, through January 20, 2029. The Coast Guard anticipates construction to end sooner than that, but is establishing the safety zone for that length of time in case the project is delayed due to weather, construction, or funding delays or other unforeseen circumstances. If the project is completed before January 20, 2029, enforcement of the safety zone will be suspended, and notice given via Local Notice to Mariners. The Coast Guard Northeast District Local Notice to Mariners can be found at: *https://www.navcen.uscg.gov/maritime-safety-information.*

The safety zone will cover all navigable waters of the Hudson River from surface to bottom, within the following points: Point 1 at 40°45′20.32″ N, 074°00′23.84″ W; thence to Point 2 at 40°45′23.34″ N, 074°00′30.60″ W; thence to Point 3 at 40°45′24.03″ N, 074°00′40.85″ W; thence to Point 4 at 40°45′18.89″ N, 074°00′48.18″ W; thence to Point 5 at 40°45′13.80″ N, 074°00′48.64'' W; thence to Point 6 at 40°45′08.03″ N, 074°00′46.44″ W; thence to Point 7 at 40°45′07.51″ N, 074°00′37.61″W; thence to Point 8 at 40°45′09.18″ N, 074°00′36.37″ W; thence to Point 9 at 40°45′06.70″ N, 074°00′30.78″W; thence returning along the Manhattan shoreline to Point 1. These coordinates are based on the World Geodetic System (WGS 84)/North American Datum 83 (NAD 83). Vessels and persons will not be allowed to enter the zone during this time, unless authorized by the COTP or the COTP's representative. The COTP has, however, authorized access by Hudson River Community Sailing vessels and paddlecraft transiting directly to or from the Pier 66 area. These vessels may transit through the southern area of the safety zone to the east of the Hudson River Cofferdam Lighted Hazard Buoy D (LLNR 37663.3).

IV. Regulatory Analyses

The Coast Guard developed this rule after considering numerous statutes and Executive orders related to rulemaking. The Coast Guard's analyses based on a number of these statutes and Executive orders are provided below.

A. Impact on Small Entities

The regulatory flexibility analysis provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to rules that are not subject to notice and comment. Because the Coast Guard has, for good cause, waived the notice and comment requirement that would otherwise apply to this rulemaking, the Regulatory Flexibility Act's flexibility analysis provisions do not apply here.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), if this rule will affect your small business, organization, or governmental jurisdiction and you have questions, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

B. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

C. Federalism and Indian Tribal Governments

The Coast Guard has analyzed this rule under Executive Order 13132, Federalism, and has determined that it is consistent with the fundamental federalism principles and preemption requirements described in that Order.

[1] For additional information about the HTP, see the Federal Railroad Administration's ''Hudson Tunnel Project, New Jersey and New York'' website, at: *https://railroads.dot.gov/rail-network-development/environment/environmental-reviews/hudson-tunnel-project/hudson-tunnel.*

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

D. Unfunded Mandates Reform Act

As required by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Coast Guard certifies that this rule will not result in an annual expenditure of $100,000,000 or more (adjusted for inflation) by a State, local, or tribal government, in the aggregate, or by the private sector.

E. Environment

The Coast Guard has analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), and has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

This rule is a safety zone. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; DHS Delegation No. 00170.1, Revision No. 01.4.

■ 2. Add § 165.T01–0336 to read as follows:

§ 165.T01 0336 Safety Zone; Hudson River, Manhattan, NY.

(a) *Location.* The following area is a safety zone: All waters of the Hudson River from surface to bottom, encompassed by a line connecting the following points beginning at 40°45′20.32″ N, 074°00′23.84″ W; thence to 40°45′23.34″ N, 074°00′30.60″ W; thence to 40°45′24.03″ N, 074°00′40.85″ W; thence to 40°45′18.89″ N, 074°00′48.18″ W; thence to 40°45′13.80″ N, 074°00′48.64'' W; thence to 40°45′08.03″ N, 074°00′46.44″ W; thence to 40°45′07.51″ N, 074°00′37.61″W; thence to 40°45′09.18″ N, 074°00′36.37″ W; thence to 40°45′06.70″ N, 074°00′30.78″W; thence returning along the Manhattan shoreline to the beginning point. These coordinates are based on the World Geodetic System (WGS 84)/North American Datum 83 (NAD 83).

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer with law enforcement authority designated by or assisting the Captain of the Port New York (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16 or by telephone at (718) 354–4353. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's representative.

(3) Hudson River Community Sailing Vessels and Human Powered Vessels transiting directly to or from the Pier 66 area may transit through the southern area of the safety zone to the east of the Hudson River Cofferdam Lighted Hazard Buoy D (LLNR 37663.3) unless otherwise directed by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be subject to enforcement from 12:01 a.m. on May 1, 2026, to 11:59 p.m. on January 20, 2029. If the project is completed before January 20, 2029, enforcement of the safety zone will be suspended, and notice given via Local Notice to Mariners. The Coast Guard Northeast District Local Notice to Mariners can be found at: *https://www.navcen.uscg.gov/maritime-safety-information.*

Jonathan Andrechik,

Captain, U.S. Coast Guard, Captain of the Port, Sector New York.

[FR Doc. 2026–09145 Filed 5–7–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2026–0482]

RIN 1625–AA00

Safety Zone; Fireworks Displays, Willamette River, Portland, OR

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for certain navigable waters of the Willamette River. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by fireworks displays on the Willamette River on May 22, 2026, and May 30, 2026. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector Columbia River, or their designated representative.

DATES: This rule is effective from 8:50 p.m. to 11:30 p.m. on May 22, 2026, and 8:50 p.m. to 11:30 p.m. on May 30, 2026.

ADDRESSES: To view available documents go to *https://www.regulations.gov* and search for USCG–2026–0482.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact LCDR Jesse Wallace, Sector Columbia River Waterways Management Division, U.S. Coast Guard; telephone 503–572–3524, or email *SCRWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background and Authority

The event sponsor for the Portland Rose Festival Fireworks notified the

Coast Guard that they will be requesting a change to their existing fireworks display dates. Currently, as per 33 CFR 165.1315, a safety zone exists and can be enforced annually on one day in May and one day in June. The newly proposed dates of May 22, 2026, and May 30, 2026 do not align with the existing regulation, therefore the Coast Guard is establishing a temporary Safety Zone for the Portland Rose Festival Fireworks in May 2026. Hazards from fireworks displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. Therefore, the Captain of the Port (COTP), Sector Columbia River is proposing this rule under the authority in 46 U.S.C. 70034, which is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone.

Because of these potential hazards, the Coast Guard is issuing this rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. The Coast Guard was not provided with sufficient advance notice of this event before May 22, 2026, when the safety zone must be established to protect personnel, vessels, and the marine environment. Therefore, we do not have enough time to solicit and respond to comments.

For the same reasons, the Coast Guard finds that under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

III. Discussion of the Rule

This rule establishes a safety zone from 8:50 p.m. until 11:30 p.m. on May 22, 2026, and 8:50 p.m. until 11:30 p.m. on May 30, 2026. The safety zone would cover all navigable waters within a 450-yard radius of the launch site located at approximately 45°30′58″ N, 122°40′12″ W between the Hawthorne and Morrison bridges, located in Portland, OR. Vessels and persons will not be allowed to enter the zone during this time, unless authorized by the Captain of the Port.

IV. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders.

A. Impact on Small Entities

The regulatory flexibility analysis provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to rules that are not subject to notice and comment. Because the Coast Guard has, for good cause, waived the notice and comment requirement that would otherwise apply to this rulemaking, the Regulatory Flexibility Act's flexibility analysis provisions do not apply here.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), if this rule will affect your small business, organization, or governmental jurisdiction and you have questions, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

B. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

C. Federalism and Indian Tribal Governments

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in that Order.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

D. Unfunded Mandates Reform Act

As required by The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Coast Guard certifies that this rule will not result in an annual expenditure of $100,000,000 or more (adjusted for inflation) by a State, local, or tribal government, in the aggregate, or by the private sector.

E. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

This rule is a safety zone. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.4.

■ 2. Add § 165.T13– 0482 to read as follows:

§ 165.T13XX–0482 Safety Zone; Fireworks Displays, Willamette River, Portland, OR.

(a) *Location.* The following area is a safety zone: All navigable waters within a 450-yard radius of a fireworks launch site in Portland, OR. The fireworks launch site will be at the approximate point of 45°30′58″ N, 122°40′12″.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Columbia River (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety

zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16 or by telephone at 1 (833) 769–8724. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement periods.* This section will be enforced from 8:50 p.m. until 11:30 p.m. on May 22, 2026, and 8:50 p.m. until 11:30 p.m. on May 30, 2026.

Dated: April 24, 2026.

Anthony R. Migliorini,

Captain, U.S. Coast Guard, Captain of the Port Sector Columbia River.

[FR Doc. 2026–09140 Filed 5–7–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2026–0476]

Security Zone; Portland Rose Festival on Willamette River

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the security zone for the Portland Rose Festival on the Willamette River in Portland, OR, from noon on June 2, 2026 through noon on June 8, 2026. This action is necessary to ensure the security of vessels participating in the 2026 Portland Rose Festival on the Willamette River during the event. Our regulation for the Portland Rose Festival Security Zone on the Willamette River, identifies the regulated area. During the enforcement period, no person or vessel may enter or remain in the Security Zone without permission from the Sector Columbia River Captain of the Port.

DATES: The regulations in 33 CFR 165.1312 will be enforced from noon on June 2, 2026 through noon on June 8, 2026.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Lieutenant Commander Jesse Wallace, Waterways Management Division, Sector Columbia River, U.S. Coast Guard; telephone 503–572–3524, email *SCRWWM@USCG.MIL.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the security zone for the Portland Rose Festival in 33 CFR 165.1312 for the Willamette River regulated area from noon on June 2, 2026 through noon on June 8, 2026. This action is necessary to ensure the security of vessels participating in the 2026 Portland Rose Festival on the Willamette River during the event. Under the provisions of 33 CFR 165.1312 and subpart D of Part 165, no person or vessel may enter or remain in the security zone, consisting of all waters of the Willamette River, from surface to bottom, encompassed by the Hawthorne and Steel Bridges, without permission from the Captain of the Port Columbia River. Persons or vessels wishing to enter the security zone may request permission to do so from the on-scene Captain of the Port representative via VHF Channel 16 or 13. The Coast Guard may be assisted by other Federal, State, or local enforcement agencies in enforcing this regulation.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard will provide notification of this enforcement period via the Local Notice to Mariners and marine information broadcasts.

Dated: April 24, 2026.

Anthony R. Migliorini,

Captain, U.S. Coast Guard, Captain of the Port Sector Columbia River.

[FR Doc. 2026–09139 Filed 5–7–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2026–0018]

RIN 1625–AA00

Safety Zone; Inner Harbor, Baltimore, MD

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain navigable waters of the Inner Harbor in Baltimore, MD. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created during an Air Show. This rulemaking prohibits persons and vessels from being in the safety zone unless specifically authorized by the Captain of the Port, Sector Maryland-National Capital Region, or a designated representative.

DATES: This rule is effective from 10 a.m. June 24 through 6 p.m. on July 1, 2026. However, it will only be subject to enforcement from 10 a.m. to 6 p.m. on each day it is in effect.

ADDRESSES: To view available documents, go to *https://www.regulations.gov* and search for USCG–2026–0018.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rule, contact Mr. Charles Bullock, Sector Maryland-National Capital Region Waterways Management Division, U.S. Coast Guard; telephone 410–576–2674, email *Charles.d.bullock@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port, Sector Maryland-National Capital Region
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background and Authority

SAIL250® Maryland & Airshow Baltimore (SAIL250) is planning a week-long celebration of maritime and aviation events in Baltimore's Inner Harbor beginning June 24, 2026. Among these events are flyovers and aviation demonstrations. The events may include a U.S. Coast Guard Search and Rescue Drill and WWII-era ''Warbird'' flyovers. On January 30, 2026, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone; Inner Harbor, Baltimore, MD (91 FR 4022). In that NPRM, we stated why we issued the NPRM and invited comments on our proposed regulatory action related to this air show. During the comment period, which ended March 2, 2026, we received no comments.

To protect personnel, vessels, and the marine environment from potential hazards arising from these activities in these navigable waters before, during, and after the air demonstrations, the Captain of the Port, Sector Maryland-National Capital Region (COTP) is establishing a safety zone from 10 a.m. on June 24, 2026, through 6 p.m. on July 1, 2026. We are proposing this rule under the authority in 46 U.S.C. 70034.

III. Discussion Comments of the Rule

There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

Although the safety zone would be in effect for a week, it would only be subject to enforcement beginning thirty

minutes prior to a demonstration and ending at the conclusion of that demonstration. It would cover all navigable waters of the Inner Harbor, encompassed by a line connecting the following points: beginning at Inner Harbor Pier 6 at position latitude 39°16′59″ N, longitude 076°36′12″ W, thence south to the Harborview Towers pier at latitude 39°16′41″ N, longitude 076°36′12″ W, thence northerly and easterly along the shoreline to and terminating at the point of origin located in Baltimore, MD. The dimensions of the safety zone are approximately 2,000 yards in length and 500 yards in width. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analysis based on a number of these statutes and Executive orders.

A. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. Section 605 of the Regulatory Flexibility Act allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities for the following reasons.

This regulation will only impact a small area for a few hours at a time. In addition, the Coast Guard will issue a Broadcast Notice to Marines via VHF FM marine channel 16, which will allow small entities to adjust their transit plans, and the rule allows vessels to request permission to enter the regulated area from the COTP.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), if this rule will affect your small business, organization, or governmental jurisdiction and if you have questions, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247).

B. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

C. Federalism and Indian Tribal Governments

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in that Order.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

D. Unfunded Mandates Reform Act

As required by The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Coast Guard certifies that this rule will not result in an annual expenditure of $100,000,000 or more (adjusted for inflation) by a State, local, or tribal government, in the aggregate, or by the private sector.

E. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

This rule is a safety zone. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.4.

■ 2. Add § 165.T05–0018 to read as follows:

§ 165.T05–-0018 Safety Zone; Inner Harbor, Baltimore, MD.

(a) *Location.* The following area is a safety zone: All waters of the Inner Harbor, encompassed by a line connecting the following points: beginning at Inner Harbor Pier 6 at position latitude 39°16′59″ N, longitude 076°36′12″ W, thence south to the Harborview Towers pier at latitude 39°16′41″ N, longitude 076°36′12″ W, thence northerly and easterly along the shoreline to and terminating at the point of origin, located in Baltimore, MD. These coordinates are based on the World Geodetic System (WGS 84)/North American Datum 83 (NAD 83).

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sector Maryland-National Capital Region (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16 or by telephone at (410) 576–2693. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced as needed from June 24, 2026, to July 1, 2026.

Dated: May 5, 2026.

Patrick C. Burkett,

Captain, U.S. Coast Guard, Captain of the Port, Sector Maryland—National Capital Region.

[FR Doc. 2026–09168 Filed 5–7–26; 8:45 am]

BILLING CODE 9110–04–P

SURFACE TRANSPORTATION BOARD

49 CFR Parts 1241 and 1251

[Docket No. EP 787]

Updating Class I Rail Carrier Reporting Requirements

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Board is adopting a final rule terminating Class I carriers' supplemental reporting of certain Positive Train Control (PTC) expenditures, and it is requiring Class I carriers to report two service metrics on a weekly basis.

DATES: This rule will be effective on June 7, 2026. The initial reporting date will be July 8, 2026.

FOR FURTHER INFORMATION CONTACT: Pedro Ramirez at 202–915–0862. If you require accommodation under the Americans with Disabilities Act, please call (202) 245–0245.

SUPPLEMENTARY INFORMATION: On September 30, 2025, the Board issued a notice of proposed rulemaking proposing to (1) terminate existing requirements for Class I carriers to file supplemental reporting of PTC expenditures (PTC Supplement) as part of their annual R–1 reports filed with the Board and (2) require Class I carriers to report two service metrics to the Board on a weekly basis: original estimated time of arrival (OETA) and industry spot and pull (ISP). *Updating Class I Rail Carrier Reporting Requirements* (*NPRM*), EP 787 (STB served Sept. 30, 2025).[1]

In response to the *NPRM,* the Board received 13 opening comments and 4 replies, which are discussed in this decision.[2] For the reasons discussed below, the Board will adopt its proposal with modifications. The text of the final rule is appended to this decision.

Positive Train Control

The Rail Safety Improvement Act of 2008 (RSIA) required Class I rail carriers to implement PTC—an automated safety system designed to prevent certain types of train accidents—by December 31, 2015, on main lines where intercity or commuter rail passenger transportation, as defined in 49 U.S.C. 24102, is regularly provided, and main lines over which five million or more gross tons of annual traffic and poison- or toxic-by-inhalation hazardous materials, as defined in 49 CFR 171.8, 173.115, and 173.132, are transported. 49 U.S.C. 20157(a)(1); *see also* 49 CFR 236.1019 (main line track exceptions). That deadline was later extended, pursuant to the Positive Train Control Enforcement and Implementation Act of 2015, to December 31, 2018, and railroads were allowed to individually petition the Federal Railroad Administration (FRA) for an alternative schedule and sequence that could further extend the deadline to a date that reflected implementation as soon as practicable but was no more than two additional years. 49 U.S.C. 20157(a)(1), (3)(A)–(D); 49 CFR 1.89.

In response to a petition by Union Pacific Railroad Company in 2013, in Docket No. EP 706, the Board adopted a final rule requiring Class I carriers to file certain data related to PTC expenses in a supplement included with their annual R–1 reports.[3] *Reporting Requirements for Positive Train Control Expenses & Invs.* (*Reporting Requirements*), EP 706, slip op. at 3–4 (STB served Aug. 14, 2013). In adopting the rule, the Board explained that the PTC Supplement would provide the Board with important information that ''would help identify transportation industry changes that may require attention by the agency'' and ''would assist the Board in preparing financial and statistical summaries and abstracts to provide itself, Congress, other government agencies, the transportation industry, and the public with transportation data useful in making regulatory policy and business decisions.'' *Id.* at 3. The PTC Supplement requirement was codified at 49 CFR 1241.11(b). A detailed description of the PTC Supplement requirement is contained in the *NPRM,* EP 787, slip op. at 2–3.

On December 29, 2020, FRA announced that PTC implementation was complete on all required freight and passenger railroad route miles. FRA, Positive Train Control (PTC), *https://railroads.dot.gov/research-development/program-areas/train-control/ptc/positive-train-control-ptc* (last visited Apr. 28, 2026). FRA also certified that each host railroad's PTC system complies with the technical requirements for PTC systems. *Id.*

On August 26, 2024, the Association of American Railroads (AAR) filed a petition to reopen Docket No. EP 706 and terminate the PTC Supplement requirement. AAR stated that, when the railroads requested that the Board adopt supplemental PTC reporting more than a decade ago, PTC-related capital costs and operating expenditures were ''anticipated to be particularly high during the installation stage.'' AAR Pet. 1, *Reporting Requirements,* EP 706. But AAR argued that, since that time, ''the vast majority of costs associated with implementing PTC have been dispensed with,'' and that the PTC Supplement requirement is no longer necessary. *Id.* at 4. Additionally, AAR argued that Class I railroads are ''incurring unnecessary costs and expending significant time'' to comply with the PTC-related reporting requirements. *Id.*

In the *NPRM,* the Board proposed elimination of the PTC Supplement.[4] *NPRM,* EP 787, slip op. at 1. The Board stated that, given that PTC has been fully implemented, the benefits from the supplemental reporting no longer justify the burden of generating and reporting the detailed information required by 49 CFR 1241.11(b). *Id.* at 3. Additionally, the Board noted that ending the PTC Supplement Requirement would simplify carriers' annual R–1 reporting. *Id.* Under the Board's proposal, PTC-related expenditures would still be reflected in the R–1 ''capital investments and expenses'' totals but would not be separately identifiable from non-PTC expenditures. *Id.* The Board also proposed that, should it adopt the proposed discontinuance of

[1] The *NPRM* was published in the **Federal Register** on September 30, 2025 (90 FR 46779).

[2] Comments were filed by the American Chemistry Council (ACC), the American Fuel and Petrochemical Manufacturers (AFPM), the Association of American Railroads (AAR), CSX Transportation, Inc. (CSXT), the International Dairy Foods Association (IDFA), the Fertilizer Institute (TFI), Grand Trunk Corporation (CN), the Freight Rail Customer Alliance (FRCA) and the National Coal Transportation Association (NCTA) (FRCA/NCTA) (joint comments), the National Grain and Feed Association (NGFA), the National Industrial Transportation League (NITL), the Private Railcar Food and Beverage Association, Inc. (PRFBA), Mr. Michael Ravnitzky (Ravnitzky), and Trinidad Benham Corporation (Trinidad Benham). Replies were filed by ACC, AAR, FRCA/NCTA (joint reply), and the U.S. Department of Agriculture (USDA).

[3] Under 49 U.S.C. 11145(b)(1), the Board may require rail carriers to file with the Board an annual report containing ''an account, in as much detail as the Board may require, of the affairs of the rail carrier.'' The Board's regulations require each Class I rail carrier to submit such annual reports, known as R–1 reports, containing information about finances and operating statistics. 49 CFR 1241.11(a).

[4] Given the *NPRM* issued in Docket No. EP 787, the Board denied as moot AAR's petition to reopen Docket No. EP 706. *Reporting Requirements for Positive Train Control Expenses & Invs.,* EP 706, slip op. at 2 (STB served Sept. 30, 2025).

the PTC Supplement, carriers would be required to ''submit a one-time summary document identifying individual line items in their respective R–1 reports that contain PTC-related expenditures representing at least 15% of the line-item amounts.'' *Id.* at 4.

On January 30, 2026, the Board served a decision in Docket No. EP 706 (Sub-No. 1) waiving the requirement that carriers file, at that time, PTC Supplements with their 2025 R–1 reports, which were due March 31, 2026. *2025 Reporting Requirements for Positive Train Control Expenses & Invs.,* EP 706 (Sub-No. 1), slip op. at 2 (STB served Jan. 30, 2026). The Board stated that it would ''in a subsequent decision in Docket No. EP 787 . . . address the need, if any, for carriers to file 2025 PTC Supplements at a later date.'' *Id.,* slip op. at 2.

Commenters generally express support for the Board's proposal to terminate the PTC Supplement. (*See* ACC Comments 1; AFPM Comments 3; AAR Comments 1–3; CN Comments 1–2; CSXT Comments 3, 15; Ravnitzky Comments 2.) AAR comments, ''[b]ecause Class I rail carriers have implemented PTC as required . . . separately reporting the expenses associated with the development and implementation of PTC is no longer necessary.'' (AAR Comments 2.) CN argues that the Board, should it terminate the PTC Supplement requirement, would ''benefit in terms of efficiency, as it would be able to reduce the hours spent reviewing the independent accountant's workpapers related to PTC data.'' (CN Comments 4.) Additionally, ACC states that, because ''PTC has been fully implemented on all required freight and passenger railroad route miles and implementation costs have largely been paid. . . . the supplemental reporting of PTC-related expenses provides little ongoing value to the Board and other stakeholders.'' (ACC Comments 2.)

One commenter, Ravnitzky, notes his support of the proposed termination of the PTC Supplement but argues that the elimination of the PTC Supplement ''should not foreclose the Board's ability to obtain targeted information when reasonably necessary.'' (Ravnitzky Comments 1–2.) Ravnitzky recommends that the Board clarify that its action does not limit its statutory authority under 49 U.S.C. 11145 to request PTC-specific financial or operational data, to require production of records, or to conduct audits when the Board determines that collection of such information is necessary. (*Id.* at 2.)

While no commenters oppose the Board's proposal to terminate the PTC Supplement requirement, two commenters object to the Board's proposal to require parties to submit a one-time summary document and two commenters support it. AAR and CN question the need for the summary, express concern about the burden associated with preparing the summary, and seek additional clarity regarding its contents. (AAR Comments 3; CN Comments 2, 4.) Both of these commenters note that the Board did not state whether the summary would be calculated with 2024 or 2025 data, and that basing the summary on 2025 data would eliminate the reduction in burden that the NPRM identifies for 2025. (AAR Comments 3; CN Comments 2.) ACC and AFPM support the proposed summary requirement, arguing that it would provide transparency and closure. (ACC Comments 2; AFPM Comments 3.)

After considering the comments, the Board concludes that separate PTC reporting is no longer warranted. Commenters have confirmed the Board's observation that the PTC implementation process is complete. At this time, there is limited, if any, benefit to requiring carriers to separately report PTC-related expenses, especially given the cost and time required to comply with the PTC Supplement requirements. The Board therefore will adopt its proposal to terminate the PTC Supplement requirement. As noted in the *NPRM,* PTC-related expenditures will still be reflected in the R–1 ''capital investments and expenses'' totals, but would not be separately identifiable from non-PTC expenditures. Elimination of the supplemental PTC reporting furthers the goals of the rail transportation policy of 49 U.S.C. 10101 by minimizing the need for federal regulatory control over the rail transportation system, 49 U.S.C. 10101(2), and by ensuring the availability of accurate cost information in regulatory proceedings, while minimizing the burden on rail carriers of developing and maintaining the capability of providing such information, 49 U.S.C. 10101(13). Given that the Board is terminating the PTC Supplement requirement, the Board will not require carriers to submit PTC Supplements for 2025 R–1 reporting. Moreover, in light of the comments received, the Board finds that the burden on the carriers of preparing the proposed one-time summary document would outweigh the transparency benefit to be derived from it. That proposal, therefore, will be omitted from the final rule.[5]

With respect to Ravnitzky's request for clarification that termination of the PTC Supplement requirement does not limit the Board's authority to request PTC-specific information or data in the future, the Board notes that, pursuant to 49 U.S.C. 11145(a)(1), the Board may require rail carriers ''to file annual, periodic, and special reports with the Board containing answers to questions asked by it'' and, pursuant to 49 U.S.C. 1321(b)(3), the Board may obtain from carriers ''information the Board decides is necessary to carry out subtitle IV.''

Service Data Reporting

In the *NPRM,* the Board proposed weekly Class I carrier reporting of two service metrics, OETA and ISP. The Board stated that, in its experience, ''ongoing, standardized reporting of data allows the Board to observe long-term trends and assess changes in service levels, enabling it to take early action to address potential concerns.'' *NPRM,* EP 787, slip op. at 4.[6]

The OETA metric proposed by the Board would measure a carrier's success in meeting its estimated arrival times for shipments. *Id.* at 5. The Board proposed to define OETA as the estimated time of arrival that a rail carrier provides when a shipper tenders the bill of lading or when the rail carrier receives the shipment from an interchanging carrier. *Id.* Under the Board's proposal, Class I carriers would report, for shipments moving in manifest service, the percentage of weekly shipments that were delivered to destination no later than 24 hours after the OETA, out of all shipments in manifest service on the

[5] The Board also proposed to remove the current note to part 1241, which states that the forms for part 1241 are available on request from the Board's Office of Economics (OE), and replace it with a note to 49 CFR 1241.11 stating that the report forms prescribed by section 1241.11 are available on the Board's website. The Board will adopt this proposal, with a minor wording change.

[6] In *Reciprocal Switching for Inadequate Service* (*Reciprocal Switching*), EP 711 (Sub-No. 2) (STB served April 30, 2024), the Board adopted regulations to provide for the prescription of reciprocal switching agreements to promote adequate rail service through access to an additional line haul carrier. Under those regulations, eligibility for prescription of a reciprocal switching agreement was to be determined in part using objective performance standards, including OETA- and ISP-based standards, which had definitions of OETA and ISP that were similar, but not identical, to those proposed in the *NPRM.* The U.S. Court of Appeals for the Seventh Circuit subsequently vacated the entire rule established in *Reciprocal Switching,* which includes the reporting requirements, and remanded the matter to the Board for further proceedings. *Grand Trunk Corp.* v. *STB,* 143 F.4th 741 (7th Cir. 2025). As the Board noted in the *NPRM,* the Board will address the Court's remand in a future decision.

carrier's system during each weekly reporting period. *Id.*

The ISP metric proposed by the Board would measure a rail carrier's success in performing local placements (''spots'') and pick-ups (''pulls'') of loaded railcars and unloaded private or shipper-leased railcars at shippers' or receivers' facilities during planned service windows. *Id.* at 6. Under the Board's proposal, the ISP metric would be calculated by comparing the number of cars for which a carrier successfully completed the requested spots or pulls during the planned service windows, to the number of cars for which a shipper or receiver requested spots or pulls by the applicable cut-off times for those windows. *Id.* For example, if over the course of a reporting period, a carrier pulls nine of 10 requested cars within the first service window and pulls seven of 10 requested cars during a second service window, the carrier's ISP metric would be 80%. *Id.* As proposed, the ISP metric would not apply to unit trains or intermodal traffic.

The Board proposed that carriers would report ISP performance both at the system level and at the operating division level. *Id.* For reporting at the operating division level, carriers would establish reporting regions using any geographic boundaries that they choose, provided that they identify the boundaries as part of their reporting, consistent with their business practices. *Id.*

Shipper interests broadly support the Board's proposed implementation of OETA and ISP reporting requirements. AFPM states, ''[t]he Board's proposal to measure on-time performance through [OETA] reporting will provide critical insight into rail service reliability and shipment timeliness,'' and it describes ISP as ''a valuable tool for tracking first-mile/last-mile service quality.'' (AFPM Comments 1.) In their joint comments, FRCA and NCTA state that they ''strongly support'' the Board's OETA and ISP proposals. (FRCA/NCTA Comments 1.) NITL also supports the Board's proposal and advocates for implementation of OETA and ISP metrics as part of the Board's ''objective in ensuring rail service reliability and accountability.'' (NITL Comments 2.) While carrier interests do not express support for the Board's service metrics, they also do not object to implementation of such metrics in general.[7]

Both shipper and rail carrier interests propose modifications to the proposed metrics, which the Board will address below.

Flexible Reporting

Several rail carrier interests argue that the Board should adopt a flexible approach that would allow rail carriers to gather data using their existing data collection systems and protocols. For example, AAR states:

> [P]rescriptive reporting requirements are burdensome to the railroads due to the differences in their data reporting systems and operating requirements. The Board can achieve its goal of monitoring service reliability by setting basic parameters and then allowing carriers to report based on their existing systems, and in the manner with which their customers are already acquainted.

(AAR Comments 6–7.) CSXT argues that ''the Board should refrain from adopting rigidly 'standardized reporting.' '' (CSXT Comments 4 (quoting *NPRM,* EP 787, slip op. at 4).) CSXT notes that the Board's service metrics in 49 CFR part 1250 were ''developed based on interim reporting in which railroads had reporting differences borne out of their 'disparate data-keeping systems' and 'different railroad operating practices,' among other things.'' (*Id.*) CSXT notes, for example, that the Board's proposed OETA metric relies on a tender of a bill of lading; however, according to CSXT, at least two Class I carriers do not generate OETAs at tender of the bill of lading. (*Id.* at 5–6.) CSXT argues that requiring that OETA be measured from issuance of the bill of lading would require changes to these carriers' operating practices. (*Id.* at 6.) CSXT therefore ''suggests that the Board set basic parameters and allow carriers to report based on their existing systems, so long as their methods are described in a methodology document.'' (*Id.*)

In its reply, ACC opposes flexible OETA and ISP definitions, arguing that the definition of service performance metrics must be consistent across carriers. (ACC Reply 1–2.) It argues:

> Without a consistent definition, the metrics lose meaning and value to both policy makers and stakeholders seeking insights into the state of railroad service performance. Furthermore, rail customers and other stakeholders should not carry the burden of reviewing multiple conflicting methodology documents in order to understand what the metrics may mean for each individual railroad.

(*Id.*)

AFPM also argues for consistency in reporting, noting that standardized metrics and clear calculation methodologies will allow for comparison of performance results. (AFPM Comments 1–2.)

The Board will modify its proposal to allow for certain additional flexibility in reporting, as described in this decision. The Board does not believe it is necessary to compare carriers against each other in order to achieve its goal of identifying service performance trends. A more flexible approach, under which carriers could report their data in a manner consistent with the manner in which they track it in the ordinary course of business, would minimize the burden of reporting, while still enabling the Board to monitor each carrier's performance over time. In order to ensure that the Board and the public can appropriately interpret the data submitted, each carrier will be required to provide with its initial data submission a document explaining its methodology for deriving its data. While each carrier should strive to maintain consistency in its reporting methodology across reporting periods to the maximum extent possible, the Board recognizes that a carrier's reporting methodology may need to be adjusted from time to time. Accordingly, carriers will be required to update the Board of any changes to their methodology for reporting data by filing a revised methodology document with the first data submission that reflects that methodology change.[8] The Board will post the methodology documents on its website.

However, the Board recognizes shipper interests' concerns that too much flexibility could diminish the value of the metrics. Therefore, the Board will include a provision at 49 CFR 1251.2 to explicitly allow, to ensure data quality and utility, the Director of OE to require a carrier to change its methodology and submit revised metrics for past periods. For example, the Board may require changes if a carrier's methodology substantially deviates from industry practice or would produce misleading metrics.

Regardless of this provision, the Board recognizes that allowing this flexibility may impose additional burdens upon stakeholders who may want to review carriers' methodology documents in order to compare carriers against each other. However, this burden is smaller than the burden that would be associated with requiring

[7] For example, CSXT states ''if the Board intends to adopt additional service reporting obligations, it should pursue a flexible reporting regime rather than a rigid regulatory approach.'' (CSXT Comments 2.) And CN notes that ''[i]f the Board adopts a rule with services metrics,'' it agrees with certain aspects of the Board's proposal. (CN Comments 1.) The views of both carriers are discussed in more detail, below.

[8] As established at 49 CFR 1251.2, data will be reported to the Board on a weekly basis, in a manner and form determined by the Board.

carriers' operating practices to conform to a uniform reporting standard. Further, stakeholders will not need to familiarize themselves with the nuances of each carrier's reporting in order to utilize the data to monitor trends in the performance of individual carriers over time.

Additionally, the Board notes that it will retain the authority to audit carrier records in connection with OETA and ISP reporting requirements. Carriers' OETA and ISP data collections will be governed by 49 CFR 1220.6, which requires carriers to preserve certain records, including ''[s]upporting data for reports filed with the Surface Transportation Board'' for three years.

OETA

Establishment of OETA and Definition of ''Delivery''

In the *NPRM,* the Board proposed that OETAs would be established at the time when the shipper tenders the bill of lading or when the rail carrier receives the shipment from an interchanging carrier. *NPRM,* EP 787, slip op. at 12. Both AAR and CSXT express concerns about this proposal. AAR states that bills of lading may contain errors that can take time to resolve. (AAR Comments 8.) Therefore, AAR proposes that the Board ''should base OETA on the generation of the trip plan—which for some carriers may be the waybill creation event while for others it may be the time the shipper formally releases a car to the railroad.'' (*Id.*) Similarly, CSXT notes that its own systems only issue a trip plan upon creation of a valid waybill and argues that the OETA should be established at the time of waybill creation, rather than at the time the bill of lading is issued. (CSXT Comments 6, 9.) CSXT further states that it ''recognizes that carriers with different operating practices may have a different view'' and that ''[t]he Board need not make a determination on this granular issue because the Board can achieve its goal of monitoring trends without favoring one operating practice over another.'' (*Id.* at 6.) CSXT suggests that the Board define OETA as ''the estimated time of arrival that the rail carrier provides when a trip plan is created (typically either upon tender of the bill of lading or creation of the waybill).'' (*Id.* at 10.)

ACC objects to AAR's and CSXT's calls for revisions to the Board's proposed OETA definition. It argues that ''shippers base their planning on the OETA provided when they submit the bill of lading'' and that ''[t]he value of the OETA metric is diminished if the railroad is free to change it until the trip plan is issued.'' (ACC Reply 3.)

In light of the comments received, the Board will revise its definition of OETA in 49 CFR 1251.1 to state that OETA means:

> [T]he estimated time of arrival that the rail carrier provides when the shipper releases the shipment with all necessary and customary documentation or, in the case of an interline movement, when a shipment is reported delivered in interchange and confirmed to have physically been delivered to the receiving carrier with necessary and customary documentation for furtherance.

This change will allow carriers to continue to generate OETAs in accordance with their existing practices, and provide the carriers latitude to change their practices in the future. It is also intended to clarify the conditions that must be met before carriers will be expected to generate OETAs for movements beginning with either shipper release or interchange from another carrier. In either case, for a carrier's OETA to be reliable, the carrier must have access to both the railcar itself, and its necessary and customary documentation. There may be ambiguity or disagreement between shipper and carrier, or between two carriers at interchange, about the timing of events which satisfy these conditions. The Board encourages parties to regularly and jointly review OETAs and their supporting data to ensure they are produced promptly from accurate inputs, and encourages parties to notify the Board of protracted or material disputes regarding OETA generation.

The Board does not find that the revised definition of OETA adopted here would diminish the value of the OETA metric. Under the revised definition, the OETA would still be established at an early stage of a shipment (or interchange), and under 49 CFR 1251.2(a)(1), for purposes of calculating the OETA metric, a carrier is not permitted to change the OETA after that OETA has been communicated to the shipper, except when the change is made in response to a shipper's request or a shipper's failure to make cars available for pick-up. And, as noted above, the Director of OE will be delegated authority to require carriers to revise the methodology they use to generate reporting, including the OETA metric, in order to ensure data quality and utility, as required.

CSXT also argues that, for interline movements, OETA should be based on an estimated time of arrival generated when ''the rail carrier receives the shipment from an interchanging carrier . . . . as more fully described in a methodology document.'' (CSXT Comments 10–11.) CSXT argues that ''[t]here are significant technical complexities in determining the precise moment of interchange between railroads that do not have visibility into each other's data'' and the flexible approach it proposes would accommodate these issues and accommodate carriers' individual data systems. (*Id.*)

The revised definition of OETA, discussed above, responds to CSXT's concerns by making explicit that a carrier generating an OETA must have access to the railcar itself and its necessary and customary documentation. The Board recognizes that rail carriers' reports of the times of interchange delivery and receipt frequently differ. The revision to the definition of OETA is not intended nor expected to resolve such differences in all instances.

The Board has refrained from establishing standards for the maximum intervals of time between reports of interchange delivery and receipt, between shippers' release of shipments and rail carriers' pulls from shippers, and between satisfaction of the conditions needed to generate OETAs and the carriers' generation and communication of OETAs. The Board nevertheless expects carriers to make reasonable efforts to pull released railcars from shipper facilities, pull or receive interchange traffic, and to promptly generate OETAs when the necessary conditions have been met. The Board retains authority to revise the metrics and reporting requirements adopted here in order to address systemic issues that undermine the purpose of this rule.

The Board will simplify the definition of ''delivery'' as it relates to interline movements, to provide that ''a shipment will be deemed to be delivered to the receiving carrier or its agent or affiliated company when the shipment is offered for interchange.'' The Board will also modify the definition of ''time of arrival'' to mean ''the time that a shipment is delivered to the designated destination.'' These revisions provide for flexibility and reflect that carriers may use different measures and tools to determine when a delivery is made, and to determine if it is completed within 24 hours of an OETA. The definition of ''receipt of shipment'' has also been removed from the regulations to allow this flexibility. Carriers should describe their methodology for determining time of receipt in their methodology documents. Again, the Board retains authority to revise the metrics and reporting requirements adopted here in

order to address systemic issues that undermine the purpose of this rule.

Early Deliveries

In the *NPRM,* the Board proposed that any shipments arriving before its OETA, including those arriving more than 24 hours early, would be counted as on-time deliveries. *NPRM,* EP 787, slip op. at 5 n.6. All rail carrier interests filing comments support the Board's proposal. (*See, e.g.,* AAR Comments 7; AAR Reply 4; CN Comments 4–5; CSXT Comments 7.)

Several shipper interests, however, oppose the proposal. ACC argues that ''unexpected early deliveries can also cause significant impacts for rail customers [and] can congest a customer facility with railcars, creating operational disruptions that are comparable to those resulting from late deliveries.'' (ACC Comments 3.) Trinidad Benham also argues that early deliveries can lead to problems that are similar to those caused by late deliveries, including risks of demurrage and increased production costs. (Trinidad Benham Comments 1.)

USDA states that ''[c]ars that are delivered too early are . . . problematic, as a shipper likely has not staged resources early enough and must now make costly adjustments.'' (USDA Reply 2.) It argues that both late and early deliveries ''represent differences from plans and expectations; they both impose costs.'' (*Id.* at 3.)

The Board will implement the proposal from its *NPRM,* under which cars arriving more than 24 hours in advance of the OETA are considered on-time deliveries. While the Board recognizes that early deliveries can cause operational difficulties for shippers, the goal of the service metrics adopted here is to monitor overall railroad service reliability. To the extent that shipments arrive early, this is not as indicative of rail network problems as late deliveries and, therefore, early and late deliveries should not be measured as effectively equivalent. Moreover, the Board finds that network problems would be adequately captured by measuring only late deliveries as part of the OETA metrics. The Board notes, however, that its treatment of early deliveries as on time in this network-focused reporting metric does not mean that early deliveries might not be relevant to relief sought in a particular case. *See Pol'y Statement on Demurrage & Accessorial Rules & Charges,* FD 757, slip op. at 12 (STB served Apr. 30, 2020) (''[B]unching should be addressed on a case-by-case basis in order to permit the Board to properly consider all relevant circumstances pertaining to an assessment of demurrage.'')

Deliveries More Than 24 Hours After OETA

Under the Board's proposal, in order for a shipment to be considered ''on-time'' for purposes of the OETA reporting requirement, a carrier must deliver a shipment no later than 24 hours after the OETA. AAR argues that ''OETA should be measured based on shipments that were delivered to the designated destination no later than the end of the calendar day following the OETA.'' (AAR Comments 8.) In support of its position, AAR argues:

> Railroad customers are generally focused on what day their shipments are delivered, not whether those shipments are delivered within 24 hours of the specific hour/minute of the carrier's original estimated time of arrival. In addition, the railroad industry runs by service days, not by specific service hours. Thus, revising the OETA metric this way and treating deliveries that occur by the end of the calendar day following the OETA as successes is better aligned with the industry's service schedules and customer expectations.

(*Id.* at 8–9.)

Shipper interests take an opposing view. ACC states that, contrary to AAR's arguments, ''ACC members seek certainty on car deliveries and pick-up times and plan their operations accordingly.'' (ACC Reply 2.) ACC argues that ''AAR's proposal would substantially extend the period that is considered on-time delivery,'' and notes that under the AAR's proposed next-day standard, a car that is delivered 40 hours after OETA could be treated as on time. (*Id.*) ACC states that ''loosening of the 24-hour standard . . . merely serves to bolster the appearance of on-time performance.'' (*Id.*) FRCA and NCTA also object to AAR's proposal, stating, ''[a]dding an extra day grace period before a movement is considered late is simply another means of lowering the bar and making the data less informative.'' (FRCA/NCTA Comments 2.) FRCA and NCTA also question whether, under the proposed modification, the grace period could be extended beyond the ''next calendar day'' in the event that a carrier does not provide weekend service to a shipper. (*Id.*)

The Board will implement its original proposal. A shipment that arrives more than 24 hours after its OETA will not be considered on time. AAR's proposal represents a significant step away from the Board's proposal, and it appears that it could nearly double the window in which a shipment could be considered on time for OETA purposes under some circumstances. While OETA is only intended to provide a general indicator of rail carriers' overall network health, and while a grace period following an OETA is appropriate, a grace period that could allow a shipment arriving nearly 48 hours after OETA to be reported as on time would not adequately serve the purposes of this data collection.

Exclusions From OETA Reporting

Rail carrier interests propose a number of events that should trigger exclusions from a carrier's OETA metric reporting, including bad order cars, cars held for customs paperwork, cars held because of an embargo, or cars delayed by acts of God or other events outside the carrier's control (*e.g.,* a line outage). AAR argues that if a car is delayed due to an event that occurs in transit and the delay ''is outside the rail carrier's control,'' then that car should be excluded for purposes of calculating the OETA metric. (AAR Comments 9.) Shipper interests, however, support a narrower range of exclusions. (*See* AAC Reply 2–3; Ravnitzky Comments 2.)

Both rail carrier and shipper interests support an OETA exclusion for bad order cars. (AAR Comments 9; CSXT Comments 8; Ravnitzky Comments 2; ACC Reply 2.) Bad order cars are cars that must undergo repair before completing their trips due to mechanical, safety, or structural problems. This exclusion is appropriate, as bad order cars are rarely indicative of overall rail network performance. The Board will therefore exclude bad order cars from OETA reporting. Additionally, for clarity, the Board will revise its proposed definitions to define bad order cars as cars that must undergo repair before completing their trips due to mechanical, safety, or structural problems.

AAR and ACC both support the exclusion of cars that are held for issues related to customs paperwork, (AAR Comments 9; ACC Reply 2), while CN argues that cars that move cross-border should be excluded entirely, (CN Comments 5). CN further argues that, because the Board's goal relates to monitoring of traffic within the United States, taking into consideration traffic movements that occur partially, or in some instances, mostly outside the United States, would not fulfill the Board's aims. (*Id.*) The Board will exclude cross-border traffic from OETA reporting. Cross-border shipments can be unexpectedly delayed at, or near, border crossings. For example, U.S. customs authorities may order that shipments be set out of trains for inspection or otherwise await clearance for onward movement.

AAR proposes exclusions for cars held due to embargos and cars impacted by acts of God or other events ''like a line outage outside the rail carrier's control.'' (AAR Comments 9.) CSXT also argues that cars impacted by embargoes or other events outside a carrier's control should be excluded from OETA reporting. (CSXT Comments 8.) ACC, however, objects to excluding embargo-related delays and shipments impacted by acts of God. (ACC Reply 2–3.) According to ACC, the ''imposition of an embargo does not signify that a service failure is beyond the railroad's control.'' (ACC Reply 2.) ACC argues that, ''underlying conditions leading to past embargoes have been created or exacerbated by the railroad's own management decisions, including actions to cut jobs, mothball equipment, and delay infrastructure investments.'' (*Id.*) ACC further argues that ''[e]xempting such events from the service metrics creates a perverse incentive for railroads to use—and misuse—embargoes to manage network congestion.'' (*Id.* at 2–3.) Regarding exclusions for acts of God, ACC acknowledges that ''weather and other disruptive events may be outside of the carrier's control,'' but it argues that carriers are ''responsible for maintaining network resilience and capacity to respond to such events.'' (*Id.* at 3.) ACC further argues that excluding acts of God would diminish the accuracy and utility of the data. (*Id.*)

The Board finds that cars delayed due to acts of God and embargoes should not be excluded from OETA reporting. Allowing carriers to exclude embargo or weather event-impacted traffic from OETA reporting could provide a misleading view of railroad performance. For example, if in the aftermath of a disruptive weather event, railroads excluded impacted traffic from OETA reporting, OETA reporting data could create the appearance of service reliability, while masking widespread disruptions across the network. Additionally, the term ''acts of God'' is broad and could result in the exclusion of a significant number of movements. Exceptions for embargoes and acts of God therefore could undermine the reliability and usefulness of reported data as an indicator of overall rail network performance.

The Board will, however, encourage railroads to report extenuating circumstances that have led or may lead to reduced performance, including weather-related events, in cover letters accompanying their data filings in this docket. This will advance the Board's objective of monitoring the overall health of the national rail network and will help the Board recognize any unusual circumstances that may degrade rail performance. The Board may also request information from carriers regarding the causes underlying any notable performance deterioration, when appropriate. *See* 49 U.S.C. 11145.

AAR also asks the Board to clarify what constitutes a ''change to the original trip plan made by the shipper.'' (AAR Comments 9 (citing *NPRM,* EP 787, slip op. at 13).) AAR argues that this category may include shipments impacted by customer re-routes, as well as ''customer exceptions,'' which may include situations in which a customer notifies the carrier that its cars are not actually available to be pulled, or if a customer has left blue flags [9] in place, thereby preventing movement of cars. (AAR Comments 9.) CSXT also argues that OETA failures stemming from customer-requested reroutes or diversions, and other customer exceptions, including blue flags, should be excluded from OETA reporting. (CSXT Comments 8.)

The Board will clarify that a change to the original trip plan made by the shipper includes customer re-routes, diversions, and other customer-requested exceptions. Such events may result in establishment of a new trip plan due to customer choice, and treating impacted shipments as late would not accurately reflect railroad performance. In addition to OETA changes made at the request of the customer (which include customer reroutes and diversions), the Board will allow carriers to change an OETA when a shipper fails to make a car available for carrier pick-up, for example, when the shipper has left blue flags in place. The Board has revised the text of 49 CFR 1251.2(a)(1) to reflect this.

The Board will also clarify that if a shipper is unable to accept a car when a carrier attempts to make delivery and the car is constructively placed, that constructive placement is considered a ''delivery,'' as defined in 49 CFR 1251.1, for purposes of calculating the OETA metric.

Exclusion of Unit Trains From OETA Reporting

In the *NPRM,* the Board proposed excluding unit trains from OETA reporting. Rail carrier interests support the proposed exclusion, while shipper interests do not.

AAR notes that unit train traffic has many distinguishing characteristics from manifest traffic, which is subject to OETA reporting requirements under the proposed rule. (AAR Comments 5.) It states that unlike trains carrying manifest traffic, not all unit trains have schedules, meaning that OETA reporting would not be pertinent. (*Id.*) According to AAR, ''for some railroads, the number of unit trains delivered is based on the shipper's monthly demand, as opposed to a plan for delivery in a particular day's service window.'' (*Id.* at 6.) CN also voices its support for the Board's proposed OETA exclusion for unit train traffic, noting that the Board recognizes that some railroads, including CN, do not produce trip plans for unit trains. (CN Comments 5.)

Some shipper interests, however, call for including unit train traffic in OETA reporting. NGFA disagrees with railroads' contentions that unit trains do not have schedules or trip plans. (NGFA Comments 3.) NGFA disputes ''the view that shuttle/unit trains do not have the same need to [reach destinations] within specified service windows while manifest trains do.'' (*Id.*) It further argues that while unit train trip plans ''may not take the same form as a manifest train trip plan,'' all six Class I carriers calculate ''an anticipated transit time and arrival date, the latter of which is supplied to the customer.'' (*Id.*) It states that such plans ''are a necessity for the railroads to manage their capacity and system use.'' (*Id.* at 3–4.)

Similarly, in its reply, USDA argues, ''[t]he Board's decision to exclude unit trains stems from inconsistencies between railroads in how they produce trip plans. However, the railroads do give shippers estimated times of arrival for their unit trains.'' (USDA Reply 2 (citing NGFA Comments 3).) NGFA also states that ''the failure of a rail carrier to meet its [unit train] service representations to a shipper can result in proportionally greater harm to the shipper/receiver and the shipper/receiver's customers than manifest traffic.'' (NGFA Comments 3.) PRFBA and NITL also support including unit trains in OETA reporting. (PRFBA Comments 3; NITL Comments 2.) [10]

[9] Blue flags, or blue signals, are blue-painted signs that are placed on or in front of rolling equipment when such equipment may not be moved or coupled onto. *See* 49 CFR 218.23. Blue flags provide protection for workers who may be working on or near equipment, and they must be displayed by each craft or group of workers prior to their going on, under, or between equipment. *Id.* Blue flags may only be removed by the same craft or group that displayed them. *Id.*

[10] FRCA and NCTA express concerns about unit train service, stating that unit train service ''often suffers from irregular and inconsistent times that adversely affects members' operations and economics.'' (FRCA/NCTA Comments 5.) They argue that the Board should require carriers to report additional metrics regarding unit trains. (*Id.* at 5–6.) These requests are addressed below.

While the Board recognizes the interest in additional unit train reporting, it will not include unit train traffic in its OETA measurements. As noted by AAR, some carriers do not produce unit train trip plans. As a result, requiring carriers to include unit train operations in their OETA reporting would impose an additional burden on carriers that do not currently prepare unit train trip plans. The Board is disinclined to impose that additional burden, particularly given that unit train performance is already captured by a range of metrics currently reported to the Board by carriers in accordance with 49 CFR 1250.2. Class I carriers must report weekly averages for various types of unit trains, including grain, for the following metrics: train speeds, 49 CFR 1250.2(a)(1); dwell time (the time period from release of a unit train at origin until actual movement by the receiving carrier), 49 CFR 1250.2(a)(4); and number of unit trains holding per day sorted by train type, 49 CFR 1250.2(a)(5). And, under 49 CFR 1250.2(a)(10), Class I carriers operating a grain shuttle program must report to the Board each month the average grain shuttle turns per month, for the total system and by region, versus planned turns per month, for the total system and by region. Moreover, USDA's Agricultural Rail Service Metrics Dashboard displays, in both graphic and numerical formats, a range of data related to the movement of agricultural products by rail, drawn from existing Board data collections.[11]

Because of the differences between manifest and unit train operations, and because data that provides a clear picture regarding unit train operations is collected or conveyed elsewhere, the Board will continue to exclude shipments moving in unit train service from the OETA reporting metric, as proposed by the *NPRM.* To the extent that carriers may already provide supplemental information or data to shippers or trade associations regarding unit train performance, they are encouraged to share this information with the Board. The carriers may provide this information in cover letters accompanying their data filings in this docket, and the Board will consider developing a filing template that allows carriers to voluntarily provide this information. The Board retains authority to address unit train operations reporting should systemic issues come to the Board's attention that undermine the purpose of this rule.

Exclusion of Intermodal Trains From OETA Reporting

In its *NPRM,* the Board also proposed excluding intermodal trains from OETA reporting. Rail carrier interests support this proposal. AAR argues that it is unnecessary to include intermodal traffic in OETA reporting and that ''given the interconnected nature of the network, if there is a network-wide service issue, a properly designed manifest traffic metric will likely reflect it.'' (AAR Reply 2.) CN and CSXT also voice support for excluding intermodal trains from OETA reporting. (CN Comments 1, 6; CSXT Comments 5.)

FRCA and NCTA argue in favor of carriers including intermodal trains in their reporting. They contend that the Board has not justified its proposal to exclude intermodal traffic from OETA reporting. (FRCA/NCTA Comments 5.) FRCA and NCTA also argue that the extent to which railroads fail to achieve a high level of intermodal performance is a sign of railroad operating health. (*Id.*) FRCA/NCTA and NITL also support including intermodal trains in OETA reporting. (FRCA/NCTA Comments 3; NITL Comments 2.)

The Board will continue to exclude intermodal trains from OETA reporting requirements, as proposed in the *NPRM.* As discussed above, the Board's objective underlying this rulemaking is to ensure that the Board and its stakeholders can effectively monitor the health of the national rail network. AAR is correct that if network-wide service problems exist, they are likely to also be reflected by deteriorating manifest performance. Additionally, the Board recognizes that unlike manifest traffic, which is generally picked up at origin and delivered at destination, movement of intermodal traffic involves intermediate transfers between rail and other transport modes. Finally, as with unit train performance, intermodal train performance is already captured by a range of metrics currently reported to the Board by carriers in accordance with 49 CFR 1250.2,[12] and it is the Board's understanding that some carriers share information about intermodal train performance with shippers. As with unit trains, carriers are welcome to share this information with the Board in cover letters accompanying their data filings in this docket, and the Board will consider incorporating a voluntary component to any filing template.

ISP

ISP Reporting on a Per-Car Basis

In the *NPRM,* the Board proposed that the ISP metric would measure a rail carrier's success in performing local spots and pulls of loaded railcars and unloaded private or shipper-leased railcars at shippers' or receivers' facilities during a planned service window. *NPRM,* EP 787, slip op. at 6. The Board noted in the *NPRM* that this ISP metric differed from the ISP performance standard previously adopted in *Reciprocal Switching,* which measured ISP based upon the proportion of service windows in which the carrier successfully spotted or pulled all requested traffic. *See Reciprocal Switching,* EP 711 (Sub-No. 2), slip op. at 52. The Board observed that the per-car ISP measurement proposed in the *NPRM* would provide more informative data about each carrier's overall performance in spotting and pulling cars within designated service windows than the ISP standard adopted in *Reciprocal Switching,* in light of the Board's purposes in the *NPRM:* monitoring local service reliability across a carrier's rail network and at the operating division level, and observing changes in service levels, rather than setting a standard for use in individual reciprocal switching proceedings. *NPRM,* EP 787, slip op. at 6 n.7.

All rail carrier interests filing comments support the Board's proposal. AAR states that ''the Board's newly proposed ISP metric fixes one of the more prominent problems with the ISP performance standard in *Reciprocal Switching.*'' (AAR Comments 9.) CN states that it ''agrees with the Board that the per-car measurement would provide more informative data about each carrier's overall performance in spotting and pulling cars within designated service windows.'' (CN Comment 6.) And CSXT describes the per-car measurement as ''a more meaningful and accurate measurement.'' (CSXT Comments 12.)

FRCA and NCTA argue that the Board should use a per-window basis instead of a per-car basis. (FRCA/NCTA Reply 3.) According to FRCA and NCTA, the per-car approach could lead to a ''perverse outcome'' for a shipper that, for example, expects to receive three cars during a service window, but only receives two. (*Id.*)

[11] The dashboard can be accessed at *https://agtransport.usda.gov/stories/s/Agricultural-Rail-Service-Metrics-Dashboard/jxpf-zf6y/* (last visited Apr. 28, 2026).

[12] Under existing regulations, Class I carriers must report the following information: weekly system-average train speeds for intermodal trains, 49 CFR 1250.2(a)(1)(i), the weekly average number of intermodal trains holding per day, 49 CFR 1250.2(a)(5), and the weekly average of loaded and empty intermodal cars, operating in normal movement and billed to an origin or destination, which have not moved in 48 hours or more, 49 CFR 1250.2(a)(6).

The Board will adopt the per-car approach, as proposed in the *NPRM.* As explained in the *NPRM,* given the purpose here of monitoring local service reliability broadly across a carrier's network and at the operating division level, examining the proportion of timely individual spots and pulls across a carrier's system and divisions, as proposed in the *NPRM,* will provide more informative data about each carrier's overall performance and will better capture overall trends than examining service windows on an all-or-nothing basis would. *See NPRM,* EP 787, slip op. at 6 n.7.

Defining ISP Service Windows

Multiple shipper interests question how ISP service windows will be established for purposes of ISP reporting. TFI advocates that a ''window's duration [should] comply with the carrier's established protocols, not to exceed 12 hours.'' (TFI Comments 3.) AFPM asks the Board to require that ISP service windows ''are jointly established and verified by both the railroad and the customer to prevent unilateral changes that artificially inflate compliance rates.'' (AFPM Comments 4–5.) ACC takes a similar position, proposing that the Board should establish the definition of ''planned service windows'' to require that they are jointly established and verified by both the railroad and the customer. (ACC Comments 3–4.) It expresses concern that ''the ISP metric could be compromised if railroads are permitted to unilaterally expand service windows to artificially bolster success rates for this metric.'' (*Id.* at 3.) In its reply, ACC reaffirms its position, stating that ''the service window should reflect the needs of the shipper as well as the railroad.'' (ACC Reply 3.)

While rail carriers did not reply to these comments, AAR proposes that railroads should be permitted to ''define and explain their metrics in a methodology document.'' (AAR Comments 7.) AAR further advocates modifying the proposed service window definition to contain ''less prescriptive language,'' by removing the requirement that, when making a service window available, a carrier must provide ''reasonable advance notice to the shipper or receiver.'' (*Id.* at 11.) It proposes that the Board modify the definition to provide, in part: ''A service window must be made available by a rail carrier in accordance with the carrier's established protocol.'' (*Id.*)

The Board will not modify the definition of service window in response to comments by shipper interests.[13] The changes suggested by TFI, AFPM, and ACC would impose a substantive obligation on how carriers establish their service windows, which exceeds the scope of this proceeding. However, because ISP service windows and standards vary widely across carriers and their individual customers, the Board will require carriers to describe, in their methodology documents, how they establish and modify their service windows. The requirement that carriers provide this information in their methodology documents also addresses shipper concerns that carriers could ''artificially bolster success rates.'' (*See* ACC Comments 3.) Additionally, under the delegation described above, the Director of OE may require revision of carrier service window methodologies to improve data quality and utility. With respect to AAR's proposal to modify the service window definition by eliminating the ''reasonable advance notice'' requirement, AAR has not shown this requirement to be unnecessarily proscriptive or otherwise unreasonable, so it will be retained in the final rule. (*See* AAR Comments 11.)

Exclusions From ISP Reporting

In the *NPRM,* the Board proposed excluding from ISP calculations missed spots and pulls caused by shippers. *NPRM,* EP 787, slip op. at 14. According to AAR, ''if a shipper requests more cars than it has the capacity to handle, such circumstances should be considered a customer-caused miss for the purpose of proposed [49 CFR] 1251.2(b)(1)(iv).'' (AAR Comments 10.) ACC, in its reply, supports AAR's request to exclude cars that a shipper cannot accept because it lacks the required capacity. (ACC Reply 2.) The Board will adopt this proposal to exclude from ISP reporting missed spots and pulls caused by shippers. This exclusion is appropriate because a shipper's inability to accept cars for delivery in a timely manner due to its own capacity constraints may often not be an accurate reflection of carrier performance.

The Board also proposed excluding railroad-supplied unloaded, or empty, cars from ISP calculations. *NPRM,* EP 787, slip op. at 12. AAR argues that carriers should have the option to include railroad-supplied empty cars in ISP reporting, noting that some railroads include those cars in their current ISP calculations while others do not. (AAR Comments 11.) In their reply, FRCA and NCTA object to the exclusion of railroad-supplied empty cars from ISP reporting, stating that ''[w]ithout empties to load, there will be missing originations and the exclusion of empties requested by the AAR could conceal a major gap in first-mile service.'' (FRCA/NCTA Reply 2–3.)

The Board will revise its proposed ISP definition by removing the language stating that railroad-supplied unloaded cars are to be excluded from ISP calculations. While, according to AAR, some carriers do not include such cars in their ISP calculations, the Board recognizes that timely spots and pulls of these cars remain critical to shipper operations. A carrier's failure to spot or pull these cars upon a shipper's request could significantly impact shipper operations by, for example, causing congestion at shipper facilities or downstream material shortages and disruptions for other shippers awaiting delivery. As a result, carriers will be required to include all railroad-supplied cars in ISP reporting. The Board has revised the definition of ''industry spot and pull'' in 49 CFR 1251.1 to reflect that all manifest traffic will be included in ISP metrics.

Additionally, AAR proposes exclusions resulting from cars delayed by lawful embargoes and cars delayed by acts of God, arguing that these events are outside a carrier's control. (AAR Comments 10; *see also* CSXT Comments 12 (arguing that the proposed regulations should be revised to account for events outside a carrier's control, such as weather or embargoes).) As described above in the Exclusions from OETA Reporting section, ACC objects, arguing that such exclusions would exclude events that are indicative of service quality. (ACC Reply 2–3.)

The Board will reject AAR's proposal to exclude missed spots and pulls that result from embargoes and acts of God. As with regard to AAR's proposal to exclude traffic impacted by these events from the OETA metric, exclusions of embargoes and acts of God from ISP calculations similarly would undermine the reliability and usefulness of the data. As previously noted, the Board will, however, encourage railroads to report extenuating circumstances that have led or may lead to reduced performance, including weather-related events, in cover letters accompanying their data filings.

AAR also proposes to exclude from ISP reporting cars ordered in following constructive placement. (AAR Comments 10.) AAR argues that constructively placed cars are stopped short of delivery to a customer facility

[13] In the definition of ''service window'' that the Board will adopt, ''shipments'' is replaced with ''railcars.'' This reflects that spots and pulls during service windows are not limited to ''shipments,'' as shipment is defined as ''a loaded railcar that is designated in a bill of lading.''

due to customer-caused exceptions and therefore such cars should be excluded. (*Id.*)

The Board will reject this proposal and clarify the treatment of constructively placed cars in the ISP metric. First, AAR's proposal would exclude all traffic destined for ''closed-gate'' shipper facilities from the ISP metric. Cars destined for such facilities are, by plan, usually constructively placed pending shipper requests for delivery. While it would not be appropriate to measure ISP for these cars based upon the time of constructive placement, these cars are subsequently ordered in by shippers and are at that time scheduled for delivery during an appropriate service window. Therefore, constructively placed cars destined for closed-gate facilities will be included in ISP reporting.

Second, the Board will clarify the treatment of cars destined for ''spot on arrival'' or ''open-gate'' facilities (locations where cars may be spotted without placement instructions) that are initially constructively placed due to the receiving shipper's inability to accept them at the time the rail carrier attempts to make delivery. The constructive placement of such cars would not count as failed spots under 49 CFR 1251.2(b)(1)(iv), which provides that, if a shipper causes a carrier to miss a spot or a pull during a planned service window, that missed spot or pull should be excluded from calculation of the ISP metric. However, pursuant to 49 CFR 1251.2(b)(1)(i), such cars, once constructively placed, should be included in ISP calculations based on the time that they are ordered in.

Third, the Board also clarifies that if a carrier fails to spot a car within its assigned service window following constructive placement, the shipper may order the car for delivery during a subsequent service window in which ISP will again be measured. This includes cars that have been constructively placed for any reason and that are destined to either closed-gate or open-gate facilities. Therefore, ISP metrics may reflect multiple data points for a single railcar. The Board finds that this approach will best reflect service levels and performance. The Board will modify 49 CFR 1251.2(b)(1)(i)–(ii) to reflect these clarifications.

AAR further proposes excluding bad order cars from ISP reporting. (AAR Comments 10.) No commenters objected to this proposal. The Board will adopt this exclusion because, as noted above with respect to OETA, bad order cars generally do not reflect a carrier's overall service levels or network performance. The Board further clarifies that this exclusion will only apply to cars placed in bad order status after their arrival at the serving yard.

Finally, AAR proposes revising 49 CFR 1251.2(b)(2) to provide that ''the ISP metric does not include any manifest traffic moved to any third-party facilities such as storage facilities.'' (AAR Comments 9.) No other parties addressed this proposal. The Board will not adopt AAR's proposal. AAR does not define ''third-party facilities'' or provide examples of the types of facilities that would be covered under its proposed exclusion. Nor does it explain why such an exclusion is necessary.

Exclusion of Unit Trains From ISP Reporting

In the *NPRM,* the Board proposed excluding unit trains from ISP reporting. AAR supports this proposal, arguing that ''the Board appropriately recognizes that unit trains are not spotted and pulled in the [same] manner as manifest traffic; therefore, a metric like ISP would simply not make sense.'' (AAR Comments 5–6; *see also* CSXT Comments 12; CN Comments 6.) NITL and PRFBA support including unit trains in ISP reporting. (NITL Comments 2, PRFBA Comments 3.)

The Board will exclude shipments moving in unit train service from ISP reporting, as proposed in the *NPRM.* As NGFA observes, unit trains ''do not typically have a planned spot [and] pull time.'' (NGFA Comments 4.) Further, as discussed above, data that provides a clear picture regarding unit train operations is collected or conveyed elsewhere.

Exclusion of Intermodal Trains From ISP Reporting

In the *NPRM,* the Board proposed excluding intermodal trains from ISP reporting. AAR supports this proposal, noting that the spotting and pulling of intermodal traffic ''does not occur in the same way as manifest traffic.'' (AAR Comments 6.) It notes that ''containers are unloaded at an intermodal facility and then either placed on a chassis or stacked at the facility as they await pick up from a truck.'' (*Id.*) It therefore argues that reporting of intermodal traffic for ISP reporting purposes is not useful to the Board. (*Id.*) NITL indicates support for including intermodal trains in ISP reporting. (NITL Comments 2.)

The Board agrees with AAR that spotting and pulling of intermodal traffic is different from manifest traffic. Transfers of traffic between a rail carrier and another mode of transportation do not involve local service in the same manner as manifest traffic does, which means that this data would not be similarly useful as a reflection of carrier performance. And, as noted above, intermodal train performance is already captured by a range of metrics currently reported to the Board by carriers in accordance with 49 CFR 1250.2. The Board therefore will exclude intermodal trains from ISP reporting.

Additional Issues

Exclusion of Automotive Traffic From OETA/ISP Calculations

AAR asks the Board to clarify that the OETA and ISP metrics will not apply ''to cars carrying automotive products.'' (AAR Comments 6.) AAR notes that some railroads include automotive products in manifest traffic, which is a defined term in the Board's proposed rule, while others do not. (*Id.*)

The Board will not make the requested clarification. Rather, as discussed above, each carrier will report to the Board in accordance with its standard business and data collection practices, and will be required to explain those practices in their methodology documents submitted to the Board. The Board will require carriers to identify, as part of their methodology documents, the Standard Transportation Commodity Code (STCC) of any automotive traffic that moves in manifest service and is included in OETA and ISP reporting. Additionally, the Board notes that to the extent that automotive traffic moves via intermodal service, such traffic would not be included in OETA or ISP reporting, as the OETA and ISP metrics will not include intermodal traffic.

Disaggregation of Data

AFPM argues that reporting ''should be granular—broken out by region, terminal, and corridor—to reveal localized bottlenecks often masked by system averages.'' (AFPM Comments 2.) USDA also supports more granular reporting of OETA data, noting that ''[s]ervice issues unique to a corridor or to a commodity can get washed out in system level averages.'' (USDA Reply 2.) USDA argues that the additional burden of disaggregating OETA data at the operating division level would be minimal. (*Id.*)

The Board will not require disaggregated reporting of OETA data by region and corridor. OETA is an end-to-end metric, and any particular shipment may traverse multiple corridors and regions. It therefore would be impractical to require separation of performance geographically by trip segment. However, as discussed above, the Board is adopting a requirement that

carriers report ISP data on an operating division level, in addition to a system-wide level. The Board finds this level of disaggregated ISP reporting sufficiently captures the localized data necessary to measure carriers' success performing local spots and pulls without placing a significant burden on carriers with respect to the ISP metric. Further, OETA and ISP are intended to provide indicators of overall network health and ''local service reliability across a carrier's rail network,'' rather than indicate service quality experienced by any particular individual shipper. *NPRM,* EP 787, slip op. at 6 n.7. This minimally burdensome rule is tailored to that objective.

References to Class I Carriers

Ravnitzky proposes adding ''Class I'' to the introductory paragraph of 49 CFR 1251.2 so that it reads, in relevant part: ''All Class I rail carriers shall report to the Board on a weekly basis, in a manner and form determined by the Board, the data described in this section.'' (Ravnitzky Comments 1.) He argues that the current wording could be read to require every carrier to report and that this change will eliminate the need for a reader to reference the definitions section of the proposed regulations to understand that the regulation pertains only to Class I carriers. (*Id.*)

In response to Ravnitzky's comment, the Board will remove the definition of ''Rail carrier(s)'' that was in proposed 49 CFR 1251.1 and will instead add the words ''Class I,'' where appropriate, to references to ''carrier,'' ''rail carrier,'' and ''railroad'' in 49 CFR part 1251. These changes will promote clarity and consistency with other Board regulations.

Data Formatting and Submission

AFPM recommends that all data submitted in accordance with the proposed metrics be both machine and human-readable and generated in ''standardized formats to prevent opacity and enable efficient analysis.'' (AFPM Comments 2.) AFPM argues that this will ''enable data-driven oversight to support a more reliable and efficient rail network.'' (*Id.*) AFPM also proposes that ''[s]hippers should have the ability to audit or correct carrier-submitted data to ensure accuracy, as they are often best positioned to identify discrepancies.'' (*Id.*)

With respect to AFPM's request for machine readable data, the Board will require that data be submitted ''in the manner and form'' it prescribes, which will ensure the data's utility. To this end, OE will provide a template to be used for submission of data, thereby ensuring that submissions are machine readable. With respect to AFPM's request that the Board also require submissions to be ''human-readable,'' (AFPM Comments 2), the Board notes that it continues to evaluate ways to improve data visualization on its public website and to improve the transparency and consistency of reporting across the metrics it collects. *See NPRM,* EP 787, slip op. at 5.

Additionally, AAR requests that the Board ''develop templates or another mechanism to simplify the ingestion and processing of the data'' to reduce regulatory barriers. (AAR Comments 12–13.) As noted above, the Board acknowledges AAR's request and remains committed to the development of new data collection mechanisms and protocols that will simplify and streamline data submission procedures.

With respect to shipper audits and corrections, the Board notes that the data collected under part 1251 will be at the system and operating division level, rather than at a more localized or shipper level. Therefore, shippers will not have the information necessary to audit the data. However, as discussed above, the Board notes that it will retain the authority to audit carrier records in connection with OETA and ISP reporting requirements, pursuant to 49 CFR 1220.6.

Requests for Technical Conferences

CSXT requests that the Board hold technical meetings or conferences similar to those held in Docket No. EP 724 (Sub-No. 4), in the event that the Board were to implement ''a more prescriptive approach,'' requiring CSXT ''to modify its systems to convert its existing metrics to the Board's requested format.'' (CSXT Comments 7.)

Given that the Board is adopting regulations that will give carriers more flexibility to report the data in a manner consistent with how they track it in the ordinary course of business, it is not necessary to hold a technical conference at this time. In addition, the metrics that the Board will adopt here are not significantly different from the type of reporting that the Board required of the railroads in *Demurrage Billing Requirements,* Docket No. EP 759, and *Reciprocal Switching,* Docket No. EP 711 (Sub-No. 2). If specific implementation concerns arise, carriers may request clarification from the Board's Office of Public Assistance, Governmental Affairs, and Compliance, which can be reached by telephone at (202) 245–0238 or email at *rcpa@stb.gov.*

Use of Data in Formal Proceedings

AAR asks the Board to clarify that the metrics are not conclusive evidence of service quality and ''that it is not appropriate to draw any conclusions regarding a railroad's compliance with its common carrier obligation from the systemwide metrics, or changes thereto.'' (AAR Comments 5.) AAR argues that any matter before the Board ''regarding alleged service issues should be evaluated on the specific facts and circumstances of the particular complaint.'' (*Id.*)

The Board does not expect that OETA and ISP metrics on their own would provide prima facie evidence of a carrier failure in a formal complaint addressing the adequacy of a carrier's service. The Board further notes that OETA data will be reported at a system-wide level and ISP data at a system-wide and operating-division level, which serves a different analytical purpose than evaluating individual shipper-specific service issues (*e.g.,* the data are used for rail network monitoring). However, stakeholders may use OETA and ISP data as appropriate in support of filings submitted to the Board, and the Board will continue to evaluate individual proceedings on their own specific facts and circumstances.

Requests To Close Other Dockets

AAR calls upon the Board to close out *Urgent Issues in Freight Rail Service,* Docket No. EP 770; *Urgent Issues in Freight Rail Service—Railroad Reporting,* Docket No. EP 770 (Sub-No. 1); and *First-Mile/Last-Mile Service,* Docket No. EP 767. AAR argues that these dockets would no longer be necessary if the Board decides to permanently collect the service data reporting proposed in the *NPRM.* (AAR Comments 12; *see also* AAR Reply 4–5.) The Board will address Docket Nos. EP 767, EP 770, and EP 770 (Sub-No. 1) in separate decisions in those dockets.

Requests To Discontinue Other Existing Reporting Requirements

CSXT argues that if the Board proceeds with considering its proposal in this docket, then the Board should issue a supplemental notice of proposed rulemaking to ''eliminate other obsolete or unnecessary reporting requirements.'' (CSXT Comments 13.) It identifies, as examples, certain regulations at 49 CFR part 1250.[14] (*Id.* at 13–14.) In support of

[14] CSXT suggests the removal of 49 CFR 1250.2(a)(4) (weekly average dwell time at origin for unit train shipments); 49 CFR 1250.2(a)(5) (weekly average number of trains holding per day by type and cause); and 49 CFR 1250.4 (bi-annual rail infrastructure projects reporting). (CSXT Comments 13–14.)

their removal, CSXT argues that ''[t]he Board should not wait to remove those regulations, because layering on additional reporting simply creates a larger collective reporting burden.'' (*Id.* at 13.)

CN also argues that portions of part 1250 ''no longer provide any significant benefit,'' and proposes that the Board ''should eliminate part 1250 reporting to the extent its costs are not outweighed by its benefits.'' (CN Comments 8, 9.) Additionally, CN argues that the Board ''should reassess the current data elements required within the R–1 report,'' and ''should consider eliminating in their entirety any data elements that are not relevant anymore.'' (*Id.* at 7–8.) It identifies 11 R–1 report line items for modification or elimination. (*Id.* at 8.) In support of this proposal, CN argues, among other things, that the various line items are time-consuming to prepare, not widely used, and draw upon data contained in other schedules. (*Id.* at 7–8.)

The Board will not adopt these proposals at this time. CSXT's and CN's proposals are outside the scope of this proceeding and considering them in this docket would unnecessarily delay termination of the PTC reporting requirement and adoption of the OETA and ISP metrics. As the Board explained in the *NPRM,* the new metrics are ''just one component of a broader effort to enhance, focus, and automate the agency's data collection.'' *NPRM,* EP 787, slip op. at 5. As such, the Board intends to continue to consider ''the utility of certain existing metrics that are not widely referenced or used by the Board, shippers, railroads, or other members of the public.'' (*Id.*) Such metrics may include those addressed by CSXT and CN in their comments.

Proposals for Expanded and Additional Metrics

Some commenters ask for expansion of the OETA and ISP metrics. AFPM and TFI both advocate that the Board expand its proposed OETA metric to capture the degree to which late arriving shipments miss their OETAs. Under AFPM's proposal, OETA would measure the average lateness, in hours, of all late shipments. (AFPM Comments 4.) AFPM argues that this additional collection would ''prevent carriers from meeting minimum success rates while permitting excessive delays on outlier shipments.'' (*Id.*) Similarly, TFI proposes that the Board adopt a rule that ''would capture the absolute difference between a shipment's OETA and its actual arrival time.'' (TFI Comments 3.) It argues that this is necessary because, as proposed, OETA does not ''indicate a delay's magnitude, leaving shippers without important information to make internal adjustments and limiting the Board's ability to assess a disruption's severity.'' (*Id.*) TFI asks the Board to expand the ISP metric by requiring reporting of instances when a railroad fails to serve a customer's facility during a planned service window and reporting of the percentage of service windows a carrier cancels for reasons other than a shipper's or receiver's request. (*Id.*)

USDA indicates general support for these proposals, encouraging the Board to adopt ''measures of variation (instead of just averages) and measures of cancelations and early arrivals (instead of just late shipments).'' (USDA Reply 3.) According to USDA, ''the additional metrics [would] provide crucial context on the size and quality of service across the network'' and could ''be provided at very little additional cost.'' (*Id.*)

Some commenters propose that the Board adopt additional metrics beyond OETA and ISP. FRCA and NCTA argue that the Board should require carriers to report average speeds achieved by unit trains and their consistency. (FRCA/NCTA Comments 6.) FRCA, NCTA, and NITL argue that the Board should restore the level of reporting for unit trains that existed prior to the Board's January 31, 2024 decision in *Urgent Issues,* Docket No. EP 770 (Sub-No. 1). (FRCA/NCTA Reply 4; FRCA/NCTA Comments 6; NITL Comments 2.) TFI asks the Board to consider implementing metrics that TFI and other shippers supported in comments in *First-Mile/Last-Mile Service,* Docket No. EP 767, including ''Terminal Dwell Time,'' ''Serving Day Performance,'' and ''First-Mile [Dwell Time]'' and ''Last-Mile Dwell Time.'' (TFI Comments 3 n.9 (citing ACC/AFPM/TFI Comments 17–30, *First-Mile/Last-Mile Serv.,* EP 767).) NGFA suggests that the Board add a metric measuring ''the period of time between [the] release[e] [of] a loaded unit train for pick-up by the carrier, and the time the carrier actually arrives to take the loaded train.'' (NGFA Comments 4.) [15]

AAR opposes calls for additional data collections. (AAR Reply 3.) It argues that ''while the shipper associations express a desire for more data to be collected, they do not identify a justifiable need for the data.'' (*Id.*)

While the Board acknowledges the service issues raised by shippers in this proceeding and that many shippers would prefer additional service metrics, the Board will not adopt the proposed expanded and additional metrics at this time. Consideration of those proposals would expand the scope of this rulemaking and delay implementation of the final rule. As explained in the *NPRM,* the OETA and ISP metrics will allow the Board to ''better monitor service reliability and address possible future regional and national service lapses.'' *NPRM,* EP 787, slip op. at 4–5. As previously noted, the Board will continue to consider how to ''enhance . . . the agency's data collection.'' *NPRM,* EP 787, slip op. at 5.

However, with respect to TFI's request for a metric that tracks carriers' cancellations of service windows, the Board notes both the proposed and final rules provide that if a carrier cancels a service window other than at the shipper's or receiver's request, each planned spot or pull within the cancelled service window will be treated as a failure for ISP reporting purposes. Therefore, while the Board will not measure cancellations separately, cancellations will be captured by the ISP metric. Additionally, the Director of OE may require a carrier to provide summaries of its raw data by site or location, if necessary to ensure data quality and utility.

Requests Concerning Plant Shutdowns and the Common Carrier Obligation

PRFBA advocates requiring railroads to compensate shippers, under certain circumstances, when their plants are shut down due to poor service. (PRFBA Comments 6.) It also asks the Board to consider creating regulations that identify violations of railroads' common carrier obligations. (*Id.*) The Board will not consider these proposals as they are beyond the scope of this rulemaking.

Environmental Review

The final rule is categorically excluded from environmental review under 49 CFR 1105.6(c).

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, generally requires a description and analysis of new rules that would have a significant economic impact on a substantial number of small entities. In drafting a rule, an agency is required to: (1) assess the effect that its regulation will have on small entities; (2) analyze effective

[15] As noted above, 49 CFR 1250.2(a)(4) already requires carriers to file similar information. Carriers must file weekly average dwell time at origin for certain train types, including grain unit, coal unit, automotive unit, crude oil unit, ethanol unit, and all other unit trains. For the purposes of 49 CFR 1250.2(a)(4), dwell time refers to the time period from release of a unit train at origin until actual movement by the receiving carrier.

alternatives that may minimize a regulation's impact; and (3) make the analysis available for public comment. 5 U.S.C. 601–604. In its notice of proposed rulemaking, the agency must either include an initial regulatory flexibility analysis, 5 U.S.C. 603(a), or certify that the proposed rule would not have a ''significant impact on a substantial number of small entities,'' 5 U.S.C. 605(b). The impact must be a direct impact on small entities ''whose conduct is circumscribed or mandated'' by the proposed rule. *White Eagle Coop. Ass'n* v. *Conner,* 553 F.3d 467, 480 (7th Cir. 2009).

The final rule applies only to Class I rail carriers and their affiliated companies. As such, the regulations will not impact a substantial number of small entities.[16] Accordingly, pursuant to 5 U.S.C. 605(b), the Board again certifies that the regulations will not have a significant economic impact on a substantial number of small entities within the meaning of the RFA. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration.

Paperwork Reduction Act

The Board sought comments in the NPRM pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3521, and Office of Management and Budget (OMB) regulations at 5 CFR 1320.8(d)(3) about the impact of proposed changes to the collection ''Class I Railroad Annual Report'' (OMB Control No. 2140–0009) and the proposed new collection of service data from Class I carriers, pursuant to OMB Control Number 2140–XXXX, concerning: (1) whether the collections of information, as added in the proposed rule are necessary for the proper performance of the functions of the Board, including whether the collections have practical utility; (2) the accuracy of the Board's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate. *NPRM,* EP 787, slip op. at 8; 90 FR at 46782.

In the *NPRM,* the Board estimated that the proposed requirements would reduce the hourly annual burden by 238 hours for six respondents, all Class I railroads. *NPRM,* EP 787, slip op. at 8. This estimate consisted of the cumulative total of two types of filings required to collect information and to allow the Board to implement the data collections at 49 CFR part 1251.

First, the Board anticipated that the requirement for the Class I railroads to update their internal data collections systems in order to remove PTC entries would add an estimated total one-time hourly burden of 36 hours across all six Class I rail carriers. *NPRM,* EP 787, slip op. at 16. That burden would be amortized over three years. *Id.* Second, the Board anticipated that the total annual burden associated with R–1 preparation across all six Class I rail carriers would be 1,320 hours. *Id.* Third, the Board estimated that the burden of weekly reporting on service reliability, which includes OETA and ISP, would have an annual burden of 156 hours. *Id.* at 18. In calculating this estimate, the Board assumed that the Class I rail carriers could provide this information by making selections within a computer program once their systems have been updated.

The Board received a response from USDA addressing the Board's burden analysis for two types of collections of information under the PRA. USDA supports the Board's collection of OETA and ISP metrics and removal of the separate PTC Supplement reporting. (USDA Reply 3.)

The Board's decision modifies proposed 49 CFR 1251.1 and 1251.2 by clarifying the types of data that carriers must submit in their reporting. The modifications also make reporting requirements more flexible, thereby reducing the need for carriers to modify their data collections and protocols, and require each carrier to submit a document explaining its methodology for deriving the data and to update that document if its methodology changes. The Board has not modified the estimated burden associated with service reliability reporting because it believes that reduced burdens from reporting flexibility will offset the de minimis burden of creating (and updating, if necessary) a methodology document, which can be drawn from past carrier submissions in this area.[17]

These two collection requests to modify and extend an existing, approved collection and to create a new collection will be submitted to OMB for review as required under the PRA, 44 U.S.C. 3507(d), and 5 CFR 1320.11. The requests will address the comments discussed above as part of the PRA approval process.

Congressional Review Act

Pursuant to the Congressional Review Act, 5 U.S.C. 801–808, the Office of Information and Regulatory Affairs has designated this rule as non-major, as defined by 5 U.S.C. 804(2).

Executive Order 12866, as modified by Executive Order 14215, provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this rule is not significant. This action is considered an Executive Order 14192 deregulatory action.

It is ordered:

1. The Board adopts the final rule as set forth in this decision. Notice of the adopted rule will be published in the **Federal Register**.

2. This decision is effective June 7, 2026. The initial reporting date will be July 8, 2026.

3. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration.

Decided: May 5, 2026.

By the Board, Board Members Fuchs, Hedlund, and Schultz.

List of Subjects in 49 CFR Parts 1241 and 1251

Railroads, Reporting and recordkeeping requirements.

Jeffrey Herzig,

Clearance Clerk.

For the reasons set forth in the preamble, and under the authority of 49 U.S.C. 1321 and 11145, the Surface Transportation Board amends chapter X of title 49 of the Code of Federal Regulations as follows:

[16] For the purpose of RFA analysis for rail carriers subject to the Board's jurisdiction, the Board defines a ''small business'' as including only those rail carriers classified as Class III rail carriers under 49 CFR 1201.1–1. *See Small Entity Size Standards Under the Regul. Flexibility Act,* EP 719 (STB served June 30, 2016). Class III rail carriers have annual operating revenues of $48.2 million or less in 2024 dollars. Class II rail carriers have annual operating revenues of less than $1.07 billion but more than $48.2 million in 2024 dollars. The Board calculates the revenue deflator factor annually and publishes the railroad revenue thresholds in decisions and on its website. 49 CFR 1201.1–1; *Indexing the Ann. Operating Revenues of R.Rs.,* EP 748 (STB served June 24, 2025).

[17] In addition, no changes are needed to the burden hours associated with the R–1 collection. While this decision modifies the *NPRM* proposal to remove the requirement for a one-time PTC summary document ''identifying individual line items in their respective R–1 reports that contain PTC-related expenditures representing at least 15% of the line-item amounts,'' *see NPRM,* EP 787, slip op. at 4, the burden hours associated with the one-time summary document were considered to be minimal. As no other changes have been made regarding the Board's proposal to eliminate the PTC supplement, no changes to the burden hours associated with the R–1 collection will be necessary.

PART 1241—ANNUAL, SPECIAL, OR PERIODIC REPORTS—CARRIERS SUBJECT TO PART I OF THE INTERSTATE COMMERCE ACT

■ 1. The authority citation for part 1241 continues to read as follows:

Authority: 49 U.S.C. 11145.

■ 2. Remove the note to part 1241.

■ 3. Revise § 1241.11 to read as follows:

§ 1241.11 Annual reports of class I railroads.

Commencing with reports for the year ended December 31, 1973, and thereafter, until further order, all line-haul railroad companies of class I, as defined in § 1240.1 of this chapter, subject to section 20, Part I of the Interstate Commerce Act, are required to file annual reports in accordance with Railroad Annual Report Form R–1. Such annual report shall be filed in duplicate in the office of the Office of Economics, Surface Transportation Board, Washington, DC, on or before March 31 of the year following the year which is being reported.

Note 1 to § 1241.11: The report forms prescribed by this section are available on the Surface Transportation Board website.

■ 4. Add part 1251 to read as follows:

PART 1251—RAILROAD SERVICE DATA REPORTING

Sec.
1251.1 Definitions.
1251.2 Service metrics reporting.

Authority: 49 U.S.C. 1321 and 49 U.S.C. 11145.

§ 1251.1 Definitions.

The following definitions apply to this part:

Affiliated companies has the same meaning as ''affiliated companies'' in Definition 5 of the Uniform System of Accounts (49 CFR part 1201, subpart A).

Bad order cars means cars that must undergo repair before completing their trips due to mechanical, safety, or structural problems.

Cut-off time means the deadline for requesting service within a service window, as determined in accordance with the Class I rail carrier's established protocol.

Delivery means when a shipment is actually placed at a designated destination or is constructively placed at a local railroad yard that is convenient to the designated destination. In the case of an interline movement, a shipment will be deemed to be delivered to the receiving carrier or its agent or affiliated company when the shipment is offered for interchange.

Designated destination means the final destination as specified in the bill of lading or, in the case of an interline movement, the interchange where the shipment is offered to the receiving carrier, its agent, or affiliated company.

Industry spot and pull means the local placement (''spot'') and pick-up (''pull'') of railcars (regardless of ownership) at a shipper's or receiver's facility.

Manifest traffic means shipments that move in carload or non-unit train service.

Original estimated time of arrival or *OETA* means the estimated time of arrival that the rail carrier provides when the shipper releases the shipment with all necessary and customary documentation or, in the case of an interline movement, when a shipment is reported delivered in interchange and confirmed to have physically been delivered to the receiving carrier with necessary and customary documentation for furtherance.

Planned service window means a service window for which the shipper or receiver requested local service, provided that the shipper or receiver made its request by the cut-off time for that window.

Service window means a window in which the rail carrier offers to perform local service (placements and/or pick-ups of railcars) at a shipper's or receiver's facility. A service window must be made available by a rail carrier with reasonable advance notice to the shipper or receiver and in accordance with the carrier's established protocol.

Shipment means a loaded railcar that is designated in a bill of lading.

Time of arrival means the time that a shipment is delivered to the designated destination.

§ 1251.2 Service metrics reporting.

All Class I rail carriers shall report to the Board on a weekly basis, in a manner and form determined by the Surface Transportation Board (Board), the data described in this section. Each Class I rail carrier shall provide, with its initial data submission, a document explaining its methodology for deriving the data. If a carrier's methodology changes, the carrier shall file an updated methodology document with the first data submission that reflects the methodology change. The Director of the Board's Office of Economics may require a carrier to revise its methodology and submit revised metrics for past periods to ensure data quality and utility. The service metrics in this section apply only to the data collection contemplated under this part.

(a) *Original estimated time of arrival*—(1) *OETA metric.* The OETA metric is the percentage of shipments on a carrier's system that moved in manifest service and were delivered to the designated destination no later than 24 hours after the OETA, out of all shipments on the carrier's system that moved in manifest service during that week. For the purpose of calculating the OETA metric, once a carrier has communicated an OETA to a customer, that time shall not be changed by any subsequent changes to the original trip plan of the car, unless the change to the original trip plan is made in response to a shipper's request or a shipper's failure to make cars available for pick-up.

(2) *OETA applicability.* The OETA metric applies to shipments that travel as manifest traffic only within the United States. The OETA metric does not apply to cars placed in bad order status during shipment.

(b) *Industry spot and pull (ISP)*—(1) *ISP metric.* The ISP metric is the percentage of scheduled spots or pulls (*i.e.,* those requested by a shipper or receiver before the applicable cut-off time) that were successfully performed during the planned service windows, out of the total number of spots or pulls that were scheduled for that week. A Class I rail carrier must report the ISP metric for each of its operating divisions and for the carrier's overall system. For reporting at the operating division level, a Class I rail carrier may establish reporting regions using any geographic boundaries it chooses, provided that it identifies the boundaries in its methodology document submitted to the Board.

(i) Failure to spot a constructively placed railcar that has been ordered in by the cut-off time applicable to the customer for a planned service window shall be included as a failure in calculating the ISP metric. This includes ''spot on arrival'' railcars (*i.e.,* railcars that may be placed without placement instructions) that have been constructively placed for any reason.

(ii) Failure to spot a ''spot on arrival'' railcar for a planned service window shall be included as a failure in calculating the ISP metric if the railcar arrived at the local yard that services the customer and was ready for local service before the cut-off time applicable to the customer.

(iii) If a Class I rail carrier cancels a service window, other than at the shipper's or receiver's request, each planned spot or pull from the cancelled service window shall be included as a failure in calculating the ISP metric.

(iv) When a rail customer causes a Class I rail carrier to miss a spot or a pull during a planned service window, those spots or pulls will not be

considered failures in calculating the ISP metric.

(2) *ISP applicability.* The ISP metric shall not include unit trains, intermodal traffic, or cars placed in bad order status after arrival at the serving yard.

[FR Doc. 2026–09189 Filed 5–7–26; 8:45 am]

BILLING CODE 4915–01–P

Proposed Rules

Federal Register
Vol. 91, No. 89
Friday, May 8, 2026

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2026–4788; Airspace Docket No. 25–ANM–167]

RIN 2120–AA66

Establishment of Canadian Area Navigation Route Q–855 and Revocation of Jet Route J–549 in the Vicinity of Williston, North Dakota

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Canadian Area Navigation (RNAV) Route Q–855 and revoke Jet Route J–549 in the vicinity of Williston, North Dakota. The FAA is proposing these actions to provide enroute continuity with NAV Canada's ongoing route structure modernization efforts.

DATES: Comments must be received on or before June 22, 2026.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2026–4788 and Airspace Docket No. 25–ANM–167 using any of the following methods:

* *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the online instructions for sending your comments electronically.

* *Mail:* Send comments to Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W58–213, West Building, 5th Floor, Washington, DC 20590.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W58–213 of the West Building, 5th Floor at 1200 New Jersey Avenue SE, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Docket: Background documents or comments received may be read at *www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W58–213 of the West Building, 5th Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FAA Order JO 7400.11K, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *www.faa.gov/air_traffic/publications/.* You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Steven Roff, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the airway structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Availability of Rulemaking Documents

An electronic copy of this document may be downloaded through the internet at *www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Operations office (see **ADDRESSES** section for address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the office of the Western Service Center, Federal Aviation Administration, 2200 South 216th St., Des Moines, WA 98198.

Incorporation by Reference

Canadian Area Navigation Routes are published in paragraph 2007 and Jet Routes are published in paragraph 2004 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the

current version of that order, FAA Order JO 7400.11K, dated August 4, 2025, and effective September 15, 2025. These updates would be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11K, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the **ADDRESSES** section of this document.

Background

The proposed actions are necessary to accommodate Nav Canada's multi-year ongoing NAVAID Modernization Plan (NMP), which reduces reliance upon ground-based navigation aids (NAVAIDs) and transitions to a more efficient and cost-effective system using satellite/Performance Based Navigation (PBN). This shift away from ground-based NAVAIDs impacts the existing cross-border U.S. Federal Airway structure, and the FAA is proposing these actions to provide enroute continuity with NAV Canada's ongoing route structure modernization efforts.

Q–855 would replace J–549, which is currently NOTAM'd out of service due to the decommissioning of the Brandon, MB, Canada, Very High Frequency Omnidirectional Range (VOR). Q–855 would connect with NAV Canada's existing Q–855 at the new JARLY, ND, Waypoint (WP) located on the U.S./Canadian border. The current computer navigation fix, CFGMH, would also be removed from the database.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to establish Canadian (RNAV) Route Q–855 and revoke Jet Route J–549 in the vicinity of Williston, North Dakota.

Q–855: Q–855 would extend between the Williston, ND, VOR/Distance Measuring Equipment (DME) and the Jarly, ND, WP.

J–549: J–549 currently extends between the Williston, ND, VOR/DME and the Brandon, MB, Canada, VOR. The FAA is proposing to revoke J–549 in its entirety.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Order 2100.6B, ''Rulemaking and Guidance Procedure'' (March 10, 2025); and (3) is expected to result in, at most, de minimis costs from compliance with applicable operating requirements or minor flight rerouting for operators choosing to navigate around the controlled airspace. Since these proposed amendments are routine and the expected impact to operators is de minimis, the FAA certifies that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1G, ''FAA National Environmental Policy Act Implementing Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11K, Airspace Designations and Reporting Points, dated August 4, 2025, and effective September 15, 2025, is amended as follows:

Paragraph 2007 Canadian Area Navigation Routes.

* * * * *

Q–855 Williston, ND (ISN) TO JARLY, ND [NEW]

Williston, ND (ISN)	VOR/DME	(Lat. 48°15′12.29″ N, long. 103°45′02.38″ W)
JARLY, ND	WP	(Lat. 48°59′56.23″ N, long. 102°06′21.90″ W)

* * * * *

Paragraph 2004 Jet Routes.

* * * * *

J–549 [Removed]

* * * * *

Issued in Washington, DC, on May 6, 2026.

Alex W. Nelson,

Manager, Airspace Rules and Regulations.

[FR Doc. 2026–09224 Filed 5–7–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2026–4792; Airspace Docket No. 25–ANM–166]

RIN 2120–AA66

Establishment of Canadian Area Navigation Route Q–838 and Revocation of Jet Route J–539 in the Vicinity of Glasgow, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Canadian Area Navigation (RNAV) Route Q–838 and revoke Jet Route J–539 in the vicinity of Glasgow, MT. The FAA is proposing these actions to provide enroute continuity with NAV Canada's ongoing route structure modernization efforts.

DATES: Comments must be received on or before June 22, 2026.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2026–4792 and Airspace Docket No. 25–ANM–166 using any of the following methods:

* *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the online instructions for sending your comments electronically.

* *Mail:* Send comments to Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W58–213, West

Building, 5th Floor, Washington, DC 20590.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W58–213 of the West Building, 5th Floor at 1200 New Jersey Avenue SE, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Docket: Background documents or comments received may be read at *www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W58–213 of the West Building, 5th Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FAA Order JO 7400.11K, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *www.faa.gov/air_traffic/publications/.* You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Steven Roff, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the airway structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Availability of Rulemaking Documents

An electronic copy of this document may be downloaded through the internet at *www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Operations office (see **ADDRESSES** section for address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the office of the Western Service Center, Federal Aviation Administration, 2200 South 216th St., Des Moines, WA 98198.

Incorporation by Reference

Canadian Area Navigation Routes are published in paragraph 2007 and Jet Routes are published in paragraph 2004 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11K, dated August 4, 2025, and effective September 15, 2025. These updates would be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11K, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the **ADDRESSES** section of this document.

Background

The proposed actions are necessary to accommodate Nav Canada's multi-year ongoing NAVAID Modernization Plan (NMP), which reduces reliance upon ground-based navigation aids (NAVAIDs) and transitions to a more efficient and cost-effective system using satellite/Performance Based Navigation (PBN). This shift away from ground-based NAVAIDs impacts the existing cross-border U.S. Federal Airway structure, and the FAA is proposing these actions to provide enroute continuity with NAV Canada's ongoing route structure modernization efforts.

Q–838 would replace J–539, which is currently NOTAM'd out of service due to the decommissioning of the Swift Current, SK, Canada, Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME). Q–838 would connect with NAV Canada's existing Q–838 at the new CAYUS, MT, Waypoint (WP) located on the U.S./Canadian border. The current computer navigation fix, CFWVQ, would also be removed from the database.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to establish Canadian Area Navigation (RNAV) Route Q–838 and revoke Jet Route J–539 in the vicinity of Glasgow, MT.

Q–838: Q–838 would extend between the Glasgow, MT, VOR/Distance Measuring Equipment (DME) and the CAYUS, MT, WP.

J–539: J–539 currently extends between the Glasgow, MT, VOR/DME and the Swift Current, SK, Canada, VOR. The FAA is proposing to revoke J–539 in its entirety.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Order 2100.6B,

''Rulemaking and Guidance Procedure'' (March 10, 2025); and (3) is expected to result in, at most, de minimis costs from compliance with applicable operating requirements or minor flight rerouting for operators choosing to navigate around the controlled airspace. Since these proposed amendments are routine and the expected impact to operators is de minimis, the FAA certifies that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1G, ''FAA National Environmental Policy Act Implementing Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11K, Airspace Designations and Reporting Points, dated August 4, 2025, and effective September 15, 2025, is amended as follows:

Paragraph 2007 Canadian Area Navigation Routes.

* * * * *

Q–838 GLASGOW, MT (GGW), TO CAYUS, MT [NEW]

Glasgow, MT (GGW)	VOR/DME	(Lat. 48°12′55.10″ N, long. 106°37′31.51″ W)
CAYUS, MT	WP	(Lat. 49°00′00.11″ N, long. 107°00′56.76″ W)

* * * * *

Paragraph 2004 Jet Routes.

* * * * *

J–539 [Removed]

* * * * *

Issued in Washington, DC, on May 6, 2026.

Alex W. Nelson,

Manager, Airspace Rules and Regulations.

[FR Doc. 2026–09225 Filed 5–7–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 48

[REG–121244–23]

RIN 1545–BR30

Section 45Z Clean Fuel Production Credit; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notification of change to telephonic-only public hearing on a proposed rulemaking.

SUMMARY: This document announces that the public hearing scheduled for Wednesday, May 27, 2026, Thursday, May 28, 2026, and Friday, May 29, 2026, for the notice of proposed rulemaking (REG–121244–23) published in the **Federal Register** on Wednesday, February 4, 2026, has been changed to a telephonic-only hearing. These proposed regulations would provide rules for determining clean fuel production credits, including credit eligibility rules, emissions rates, and certification and registration requirements.

DATES: The hearing scheduled to be held on Wednesday, May 27, 2026, at 09:00 a.m. ET, Thursday, May 28, 2026, at 09:00 a.m. ET, and Friday, May 29, 2026, at 09:00 a.m. ET, has been changed to a telephonic-only hearing.

ADDRESSES: Public comments that have been submitted on the proposed regulations (REG–121244–23) are available on the Federal eRulemaking Portal at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Jennifer Golden or Danielle Mayfield of the Office of Associate Chief Counsel (Energy, Credits, and Excise Tax) at (202) 317–6855 (not a toll-free number); concerning submissions of comments or the public hearing, Publications and Regulations Section at (202) 317–6901 (not a toll-free number) or by email at *publichearings@irs.gov* (preferred).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the notice of proposed rulemaking (REG–121244–23) published in the **Federal Register** on Wednesday, February 4, 2026 (91 FR 5160). To accommodate all persons who wished to present oral comments at the public hearing, by notice of hearing published in the **Federal Register** on Wednesday, April 29, 2026 (91 FR 23038), the public hearing scheduled Thursday, May 28, 2026, was extended two additional days to begin Wednesday, May 27, and end Friday, May 29, starting at 09:00 a.m. ET each day. All three days of the hearing will now be held in a telephonic-only format.

The rules of 26 CFR 601.601(a)(3) apply to the public hearing. Persons who wished to present oral comments at the public hearing were required to submit an outline of the topics to be discussed as well as the time to be devoted to each topic by April 6, 2026. This due date for requests to testify has now passed. Persons who made timely requests to testify either in-person or by telephone will receive the telephone number and access codes for the public hearing. A period of 10 minutes will be allotted to each person testifying.

Individuals who have already sent an email to *publichearings@irs.gov* to request to attend the hearing by telephone or in person do not need to make a second request to attend the hearing now being held by telephone only. The IRS will provide those individuals with a telephone number and access code for the rescheduled hearing by email.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available via the Federal eRulemaking Portal (*www.regulations.gov*) under the title of Supporting & Related Material.

Individuals who want to attend the public hearing by telephone without testifying must also send an email to *publichearings@irs.gov* to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number (REG–121244–23) and the language ''ATTEND Hearing Telephonically.'' For example, the

subject line may say: Request to ATTEND Hearing Telephonically for REG–121244–23. Requests to attend the hearing must be received by 5:00 p.m. ET on May 22, 2026.

Public hearings will be made accessible to people with disabilities. To request special assistance during a public hearing, please contact the Publications and Regulations Section of the Office of Associate Chief Counsel (Procedure and Administration) by sending an email to *publichearings@irs.gov* (preferred) or by telephone at (202) 317–6901 (not a toll-free number) by May 21, 2026.

Any additional questions regarding speaking at or attending the hearing may also be emailed to *publichearings@irs.gov*.

Oluwafunmilayo A. Taylor,

Section Chief, Publications and Regulations Section, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2026–09141 Filed 5–7–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Parts 447 and 478

[Docket No. ATF–2026–0100; ATF No. 2025R–16P]

RIN 1140–AA68

Converting Temporary to Permanent Imports for Defense Articles

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms, and Explosives (''ATF'') proposes to amend Department of Justice (''Department'') regulations regarding the permanent import provisions of the Arms Export Control Act (''AECA''). The proposed rule would allow importers to apply for ATF authorization to convert items imported temporarily—under a Department of State (''DOS'') authorization or under the entry clearance requirements for temporary imports in the Export Administration Regulations (''EAR'') maintained by the Department of Commerce (''DOC'')—to permanent imports in compliance with other applicable federal firearms laws, without having to export and then reimport the items.

DATES: Comments must be submitted in writing, and must be submitted on or before (or, if mailed, must be postmarked on or before) August 6, 2026. Commenters should be aware that the federal e-rulemaking portal comment system will not accept comments after midnight Eastern Time on the last day of the comment period.

ADDRESSES: You may submit comments, identified by number RIN 1140–AA68, by either of the following methods—

- *Federal e-rulemaking portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* ATF Rulemaking Comments; Mail Stop 6N–518, Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave. NE; Washington, DC 20226; *ATTN: ATF 1140–AA68.*

Instructions: All submissions must include the agency name and number RIN 1140–AA68 for this notice of proposed rulemaking (''NPRM'' or ''proposed rule''). ATF may post all properly completed comments it receives from either of the methods described above, without change, to the federal e-rulemaking portal, *https://www.regulations.gov.* This includes any personally identifying information (''PII'') or business proprietary information (''PROPIN'') submitted in the body of the comment or as part of a related attachment they want posted. Commenters who submit through the federal e-rulemaking portal and do not want any of their PII posted on the internet should omit it from the body of their comment and any uploaded attachments that they want posted. If online commenters wish to submit PII with their comment, they should place it in a separate attachment and mark it at the top with the marking ''CUI//PRVCY.'' Commenters who submit through mail should likewise omit their PII or PROPIN from the body of the comment and provide any such information on the cover sheet only, marking it at the top as ''CUI//PRVCY'' for PII, or as ''CUI//PROPIN'' for PROPIN. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at *https://www.regulations.gov.* Commenters must submit comments by using one of the methods described above, not by emailing the address set forth in the following paragraph.

FOR FURTHER INFORMATION CONTACT: Office of Regulatory Affairs, by email at *ORA@atf.gov,* by mail at Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave. NE; Washington, DC 20226, or by telephone at 202–648–7070 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Attorney General is responsible for enforcing the Gun Control Act of 1968 (''GCA''), as amended, and the National Firearms Act (''NFA''), as amended.[1] This includes the authority to promulgate regulations necessary to enforce the provisions of the GCA and NFA. *See* 18 U.S.C. 926(a); 26 U.S.C. 7801(a)(2)(A)(ii), 7805(a). The Attorney General has delegated the responsibility for administering and enforcing the GCA and NFA to the Director of ATF (''Director''), subject to the direction of the Attorney General and the Deputy Attorney General. *See* 28 CFR 0.130(a)(1)–(2).[2] Accordingly, the Department and ATF have promulgated regulations implementing both the GCA and the NFA in 27 CFR parts 478, 479. In addition to enforcing and administering the GCA and the NFA, ATF is responsible for enforcing and administering the permanent import provisions of the Arms Export Control Act (''AECA''), 22 U.S.C. 2778. Each of these laws restricts importing certain firearms, ammunition, barrels, or defense articles.

The GCA generally prohibits importing[3] firearms (including frames or receivers of firearms, firearm silencers, and destructive devices), certain firearm barrels, and ammunition, 18 U.S.C. 922(l), 925(d)(3), except under certain circumstances, *see* 18 U.S.C. 925(a)(1), (a)(4), (d), (e). The GCA does not define importing, but its

[1] Some NFA and GCA provisions still refer to the ''Secretary of the Treasury.'' However, the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, transferred the functions of ATF from the Department of the Treasury to the Department of Justice, under the general authority of the Attorney General. 26 U.S.C. 7801(a)(2); 28 U.S.C. 599A(c)(1). Thus, for ease of reference, this proposed rule refers to the Attorney General where relevant.

[2] In Attorney General Order Number 6353–2025, the Attorney General delegated authority to the Director to issue regulations pertaining to matters within ATF's jurisdiction, including under the NFA, GCA, and Title XI of the Organized Crime Control Act. ATF's jurisdiction also includes those portions of section 38 of the Arms Export Control Act pertaining to permanently importing defense articles and defense services and the Contraband Cigarette Trafficking Act.

[3] The GCA, NFA, and AECA use the older term ''importation,'' but in accord with the Plain Writing Act, ATF is updating its regulations to use the term ''importing'' instead. The two terms should be read as interchangeable.

implementing regulations define it as ''[t]he bringing of a firearm or ammunition into the United States; except that the bringing of a firearm or ammunition from outside the United States into a foreign-trade zone for storage pending shipment to a foreign country or subsequent importation into this country, pursuant to this part, shall not be deemed importation.'' 27 CFR 478.11 (definition of Importation).

The NFA, which regulates machine guns, firearm silencers, destructive devices, and a narrower class of other firearms than does the GCA, *see* 26 U.S.C. 5845(a), further restricts the reasons for which the items under its purview may be imported, *see* 26 U.S.C. 5844. Like the GCA, the NFA does not define importing, but its implementing regulations define it as ''[t]he bringing of a firearm within the limits of the United States or any territory under its control or jurisdiction, from a place outside thereof (whether such place be a foreign country or territory subject to the jurisdiction of the United States), with intent to unlade.'' 27 CFR 479.11 (definition of Importation). The definition also exempts ''bringing a firearm from a foreign country or a territory subject to the jurisdiction of the United States into a foreign-trade zone for storage pending shipment to a foreign country or subsequent importation into this country, under Title 26 of the United States Code.'' *Id.*

Neither the GCA nor the NFA distinguishes between temporary imports—items with a final destination outside of the United States—and permanent imports—items with a final destination inside the United States. As such, any imports brought into the United States for any purpose and for any length of time, pursuant to Department of State (''DOS''), Department of Commerce (''DOC''), or ATF authority, would otherwise have to meet all applicable importing requirements of the GCA and NFA, as well as any applicable customs laws and regulations. ATF previously discussed the GCA and NFA requirements in ATF Ruling 2004–2, Temporary Importation of Firearms Subject to the NFA. ATF regulations implementing the GCA require that persons importing firearms into the United States obtain an approved ATF Form 5330.3A, Application/Permit to Import Firearms, Ammunition, and Defense Articles (''Form 6, part I''), prior to bringing the firearms into the United States. 27 CFR 478.111–114. In order to release imported items from the custody of U.S. Customs and Border Protection (''CBP''), the importer must prepare ATF Form 5330.3C, Release/Receipt of Imported Firearms, Ammunition, and Defense Articles (''Form 6A''). 27 CFR 478.112(c)(1). As set forth in 27 CFR 478.112(d)(2), within 15 days of a firearm's release from CBP, the importer must mark imported firearms with the identifying markings required by 27 CFR 478.92.

Similarly, regulations implementing the NFA require importers to obtain an approved Form 6, part I, prior to importing NFA firearms. 27 CFR 479.111(a). In addition, the regulations require importers to register the firearms they import by filing an ATF Form 5320.2, Notice of Manufactured or Imported NFA Firearms (''Form 2'') under penalty of perjury. 27 CFR 479.112(a). On the other hand, when exporting an NFA firearm from the United States, the exporter must file an ATF Form 5320.9, Application/Permit to Permanently Export NFA Firearms (title of which will be changing to ''Notice of Permanently Exported NFA Firearms'') (''Form 9'') to obtain export authorization. 27 CFR 479.114–121.[4]

The AECA gives the President the authority to control exporting and importing defense articles and defense services in furtherance of world peace and the security and foreign policy of the United States. *See* 22 U.S.C. 2778(a)(1).[5] Pursuant to 27 CFR 447.11, the term ''defense article'' includes any item ATF designated on the U.S. Munitions Import List (''USMIL''), *see* 27 CFR 447.21, as well as forgings, castings, and machined bodies of articles on the USMIL, *see* 27 CFR 447.22. Almost all items regulated by the GCA or NFA, with the exception of sporting shotguns, are included on the USMIL and are therefore also subject to AECA controls with respect to permanent imports. Certain items regulated by the GCA or NFA are designated as defense articles by DOS and subject to its AECA controls on exports and temporary imports, while other USMIL defense articles are subject to DOC export controls under the Export Control Reform Act of 2018 (''ECRA'') (codified, as amended, at 50 U.S.C. 4801–4852).

By executive order, the President delegated to the Attorney General authority under the AECA to control permanent imports of defense articles and services. *See* E.O. 13637, sec. 1(n)(ii), 78 FR 16129 (Mar. 13, 2013). By regulation, the Attorney General has designated ATF as the agency responsible for administering and enforcing the AECA provisions on permanently importing defense articles and defense services. *See generally* 27 CFR part 447.

The AECA, at 22 U.S.C. 2778(b)(2), states that, unless provided otherwise in the regulations, defense articles cannot be permanently imported without an importer's license issued in accordance with the AECA and its regulations. The implementing regulations for the permanent import provisions of the AECA currently define ''importation'' as ''[b]ringing into the United States from a foreign country any of the articles on the [U.S. Munitions] Import List, but shall not include intransit, temporary import or temporary export transactions subject to Department of State controls under Title 22, Code of Federal Regulations.'' 27 CFR 447.11 (definition of Import or Importation). Before an importer may permanently import an item on the USMIL (except for minor components of firearms, certain items imported from Canada, and items related to nuclear weapons strategic delivery systems), the importer must obtain a permit from ATF using ATF Form 6, part I. *See* 27 CFR 447.41–42.

To temporarily import and subsequently export unclassified defense articles, DOS regulations implementing the AECA generally require a license for temporary import, DSP–61, unless otherwise exempted. *See* 22 CFR 123.3. For items listed on the USMIL that are subject to DOC's export jurisdiction, the Export Administration Regulations (''EAR''), 15 CFR parts 730–774, specify entry clearance requirements for items temporarily imported into the United States for subsequent export under certain specified DOC authorizations. *See* 15 CFR 758.10. Where the defense article is a firearm subject to the GCA or NFA, it must generally comply with the requirements of those laws, even where the import is not permanent. However, ATF Ruling 2004–2 provides an

[4] ATF is issuing a separate rule proposing to amend its regulations in 27 CFR part 479 to require that exporters of NFA firearms submit a Form 9 as a notice to ATF after lawfully exporting such firearms, rather than as an application that must be submitted and approved prior to exporting.

[5] Pursuant to section 2778(a)(1) (often referred to as section 38(a)(1) of the AECA), items designated as defense articles and defense services constitute the ''United States Munitions List'' for purposes of the AECA. The AECA United States Munitions List consists of items designated by ATF as defense articles and included on the United States Munitions Import List (USMIL) at 27 CFR 447.21 for purposes of permanent imports and items designated by DOS and included on the U.S. Munitions List (USML) of the International Traffic in Arms Regulations (''ITAR'') at 22 CFR 121.1 for purposes of exports and temporary imports. Collectively, the USMIL at 27 CFR 447.21 and the USML at 22 CFR 121.1 constitute the United States Munitions List for purposes of the AECA. In addition, all defense articles controlled for export or import as part of the United States Munitions List under the AECA are controlled under the ITAR by DOS for purposes of brokering (see 22 CFR 129.1).

alternate procedure that allows temporarily importing firearms into the United States for inspecting, testing, calibrating, repairing, or incorporating into another defense article without a Form 6, part I, provided that the item would otherwise be permitted under the GCA and NFA and is imported (i) in compliance with the ITAR license for temporary import requirements, or (2) pursuant to exemption at 22 CFR 123.4.[6] The alternate procedure under ATF Ruling 2004–2 requires the importer to export the articles within four years after the articles were imported into the United States and does not exempt the importer from filing a Form 2 if the firearm is regulated by the NFA.

II. Proposed Rule

A. Discussion

Recently, industry members have raised questions regarding the alternative procedure set forth in ATF Ruling 2004–2. Specifically, ATF has received questions regarding whether items initially imported temporarily pursuant to DOS authorization, without a Form 6, part I, but that could have been imported as permanent imports in the first instance, may later be converted to permanently imported items. Neither the regulations nor ATF Ruling 2004–2 address this situation. Thus, the only options for items imported under this alternative procedure are for them to be destroyed or exported and then re-imported. In cases where a change in circumstances has rendered exporting the items economically infeasible, such as when articles are damaged beyond economical repair (*i.e.,* the expense to repair the item exceeds its replacement cost), importers must either export and then permanently re-import the articles (which may be prohibitively expensive) or destroy them (resulting in a total loss) to avoid violating the four-year export window for temporarily imported items. This is true even when parts of the damaged articles may be salvageable and have reuse or resale value in the United States. Industry members have stated that the lack of a process to easily and lawfully convert temporarily imported items to permanently imported ones results in economic harm to businesses, seemingly without any substantial benefit to public safety or the economy.

B. Proposed Changes

ATF proposes amending the definition of ''Import or importation'' in 27 CFR 447.11 to indicate that importing (*i.e.,* permanently importing) occurs not only when an article is brought into the United States as a permanent import, but also when an article, lawfully in the United States pursuant to a DOS authorization or pursuant to meeting DOC's entry clearance requirements for temporary imports under 15 CFR 758.10, is converted to remain in the United States permanently before the DOS authorization expires or while still in compliance with 15 CFR 758.10 entry clearance requirements. This proposed change to the definition would permit ATF to process a Form 6, part I, for items currently in the United States as temporary imports and, if otherwise authorized by law, permit the importer to convert these articles to permanent imports. This would establish a clear process by which importers could avoid unnecessary costs while ensuring that such imports remain subject to ATF review and are in compliance with federal law. Temporary imports of ITAR defense articles subject to DOS authorization or defense articles subject to DOC EAR clearance requirements would also remain subject to ITAR or EAR jurisdiction until DOS or DOC, respectively, recognizes a change in end user or end use.

ATF also proposes amending 27 CFR 447.42 by adding a new paragraph (c), which would provide a process through which an importer can apply to convert a temporarily imported item to a permanently imported one by submitting a Form 6, part I, to ATF for approval. Specifically, this rule would require importers to indicate on Form 6, part I, that they intend to convert the temporarily imported item to a permanently imported one and to submit with it a copy of the DSP–61 issued by DOS, entry documents showing that they claimed an ITAR exemption, or a copy of the temporary import entry clearance documents provided to CBP pursuant to DOC's entry clearance requirements. This would eliminate a potentially wasteful regulatory barrier without negatively impacting public safety or otherwise permitting importers to circumvent statutory importing restrictions.

Because neither the GCA nor the NFA exempts temporarily imported items pursuant to DOS authorization or DOC clearance requirements from their definition, such temporary imports must comply with GCA and NFA restrictions and their implementing regulations at parts 478 and 479, just as permanent imports must.[7] As a result, this rule does not propose any changes to those regulatory provisions. By proposing to add the requirement to submit a Form 6, part I, application for ATF approval when converting, this rule would ensure compliance with the AECA as well. Under the existing regulation at 27 CFR 447.44, ATF has the authority to deny applications for AECA import permits—which would include the conversion applications proposed in this rule—when importing as requested would be ''inconsistent with the purpose or in violation of'' the AECA or its implementing regulations in 27 CFR part 447. Additionally, ATF would deny applications if the conversion does not comply with the import provisions of the GCA and NFA.

Moreover, ATF proposes to amend 27 CFR 478.112 by adding a new paragraph (e) to clarify the marking requirements for firearms converted to permanently imported items under this process. Currently, § 478.112 requires that importers comply with marking requirements within 15 days after CBP releases the firearms from its custody. However, this time period does not work in the case of temporary-to-permanent conversions because the items are not in CBP custody once they have been imported as temporary items and released. So, in the case of temporary imports, items may have been exempt from the GCA or NFA marking requirements and might not be marked at the time the items are released from CBP custody—and thus might not be marked at the time the importer wants to convert them to permanent imports. The amendment to § 478.112(e) would provide that, in such cases, the importer must ensure converted items are marked as required by the GCA and NFA within 15 days after ATF approves a Form 6, part I, to convert them from temporarily imported items to permanently imported ones. In addition, the new paragraph would include a requirement that the importer also submit a Form 6A to ATF within that same timeframe, to reflect that these items are being converted to permanent imports, and to record their serial numbers, as required for items imported on a permanent basis in the first instance.

ATF is also proposing minor plain writing and other technical amendments to §§ 447.11, 447.42 (particularly in paragraphs (a) and (b), which have no

[6] ATF Ruling 2004–2 provides an alternate method or procedure to comply with the regulations and was issued pursuant to the ATF Director's authority under 27 CFR 478.22 and 479.26. *See https://www.atf.gov/firearms/docs/2004-2-temporary-importation-firearms-subject-nfa/download* [*https://perma.cc/R3C8-2GFH*]. Because it was issued before controls for temporary imports and exports were divided between DOS and DOC, the ruling mentions only DOS temporary authorizations.

[7] *See* footnote 6, *supra,* and accompanying discussion about ATF Ruling 2004–2.

substantive changes), 478.11, and 478.112 (particularly in paragraphs (a)–(d), which have no substantive changes) to make the definitions and instructions easier to read, including using the term ''importing'' instead of ''importation,'' reducing passive voice, substituting ''U.S. Customs and Border Protection'' and ''CBP'' thereafter for ''Customs,'' and updating headings and form numbers and names.

ATF also notes that other non-conflicting changes to §§ 478.11 and 479.11 are being proposed in a separate notice of proposed rulemaking to amend the definition of ''importation'' as it pertains to foreign trade zones and custom bonded warehouses.[8]

III. Statutory and Executive Order Review

A. Executive Orders 12866 and 13563

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.

Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of agencies quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting public flexibility.

This proposed rule amends 27 CFR parts 447 and 478 to allow more flexibility for importers so that they may convert temporarily imported items to permanent imports under the AECA.

The Office of Management and Budget (''OMB'') has determined that this proposed rule would be a ''significant regulatory action'' under section 3(f) of Executive Order 12866, although it would not be economically significant under section 3(f)(1). OMB has therefore reviewed this proposed rule. ATF provides the following analysis to comply with Executive Orders 12866 and 13563.

1. Need Statement

Industry members have raised questions regarding whether items initially imported temporarily pursuant to DOS (and now, DOC) authorization, without a Form 6, part I, but that could have been imported as permanent imports in the first instance, may later be converted to permanently imported items. The only options for items imported under this alternative procedure are for them to be destroyed or exported and then re-imported. In cases where a change in circumstances has rendered exporting the items economically infeasible, such as when articles are damaged beyond economical repair (*i.e.,* the expense to repair the item exceeds its replacement cost), importers must either export and then permanently re-import the articles (which may be prohibitively expensive) or destroy them (resulting in a total loss) to avoid violating the four-year export window for temporarily imported items. This is true even when parts of the damaged articles may be salvageable and have reuse or resale value in the United States. Industry members have stated that the lack of a process to easily and lawfully convert temporarily imported items to permanently imported ones results in economic harm to businesses, seemingly without any substantial benefit to public safety or the economy. The proposed change would broaden the definition of imports under part 447 to include articles already within the United States pursuant to a DOS temporary authorization or DOC's entry clearance requirements under 15 CFR 758.10 for temporary imports and then converted to a permanent import. As such, importers would not have to export and re-import or destroy items and would instead have a mechanism to convert temporary imports to permanent imports while still affording ATF the ability to ensure compliance with federal firearms laws.

2. Benefits and Cost Savings

This rulemaking provides quantitative and qualitative benefits to the firearms industry by providing additional safe ways to comply with applicable law. However, ATF does not have sufficient information to calculate monetary savings. Therefore, ATF requests more information from the public regarding the economic effects that this rulemaking may have on the public and the regulated industries. Specifically, ATF seeks input on the following:

- What paperwork or other burdens would be reduced by not needing to export firearms or destructive devices prior to re-importing as a permanent import, or destroying them? Would those burden savings be partially offset by different paperwork or other burdens for converting from temporary to permanent status?
- What savings or other benefits would importers and others in the industry accrue from no longer having to export and re-import, or destroy, temporary imports?

3. Regulatory Alternatives

Alternative 1. Maintaining the Status Quo (No Action Alternative)

ATF considered leaving the regulations as they are and taking no action to permit importers to convert items they temporarily imported in compliance with DOS or DOC requirements into permanently imported items. Retaining the status quo would continue to allow DOS, DOC, and ATF to monitor temporarily imported items on the AECA USML that are also restricted under the USMIL, GCA, and NFA to ensure that they do not improperly remain in the country or circumvent requirements. However, as noted above, the result for importers who are complying with the requirements is that they must export any such items that are eligible for permanent import and then re-import them as permanent imports. ATF has decided not to select this alternative, as industry has indicated to ATF that the status quo creates significant costs and burdens for them and deters business activity.

Alternative 2. Rulemaking (Proposed Alternative)

This proposed change to the definition would permit ATF to process a Form 6, part I, for items currently in the United States as temporary imports and, if otherwise authorized by law, permit the importer to convert these articles to permanent imports. This would establish a clear process by which importers could avoid unnecessary costs while ensuring that such imports remain subject to ATF review and comply with federal law. Importers would have the option to convert a temporary import to a permanent import before time period limitations associated with the temporary import expire, provided they file the appropriate forms and otherwise comply with importing requirements. This would eliminate a potentially wasteful regulatory barrier without negatively impacting public safety or otherwise permitting importers to circumvent statutory importing restrictions.

Alternative 3. Issuing Guidance

ATF also considered issuing guidance, in the form of a ruling, or amending Ruling 2004–2 (discussed in section I of this preamble) that would contain the proposed provisions. However, ATF determined that guidance would be insufficient to accomplish this change because the requirements that would need to be modified are in regulations and

[8] As noted above in section II.A of this preamble, any firearms imports remain subject to applicable customs laws and regulations, which uses a separate definition of ''importation'' (*see* 19 CFR 101.1) from ATF's definition of ''importation.''

guidance would not have similar force and effect upon which importers could rely. Guidance would also present limitations in the context of agency regulations that also heavily govern importing and exporting defense articles and services. As a result, ATF did not select this alternative as it would not be effective.

B. Executive Order 14192

Executive Order 14192 (Unleashing Prosperity Through Deregulation) requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed or revised when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation that qualifies as an Executive Order 14192 regulatory action (defined in OMB Memorandum M–25–20 as a final significant regulatory action under section 3(f) of Executive Order 12866 that imposes total costs greater than zero). In furtherance of this requirement, section 3(c) of Executive Order 14192 requires that any new incremental costs associated with such new regulations must, to the extent permitted by law, also be offset by eliminating existing costs associated with at least ten prior regulations. However, this proposed rule would not be an Executive Order 14192 regulatory action. Although it would be a significant regulatory action as defined by section 3(f) of Executive Order 12866, it would not impose total costs greater than zero.

In addition, ATF expects this rule, if finalized as proposed, to qualify as an Executive Order 14192 deregulatory action (defined OMB Memorandum M–25–20 as a final action that imposes total costs less than zero) because it would allow licensed importers the ability to permanently import items already temporarily authorized to be in the United States without having to export and re-import them or having to destroy them. This rule would save importers time and paperwork burdens, in addition to costs.

C. Executive Order 14294

Executive Order 14294 (Fighting Overcriminalization in Federal Regulations) requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to each element of those offenses. This proposed rule would not create a criminal regulatory offense and is thus exempt from Executive Order 14294 requirements.

D. Executive Order 13132

This proposed rule will not have substantial direct effects on the states, the relationship between the federal government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132 (Federalism), the Director has determined that this rule would not impose substantial direct compliance costs on state and local governments, preempt state law, or meaningfully implicate federalism. It thus does not warrant preparing a federalism summary impact statement.

E. Executive Order 12988

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform).

F. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–612, agencies are required to conduct a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements unless the agency head certifies, including a statement of the factual basis, that the rule would not have a significant economic impact on a substantial number of small entities. Small entities include certain small businesses, small not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Director certifies, after consideration, that this proposed rule would not have a significant economic impact on a substantial number of small entities because it would provide an alternative avenue through which businesses can comply with applicable law. This proposed rule would not impose any additional costs or barriers to entry for small businesses. Instead, it would provide more flexibility and reduce burdens and costs for small businesses. All businesses would be able to directly convert temporarily imported items to permanently imported ones under the AECA without having to first export and re-import them as permanently imported items or destroy them. This would save businesses extra paperwork burdens and costs. This proposed rule is particularly beneficial for small businesses.

G. Unfunded Mandates Reform Act of 1995

This proposed rule does not include a federal mandate that might result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, ATF has determined that no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

H. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (''PRA''), 44 U.S.C. 3501–3521, agencies are required to submit to OMB, for review and approval, any information collection requirements a rule creates or any impacts it has on existing information collections. An information collection includes any reporting, record-keeping, monitoring, posting, labeling, or other similar actions an agency requires of the public. *See* 5 CFR 1320.3(c). This proposed rule would impact an existing information collection covered under the PRA. The information collection is OMB control number 1140–0005, ATF Form 5330.3A, Application/Permit to Import Firearms, Ammunition, and Defense Articles (''Form 6, part I''). This proposed rule would likely increase the number of respondents who complete an ATF Form 6, part I, because importers would be able to use the form to indicate a temporary to permanent import. But, otherwise, this proposed rule would not change the collection itself. ATF requests comments from the public regarding the potential frequency with which an importer might apply to convert a temporary import to permanent using the process laid out in the proposed rule.

IV. Public Participation

A. Comments Sought

ATF requests comments on the proposed rule from all interested persons. ATF specifically requests comments on the clarity of this proposed rule and how it may be made easier to understand. ATF also requests comments on the costs or benefits of the proposed rule and on the appropriate methodology and data for calculating those costs and benefits.

All comments must reference this document's RIN 1140–AA68 and, if handwritten, must be legible. If submitting by mail, you must also include your complete first and last name and contact information. If submitting a comment through the federal e-rulemaking portal, as described in section IV.C of this preamble, you should carefully review and follow the website's instructions on

submitting comments. Whether you submit comments online or by mail, ATF will post them online. If submitting online as an individual, any information you provide in the online fields for city, state, zip code, and phone will not be publicly viewable when ATF publishes the comment on *https://regulations.gov.* However, if you include such personally identifying information (''PII'') in the body of your online comment, it may be posted and viewable online. Similarly, if you submit a written comment with PII in the body of the comment, it may be posted and viewable online. Therefore, all commenters should review section IV.B of this preamble, ''Confidentiality,'' regarding how to submit PII if you do not want it published online. ATF may not consider, or respond to, comments that do not meet these requirements or comments containing excessive profanity. ATF will retain comments containing excessive profanity as part of this rulemaking's administrative record but will not publish such documents on *https://www.regulations.gov.* ATF will treat all comments as originals and will not acknowledge receipt of comments. In addition, if ATF cannot read your comment due to handwriting or technical difficulties and cannot contact you for clarification, ATF may not be able to consider your comment.

ATF will carefully consider all comments, as appropriate, received on or before the closing date.

B. Confidentiality

ATF will make all comments meeting the requirements of this section, whether submitted electronically or on paper, and except as provided below, available for public viewing on the internet through the federal e-rulemaking portal, and subject to the Freedom of Information Act (5 U.S.C. 552). Commenters who submit by mail and who do not want their name or other PII posted on the internet should submit their comments with a separate cover sheet containing their PII. The separate cover sheet should be marked with ''CUI//PRVCY'' at the top to identify it as protected PII under the Privacy Act. Both the cover sheet and comment must reference this RIN 1140–AA68. For comments submitted by mail, information contained on the cover sheet will not appear when posted on the internet, but any PII that appears within the body of a comment will not be redacted by ATF and may appear on the internet. Similarly, commenters who submit through the federal e-rulemaking portal and who do not want any of their PII posted on the internet should omit such PII from the body of their comment and any uploaded attachments. However, PII entered into the online fields designated for name, email, and other contact information will not be posted or viewable online.

A commenter may submit to ATF information identified as proprietary or confidential business information by mail. To request that ATF handle this information as controlled unclassified information (''CUI''), the commenter must place any portion of a comment that is proprietary or confidential business information under law or regulation on pages separate from the balance of the comment, with each page prominently marked ''CUI//PROPIN'' at the top of the page.

ATF will not make proprietary or confidential business information submitted in compliance with these instructions available when disclosing the comments that it receives but will disclose that the commenter provided proprietary or confidential business information that ATF is holding in a separate file to which the public does not have access. If ATF receives a request to examine or copy this information, it will treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). In addition, ATF will disclose such proprietary or confidential business information to the extent required by other legal process.

C. Submitting Comments

Submit comments using either of the two methods described below (but do not submit the same comment multiple times or by more than one method). Hand-delivered comments will not be accepted.

- *Federal e-rulemaking portal:* ATF recommends that you submit your comments to ATF via the federal e-rulemaking portal at *https://www.regulations.gov* and follow the instructions. Comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that is provided after you have successfully uploaded your comment.
- *Mail:* Send written comments to the address listed in the **ADDRESSES** section of this document. Written comments must appear in minimum 12-point font size, include the commenter's first and last name and full mailing address, and may be of any length. See also section IV.B of this preamble, ''Confidentiality.''

D. Request for Hearing

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director within the 90-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing is necessary.

Disclosure

Copies of this proposed rule and the comments received in response to it are available through the federal e-rulemaking portal, at *https://www.regulations.gov* (search for RIN 1140–AA68).

Severability

Consistent with the Administrative Procedure Act, the issues raised in this proposed rule may be finalized, or not, independently of each other, after consideration of comments received. ATF has determined that this proposed rule implements and is fully consistent with governing law. However, in the event this proposed rule is finalized, if any provision of that final rule, an amendment or revision made by that rule, or the application of such provision or amendment or revision to any person or circumstance, is held to be invalid or unenforceable by its terms, the remainder of that final rule, the amendments or revisions made by that rule, and application of the provisions of the rule to any person or circumstance shall not be affected and shall be construed so as to give them the maximum effect permitted by law.

List of Subjects

27 CFR Part 447

Administrative practice and procedure, Arms and munitions, Chemicals, Customs duties and inspection, Imports, Penalties, Reporting and recordkeeping requirements, Scientific equipment, Seizures and forfeitures.

27 CFR Part 478

Administrative practice and procedure, Arms and munitions, Exports, Freight, Imports, Intergovernmental relations, Law enforcement officers, Military personnel, Penalties, Reporting and recordkeeping requirements, Research, Seizures and forfeitures, Transportation.

For the reasons discussed in the preamble, ATF proposes to amend 27 CFR parts 447 and 478 as follows:

PART 447—IMPORTATION OF ARMS, AMMUNITION AND IMPLEMENTS OF WAR

■ 1. The authority citation for part 447 continues to read as follows:

Authority: 22 U.S.C. 2778; E.O. 13637, 78 FR 16129 (Mar. 8, 2013).

■ 2. Amend the title of part 447 to read ''Importing Arms, Ammunition, and Defense Articles'';

■ 3. Amend § 447.11 by revising the definition of ''Import or importation'', including its heading, to read as follows:

§ 447.11 Meaning of terms.

* * * * *

Importing (or importation). Bringing into the United States from a foreign country any of the articles on the Import List. For purposes of this definition, importing does not include intransit, temporary import, or temporary export transactions subject to Department of State controls under the International Traffic in Arms Regulations (ITAR) at 22 CFR parts 120–130 or to Department of Commerce controls under the Export Administration Regulations (EAR) at 15 CFR parts 730–774, while within the term of a valid ITAR authorization or a valid EAR entry clearance. However, if an importer converts such articles to remain in the United States permanently in compliance with the procedures at § 447.42, they fall under this definition.

* * * * *

■ 4. Amend § 447.42 by:

■ a. Revising the section heading and paragraphs (a) and (b); and

■ b. Adding a new paragraph (c).

Revisions and addition read as follows:

§ 447.42 Applying for permit.

(a) (1) Persons required to obtain a permit as provided in § 447.41 must file a Form 5330.3A, Application/Permit to Import Firearms, Ammunition, and Defense Articles (''Form 6, part I''). The application must be signed and dated and must contain the information requested on the form, including:

(i) Importer's name, address, telephone number, license and registration number, if any (including expiration date);

(ii) Country from which importing the defense article;

(iii) Foreign seller and foreign shipper's name and address;

(iv) Description of the defense article being imported, including:

(A) Manufacturer's name and address (including for a ''privately made firearm,'' if a firearm privately made in the United States);

(B) Type (*e.g.,* rifle, shotgun, pistol, revolver, aircraft, vessel, and in the case of ammunition only, ball, wadcutter, shot, etc.);

(C) Caliber, gauge, or size;

(D) Model;

(E) Length of barrel, if any (in inches);

(F) Overall length, if a firearm (in inches);

(G) Serial number, if known;

(H) Whether the defense article is new or used;

(I) Quantity;

(J) Firearm, firearm barrel, ammunition, or other defense article's unit cost;

(K) Category of U.S. Munitions Import List under which the article is regulated;

(v) Specific purpose for importing, including final recipient information if different from the importer; and

(vi) Certification of origin.

(2) (i) If the appropriate ATF officer approves the application, it serves as a permit to import the described defense article. The licensed/registered importer (if applicable) may continue to import such defense articles under the approved application (permit) during the permit's specified period. The appropriate ATF officer will furnish the approved application (permit) to the applicant and retain two copies for administrative use.

(ii) If the Director disapproves the application, ATF will notify the licensed/registered importer (if applicable) of the reason.

(b) If importing plastic explosives into the United States, *see* § 555.183 of this title for additional requirements.

(c) When a licensed importer wishes to permanently import items that are already in the United States pursuant to a temporary import license (DSP–61) issued by the Department of State (or an exemption under 22 CFR 123.4) or pursuant to entry clearance requirements for temporary imports maintained by the Department of Commerce under 15 CFR 758.10, the importer must submit a Form 6, part I to apply for approval from ATF pursuant to the Arms Export Control Act.

(1) When importing under paragraph (c), importers must complete a Form 6, part I as if the item were being imported directly from the foreign source from which it was temporarily imported, except that importers must attach to the Form 6, part I a copy of the DSP–61 issued by the Department of State, entry documents showing that they claimed an exemption under 22 CFR 123.4, or a copy of the temporary import entry clearance documents the importer provided to U.S. Customs and Border Protection pursuant to 15 CFR 758.10. Importers must also indicate on Form 6, part I that they intend to convert the temporary import to a permanent import.

(2) The Director will approve such applications if:

(i) The licensed importer submits the information as required by paragraph (c)(1);

(ii) The items being converted may be imported consistent with the provisions of this part, the Gun Control Act (18 U.S.C. chapter 44), and the National Firearms Act (26 U.S.C. chapter 53);

(iii) Permanently importing the items would not violate any other federal law or regulation; and

(iv) At the time the application was submitted, the firearms were lawfully present in the United States pursuant to a valid temporary import license (DSP–61) issued by the Department of State (or an exemption under 22 CFR 123.4) or in compliance with entry clearance requirements under 15 CFR 758.10.

(3) For applications approved under this paragraph, the Director will indicate they are valid unless and until revoked.

PART 478—COMMERCE IN FIREARMS AND AMMUNITION

■ 5. The authority citation for part 478 continues to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 847, 921–931; 44 U.S.C. 3504(h).

■ 6. Amend § 478.112 by:

■ a. Revising the section heading and paragraph (a);

■ b. Amending paragraph (b);

■ c. Revising paragraphs (c) and (d); and

■ d. Adding a new paragraph (e).

The revisions, amendments, and addition read as follows:

§ 478.112 Importing by a licensed importer.

(a) No licensed importer (as defined in § 478.11) may import or bring into the United States any firearm, firearm barrel, or ammunition unless the Director has authorized the importer to import the firearm, firearm barrel, or ammunition.

(b)(1) The importer must submit an application for a permit, ATF Form 5330.3A, Application/Permit to Import Firearms, Ammunition, and Defense Articles (''Form 6, part I''), in triplicate, to the Director to import or bring a firearm, firearm barrel, or ammunition into the United States or a possession thereof under this section. The importer must sign and date the application and must include the information requested on the form, including:

(i) Importer's name, address, telephone number, and license number (including expiration date);

(ii) Country from which importing;
(iii) Foreign seller and foreign shipper's name and address;
(iv) Firearm, firearm barrel, or ammunition's description, including:
(A) Manufacturer's name and address;
(B) Type (*e.g.,* rifle, shotgun, pistol, revolver and, in the case of ammunition only, ball, wadcutter, shot, etc.);
(C) Caliber, gauge, or size;
(D) Model;
(E) Barrel length, if a firearm or firearm barrel (in inches);
(F) Overall length, if a firearm (in inches);
(G) Serial number, if known;
* * * * *
(I) Quantity;
(J) Firearm, firearm barrel, or ammunition's unit cost;
(v) Specific purpose for importing, including final recipient information if different from the importer;
(vi) Verification that, if a firearm, it will be identified as required by this part; and
* * * * *
(B) If a firearm or ammunition for competition or training pursuant to 19 U.S.C. chapter 401, a statement describing such intended use; or
* * * * *
(D) If a firearm other than a surplus military firearm, of a type that does not fall within the definition of a firearm under 26 U.S.C. 5845(a), and is for sporting purposes, an explanation of why the firearm is generally recognized as particularly suitable for or readily adaptable to sporting purposes; or
* * * * *
(2)(i) If the Director approves the application, it serves as a permit to import the firearm, firearm barrel, or ammunition, and the licensed importer may continue to import such firearms, firearm barrels, or ammunition under the approved application (permit) during the permit's specified period. The Director will furnish the approved application (permit) to the applicant and retain two copies for administrative use.
(ii) If the Director disapproves the application, ATF will notify the importer-of the reason.
(c) A firearm, firearm barrel, or ammunition imported or brought into the United States or a possession thereof under the provisions of this section by a licensed importer may be released from U.S. Customs and Border Protection (CBP) custody to the importer when the importer presents a permit from the Director to release the imported firearm, firearm barrel, or ammunition. The importer will also submit to CBP a copy of the export license authorizing the importer to export the firearm, firearm barrel, or ammunition from the exporting country. If the exporting country does not issue an export license, the importer must submit a certification, under penalty of perjury, to that effect.
(1) The importer must prepare ATF Form 5330.3C, Release/Receipt of Imported Firearms, Ammunition, and Defense Articles (''Form 6A''), in duplicate, and furnish the original Form 6A to the CBP officer releasing the firearm, firearm barrel, or ammunition. The CBP officer will, after certification, send the Form 6A to the address specified on the form.
(2) Form 6A must contain the information requested on the form, including the:
(i) Importer's name, address, and license number;
(ii) Manufacturer's name;
(iii) Country in which manufactured;
(iv) Type;
(v) Model;
(vi) Caliber, gauge, or size;
(vii) Serial number, in the case of firearms (if known); and
(viii) Number of firearms, firearm barrels, or rounds of ammunition released.
(d) Within 15 days after the date CBP releases the item from its custody, the licensed importer must:
(1) Submit to ATF a copy of Form 6A (address on form) that reports any error or discrepancy appearing on the Form 6A certified by CBP and adds serial numbers if not previously provided on Form 6A;
(2) Pursuant to § 478.92, place all required identification data on each imported firearm that did not bear such identification data when it was released from CBP custody; and
(3) Post all required information about the import in the records the importer is required to maintain under subpart H of this part.
(e) For firearms imported under a Department of State authorization or the Department of Commerce entry clearance requirements under 15 CFR 758.10 for temporary import that were not marked in accordance with paragraph (d) of this section (*e.g.,* pursuant to a marking exception) and were later converted to a permanent import pursuant to 27 CFR 447.42(c), importers must add identifying markings as prescribed in § 478.92 or § 479.102 of this part, as applicable, within 15 days after ATF approves the conversion.
(1) For firearms to which identifying markings were added after the item was converted to a permanent import, importers must also submit a Form 6A to ATF within the same 15-day period. Form 6A must identify the converted items, include serial numbers for converted firearms in accordance with paragraph (d) of this section, and note that they are converted items. Importers do not need to submit a copy of Form 6A to CBP, because these items were released from CBP custody when temporarily imported.
(2) When ATF approves the conversion, it does not relieve importers or owners from statutory or regulatory provisions, including record-keeping or notice obligations, administered or enforced by the agency that approved the items' temporary import.

Robert Cekada,

Director.

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DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Part 478

[Docket No. ATF–2026–0337; ATF No. 2025R–24P]

RIN 1140–AB04

Revising Definitions of ''Adjudicated as a Mental Defective'' and ''Committed to a Mental Institution''

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms, and Explosives (''ATF'') proposes amending Department of Justice (''Department'') regulations to update the definitions of ''adjudicated as a mental defective'' and ''committed to a mental institution.''

DATES: Comments must be submitted in writing, and must be submitted on or before (or, if mailed, must be postmarked on or before) August 6, 2026. Commenters should be aware that the federal e-rulemaking portal comment system will not accept comments after midnight Eastern Time on the last day of the comment period.

ADDRESSES: You may submit comments, identified by RIN 1140–AB04, by either of the following methods—

- *Federal e-rulemaking portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* ATF Rulemaking Comments; Mail Stop 6N–518, Office of Regulatory Affairs; Enforcement Programs and

Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave. NE, Washington, DC 20226; *ATTN: RIN 1140–AB04.*

Instructions: All submissions must include the agency name and number (RIN 1140–AB04) for this notice of proposed rulemaking (''NPRM'' or ''proposed rule''). ATF may post all properly completed comments received from either of the methods described above, without change, to the federal e-rulemaking portal, *https://www.regulations.gov.* This includes any personally identifying information (''PII'') or business proprietary information (''PROPIN'') submitted in the body of the comment or as part of a related attachment they want posted. Commenters who submit through the federal e-rulemaking portal and do not want any of their PII posted on the internet should omit it from the body of their comment and any uploaded attachments that they want posted. If online commenters wish to submit PII with their comment, they should place it in a separate attachment and mark it at the top with the marking ''CUI//PRVCY.'' Commenters who submit through mail should likewise omit their PII or PROPIN from the body of the comment and provide any such information on the cover sheet only, marking it at the top as ''CUI//PRVCY'' for PII, or as ''CUI//PROPIN'' for PROPIN. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at *https://www.regulations.gov.* Commenters must submit comments by using one of the methods described above, not by emailing the address set forth in the following paragraph.

FOR FURTHER INFORMATION CONTACT: Office of Regulatory Affairs, by email at *ORA@atf.gov,* by mail at Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave. NE, Washington, DC 20226, or by telephone at 202–648–7070 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Attorney General is responsible for enforcing the Gun Control Act of 1968 (''GCA''), as amended. This responsibility includes the authority to promulgate regulations necessary to enforce the provisions of the GCA.[1] *See* 18 U.S.C. 926(a). Congress and the Attorney General have delegated the responsibility for administering and enforcing the GCA to the Director of ATF (''Director''), subject to the direction of the Attorney General and the Deputy Attorney General. *See* 28 U.S.C. 599A(b)(1), (c)(1); 28 CFR 0.130(a)(1)–(2); Treas. Order No. 221(2)(a), (d), 37 FR 11696–97 (June 10, 1972).[2] Accordingly, the Department and ATF have promulgated regulations to implement the GCA in 27 CFR part 478.

The GCA, at 18 U.S.C. 922(g)(4), prohibits any person ''who has been adjudicated as a mental defective or who has been committed to a mental institution'' from shipping, transporting, possessing, or receiving any firearm or ammunition. Additionally, section 922(d)(4) of the GCA prohibits any person from selling or otherwise disposing of a firearm or ammunition to a person who he knows or has reasonable cause to believe ''has been adjudicated as a mental defective or has been committed to any mental institution at 16 years of age or older.'' Congress has not further defined the terms ''adjudicated as a mental defective'' or ''committed to a mental institution'' as used in these provisions.

In 1997, ATF issued a final rule titled ''Definitions for the Categories of Persons Prohibited From Receiving Firearms,'' to facilitate implementation of the National Instant Criminal Background Check System (''NICS''). 62 FR 34634–02 (Jun. 27, 1997). NICS provides a searchable database of federal, state, local, and tribal records on persons who are legally prohibited from possessing firearms, including persons prohibited under the GCA. The 1997 final rule therefore included definitions for several terms used in the GCA, including ''adjudicated as a mental defective,'' ''committed to a mental institution,'' and ''mental institution.''

Relevant here, the 1997 rule defined ''adjudicated as a mental defective'' as ''[a] determination by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease'' (1) ''[i]s a danger to himself or to others; or'' (2) ''[l]acks the mental capacity to contract or manage his own affairs.'' The rule further specified that the term ''shall include'' (1) ''[a] finding of insanity by a court in a criminal case'' and (2) ''persons found incompetent to stand trial or found not guilty by reason of lack of mental responsibility pursuant to articles 50a and 72b of the Uniform Code of Military Justice.'' As for the term ''committed to a mental institution,'' the rule defined it to mean ''[a] formal commitment of a person to a mental institution by a court, board, commission, or other lawful authority,'' other than admission for purposes of ''observation'' or ''a voluntary admission to a mental institution.'' These definitions from the final rule are currently codified at 27 CFR 478.11.

Two aspects of ATF's creation and interpretation of these definitions warrant further discussion. Prior to the 1997 final rule, ATF published a proposed rule to solicit comments on its proposed definitions for the various categories of persons who are prohibited from receiving or possessing firearms under the GCA. *See* Definitions for the Categories of Persons Prohibited From Receiving Firearms (95R–051P), 61 FR 47095–01 (Sep. 6, 1996). In discussing the definition of ''adjudicated as a mental defective,'' the proposed rule explained that ATF had looked at the Department of Veterans Affairs' (''VA'') definition of ''mental incompetent'' when defining this statutory term. *See* 61 FR 47097. The VA definition of ''mental incompetency,'' which was first published in 1975,[3] provides that ''[a] mentally incompetent person is one who because of injury or disease lacks the mental capacity to contract or to manage his or her own affairs, including disbursement of funds without limitation.'' 38 CFR 3.353(a). The 1997 final rule stated that the VA in a comment on the proposed rule had ''correctly interpreted [ATF's] proposed definition of 'adjudicated as a mental defective' to mean that any person who is found incompetent by the [VA] under 38 CFR 3.353 will be considered to have been adjudicated as a mental defective for purposes of the GCA.'' 62 FR 34637. Accordingly, in practice, such persons

[1] Some GCA provisions still refer to the ''Secretary of the Treasury.'' However, the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, transferred the functions of ATF from the Department of the Treasury to the Department of Justice, under the general authority of the Attorney General. 26 U.S.C. 7801(a)(2); 28 U.S.C. 599A(c)(1). Thus, for ease of reference, this proposed rule refers to the Attorney General where relevant.

[2] In Attorney General Order Number 6353–2025, the Attorney General delegated authority to the Director to issue regulations pertaining to matters within ATF's jurisdiction, including under the National Firearms Act, GCA, and Title XI of the Organized Crime Control Act. ATF's jurisdiction also includes those portions of sec. 38 of the Arms Export Control Act pertaining to permanently importing defense articles and services and the Contraband Cigarette Trafficking Act.

[3] 40 FR 1241 (Jan. 7, 1975).

are covered by ATF's current definition of the term.

In defining ''mental defective,'' the 1997 final rule also brought many mentally ill (as opposed to intellectually incompetent) individuals within the ambit of that term. For instance, in response to the proposed rule, the Department of Defense (''DoD'') commented that the Uniform Code of Military Justice had recently been amended to include procedures for the commitment of military personnel found not guilty for reason of lack of mental responsibility. DoD accordingly recommended that ''[t]he definition [of 'adjudicated as a mental defective'] shall also include those persons found incompetent to stand trial or found not guilty by reason of lack of mental responsibility pursuant to articles 50a and 72b of the Uniform Code of Military Justice, 10 U.S.C. 850a, 876b.'' As noted above, ATF added these individuals to the definition of ''adjudicated as a mental defective'' in the final rule. 62 FR 34637. ATF also expressly included in the 1997 rule certain other categories of mentally ill persons, such as those found insane in a criminal case and those determined, as a result of mental illness, to pose a danger to themselves or others. *Id.*[4]

II. Proposed Rule

A. Discussion

As a result of congressional restrictions placed on the VA's use of appropriated funds to report its incompetency determinations to NICS pursuant to 18 U.S.C. 922(g)(4), ATF conducted a review of its existing definitions of ''adjudicated as a mental defective'' and ''committed to a mental institution'' at 27 CFR 478.11. A review of both the VA competency process under 38 CFR 3.353 and the contemporaneous public meaning of the term ''mental defective'' indicates that the current regulatory definitions are not a correct interpretation of the statute in all respects.[5] *First,* ATF believes its current regulation defining ''adjudicated as a mental defective'' is overbroad because it encompasses individuals who do not suffer from the kinds of mental disabilities that fell within the term ''mental defective'' at the time the GCA was enacted. Specifically, the regulation—at least as the 1997 final rule has been interpreted—encompasses individuals who have narrow functional deficits, such as the inability only to manage financial benefits. Those with isolated functional deficits are not the kind of individuals who were understood to be mentally defective as that term was used in the GCA. Nor are such individuals the kind of irresponsible or dangerous persons who Congress sought to prohibit from possessing firearms under sections 922(g)(4) and (d)(4).[6]

Second, ATF believes its current regulations also fail to properly distinguish between ''adjudicated as a mental defective'' and ''committed to a mental institution.'' For example, in the 1997 final rule, ATF accepted the DoD's comment that the definition of ''mental defective'' should be adjusted to also include certain military personnel who were ''found not guilty by reason of lack of mental responsibility,'' and therefore necessarily committed. 62 FR 34637.[7] But individuals who are involuntarily committed in that way should be primarily disqualified based on the ''committed to a mental institution'' prong of 18 U.S.C. 922 (g)(4) and (d)(4), not the ''adjudicated as a mental defective'' prong.[8] Similarly, ATF understands that individuals found by courts to be ''a danger to [themselves] or to others,'' or found ''not guilty by reason of insanity,'' will likely be committed to mental institutions. ATF's current regulatory classification of these individuals as ''mental defective[s]'' thus appears to improperly blend two different disqualifications under 18 U.S.C. 922(g)(4) and (d)(4).

This proposed rule would thus make two principal changes to ATF's current regulatory definitions. First, the proposed rule would clarify that the term ''adjudicated as a mental defective'' describes specifically those individuals who, as a result of a serious global intellectual deficit, cannot responsibly handle firearms. The rule would make clear that individuals who present solely with isolated functional deficits, such as the inability to manage their government benefits, are not mentally defective within the meaning of the GCA. Second, the proposed rule would more explicitly distinguish the ''adjudicated as a mental defective'' and ''committed to a mental institution'' prongs of sections 922(g)(4) and (d)(4). ATF requests comments on this proposed further distinction.

1. Little Analysis Supports the Current Regulatory Definition of ''Adjudicated as a Mental Defective''

The GCA prohibits the possession by, or disposition of a firearm to, a person who is ''adjudicated as a mental defective *or* has been committed to a mental institution.'' 18 U.S.C. 922(g)(4) (emphasis added); *see also* 18 U.S.C. 922(d)(4). The use of the word ''or'' indicates a disjunctive: either adjudication as a mental defective or an involuntary commitment qualifies. However, both ATF regulations and some cases have failed to distinguish these separate prongs.

From 1968 until the passage of the Brady Handgun Violence Prevention Act of 1993 (''Brady Act''), Public Law

[4] In 2014, the Department published an NPRM, ''Amended Definition of 'Adjudicated as a Mental Defective' and 'Committed to a Mental Institution,' '' 79 FR 774–01 (Jan 7, 2014), which it withdrew on September 11, 2025, without ever finalizing. *See* Withdrawal of Rulemaking Actions, 90 FR 43948, Table 1 (Sept. 11, 2025). Relevant here, the proposed rule would have amended the regulatory definition of ''adjudicated as a mental defective'' to clarify that the term includes (1) persons who are found incompetent to stand trial or not guilty by reason of mental disease or defect, lack of mental responsibility, or insanity, as well as (2) persons found guilty but mentally ill. But the proposed rule would not have otherwise altered the operative definition of ''mental defective,'' so that the term would still have included anyone who lacks the ''mental capacity to contract or manage [one's] own affairs.'' Finally, the proposed rule also contained clarifications to the term ''committed to a mental institution.'' In support of these actions, the 2014 NPRM cited floor statements from certain members of Congress for the proposition that Congress ''intended that the prohibition against the receipt and possession of firearms would apply broadly to 'mentally unstable' or 'irresponsible' persons.'' 79 FR 774–01, 775. But floor statements of individual members of Congress are a weak form of legislative history. These statements, moreover, expressed generic aims of implementing federal gun control; they did not purport to be an analysis of the term ''mental defective.'' *See, e.g.,* 114 Cong. Rec. 21780 (1968) (statement of Rep. Sikes) (''I know there is a need for sane legislation which is intended to keep weapons out of the hands of criminals and mentally irresponsible persons.''). ATF thus does not believe that the 2014 NPRM correctly interpreted the law when it tried to expand the categories of those deemed ''mentally defective'' to encompass anyone found ''guilty but mentally ill.'' The 2014 NPRM employed a purposive approach to statutory construction that attempted, for policy reasons, to expand the scope of the statute's plain meaning. As explained further below, ATF proposes that mental illness qualifies under ''mental defective'' only when the mental illness is so severe that a person require guardianship.

[5] When interpreting a statute, courts examine the ''ordinary, contemporary, common meaning'' of the words when Congress enacted it. *Food Mktg. Inst.* v. *Argus Leader Media,* 588 U.S. 427, 433–434 (2019).

[6] *See* 114 Cong. Rec. 21657, 21791, 21832, and 22270 (1968).

[7] The 1997 rule explained that DoD had noted that the Uniform Code of Military Justice had recently been amended to include procedures for commitment of military personnel found not guilty by reason of lack of mental responsibility. *See* 10 U.S.C. 876b(b). DoD apparently believed that these procedures fit better under the ''adjudicated as a mental defective'' prong than the ''committed to a mental institution'' prong, but did not explain why.

[8] In proposing to more clearly separate these two categories, ATF recognizes that there may still be some overlap between them. For example, in the military context, a servicemember who suffered a significant and permanent brain injury could become mentally defective within the meaning of the GCA. If the servicemember later committed a crime and was judged to be permanently irresponsible for his actions, he could also be involuntarily committed.

103–159 (107 Stat. 1536), ATF did not attempt to define what constituted adjudication as a mental defective or commitment to a mental institution. Only when the Brady Act required the Attorney General to establish NICS did ATF seek to clarify the categories of prohibited persons, so that it could facilitate the implementation of NICS. ATF did so by publishing the 1996 notice of proposed rulemaking, described above, proposing various definitions for the statutory categories of prohibited persons. *See* 61 FR 47095–01 (Sep. 6, 1996).

With respect to the definition of ''adjudicated as a mental defective,'' the 1996 proposed rule contained little legal analysis. ATF simply recited that it had ''examined the legislative history of the term, applicable case law, and the interpretation of the term by other federal agencies.'' 61 FR 47097. Citing various floor statements of individual members of Congress, ATF declared that ''[t]he legislative history makes it clear that Congress would broadly apply the prohibition against the ownership of firearms by 'mentally unstable' or 'irresponsible' persons.'' *Id.* And citing a lower court opinion, ATF further remarked that ''the GCA is designed to prohibit the receipt and possession of firearms by individuals who are potentially dangerous, including those individuals who are mentally incompetent or afflicted with mental illness.'' *Id.*

This discussion was not a proper statutory analysis. As ATF itself acknowledged in the proposed rule, federal law does not prohibit the possession of firearms by individuals who are simply ''afflicted with mental illness,'' *id.,* which could cover over 23% of the adult population.[9] Instead, federal law prohibits the possession and receipt of firearms only by persons ''adjudicated'' as a ''mental defective'' or involuntarily committed. 18 U.S.C. 922(g)(4); *accord* 18 U.S.C. 922(d)(4). Nevertheless, neither the 1996 notice of proposed rulemaking nor the 1997 final rule undertook any comprehensive analysis of the meaning of the key term ''mental defective.''

2. Problems With the Definition of ''Adjudicated as a Mental Defective'' as Applied to VA and Social Security Determinations of Incompetency

Recent controversies concerning veterans and social security recipients who have been disarmed because they were determined to require assistance managing their benefits demonstrate the overbreadth of the current regulatory definition of ''adjudicated as a mental defective.'' The disarming of large numbers of veterans and social security recipients shows that the current regulation both encompasses too many people and fails to identify adequate procedural protections necessary for an adjudication.

VA regulations at 38 CFR 3.353 outline the procedures and criteria used by the VA to assess a veteran's mental competency or incompetency to manage their VA benefits. The VA regulation provides that a rating agency must not independently determine a person to be incompetent unless the medical evidence ''is clear, convincing, and leaves no doubt as to the person's incompetency.'' Further, the regulation provides that ''[d]eterminations relative to incompetency should be based upon all evidence of record and there should be a consistent relationship between the percentage of disability, facts relating to commitment or hospitalization and the holding of incompetency.'' *Id.* at § 3.353(c). However, the regulation does not expressly indicate that the VA as part of this competency evaluation assesses whether the person is so impaired that they pose a danger to themselves or others, or otherwise present a public safety threat. If the VA determines that a veteran is not competent, the VA appoints a fiduciary to assist the veteran with financial affairs. *Id.* at § 3.353(b)(2). The procedures set forth in the regulation also permit the veteran to be reexamined after an initial determination of incompetency, if evidence arises ''indicating that the beneficiary may be capable of administering the funds payable without limitation.'' *Id.* at § 3.353(b)(3).

Beginning in 2024, Congress prohibited the VA from using appropriated funds to report to NICS a veteran deemed incompetent and assigned a fiduciary without a court ruling that the veteran is a danger to themselves or others. Congress has since continued that prohibition at least through September 30, 2026.[10] Because the prohibition may expire, however, ATF decided to reexamine whether persons who have been deemed incompetent only with respect to managing financial benefits should fall under the definition of ''adjudicated as a mental defective.'' Although ATF turned to the VA's regulations when defining the statutory phrase in 1997, ATF now believes that the VA process for determining mental incompetency under section 3.353 is insufficient, standing alone, to support a determination that a person ''has been adjudicated as a mental defective'' within the meaning of the GCA. This is in part because the VA ultimately makes determinations only with respect to whether veterans are competent to manage the financial benefits they have earned, and its assessments are not intended to determine competency outside of the financial-literacy context.[11] In other words, the VA's competency procedure focuses specifically on the ability to manage VA benefits.[12] The VA's process does not necessarily determine or even in all cases review whether persons have sufficient intellectual capacity for other responsibilities that do not involve navigating complex regulatory schema, such as entering contracts, managing property, providing consent, or taking proper care of themselves.[13] Thus, the VA's competency determinations provide neither a conclusion about nor any definite insight into whether an individual should be considered a danger to themselves or others based on their intellectual capacity (or lack thereof), such that they should necessarily be restricted from possessing firearms under the GCA. As its recent appropriations restriction reflects, Congress is concerned about the extension of VA competency determinations into the GCA context and the impact those determinations have had on the ability of veterans to exercise their Second Amendment rights.

In addition to asking an inapposite question, VA incompetency determinations have also exhibited

[9] National Institute of Mental Health, *Mental Illness Statistics, https://www.nimh.nih.gov/health/statistics/mental-illness* [*https://perma.cc/2MCC-YL5L*].

[10] *See* Consolidated Appropriations Act of 2024, Public Law 118–42, sec. 413 (Mar. 9, 2024); Military Construction, Veterans Affairs, and Related Agencies Appropriations Bill, 2026, Public Law 119–37, sec. 413, 139 Stat. 496, 625–26 (Nov. 12, 2025); *see also* Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and Extensions Act, 2026, 139 Stat. 495 (2025).

[11] *See e.g., In re Estate of Dokken,* 604 NW2d 487, 493 (S.D. 2000) (holding that, although the testator was found incompetent for VA purposes pursuant to 38 CFR 3.353, he retained testamentary capacity under state law).

[12] *See, e.g.,* 38 CFR 3.353(b)(2) (listing the outsourcing of benefits management responsibilities away from the veteran and to a responsible third party as the sole effect of a determination of incompetency under this section); *id.* 3.353(b)(2) (explaining that a ''prior determination of incompetency'' should be reexamined if ''the Veterans Service Center Manager develops evidence indicating that the beneficiary may be capable of administering the fun ds payable without limitation'').

[13] Additionally, as further explained below, the VA competency determination generally does not result from an ''adjudication.''

procedural limitations that cast doubt on whether they qualify as ''adjudicat[ions]'' under sections 922(g)(4) and (d)(4). A review by the VA indicates that, in the vast majority of incompetency determinations, there was no adjudicative process sufficient to support a deprivation of fundamental constitutional rights. In particular, although the VA has reported over 250,000 veterans to NICS since its inception, it appears that most were determined to be mentally incompetent by an in-house rating professional, not a judge or other independent arbiter.[14] Moreover, although a veteran can in theory request a hearing before a final incompetency determination is entered, such hearings are rarely held in practice.[15] Therefore, beneficiaries often lose their Second Amendment rights without an adversarial proceeding when they gain a fiduciary to manage their VA benefits.[16]

The lack of adversarial proceedings creates problems under both the GCA and the Constitution. Under the GCA, administrative determinations are insufficient to constitute an ''adjudicat[ion]'' within the meaning of 18 U.S.C. 922(d)(4) and (g)(4). Under the Constitution, there are serious questions whether the Second Amendment and the Due Process Clauses of the Fifth and Fourteenth Amendments permit individuals to be deprived indefinitely of the right to bear arms based on a finding of mental incapacity when no hearing to determine their incapacity took place.

Nonetheless, the impact of VA incompetency determinations on veterans' ability to own firearms has been significant. In 2025, the VA's Acting Principal Deputy Undersecretary for Benefits, Veterans Health Administration, testified to Congress that, in the year prior to the appropriations restriction, the VA reported approximately 13,000 individuals to NICS.[17] But she testified that in 2024, due to the appropriations requirement that imposed a more stringent standard for the VA's NICS reporting, the VA reported only three persons to NICS—persons who were not simply deemed incompetent but who had been found under judicial orders to pose a danger to themselves or others.[18] This change indicates that too many veterans have been disarmed over the years under ATF's overbroad definition of ''adjudicated as a mental defective,'' often without formal adjudicatory proceedings.[19]

Similar problems also existed with Social Security regulations. The Social Security regulations provide that benefits for purposes of federal old age, survivors, and disability insurance (20 CFR part 404) and supplemental security income for aged, blind, and disabled (20 CFR part 416) may be made to a representative payee. Payments may be made to a representative payee, in relevant part, when the beneficiary is determined to be legally incompetent or mentally incapable of managing benefit payments, or physically incapable of managing or directing the management of his or her benefit payments. 20 CFR 404.210, 416.610. In appointing a representative payee, the Social Security Administration (''SSA'') considers court determinations that the individual is found legally incompetent; medical evidence to determine whether the beneficiary is capable of managing or directing the management of payments through, for example, physician or medical professional examinations; and statements from relatives, friends, and other people in a position to know and observe the beneficiary, which would include information helpful to deciding whether the beneficiary is able to manage or direct the management of benefit payments. 20 CFR 404.2015, 416.615.

The beneficiary may submit additional evidence of the decision, seek reconsideration of the decision, and request a hearing before an Administrative Law Judge (''ALJ''). *See* 20 CFR part 404, subpart J; part 416, subpart N. If dissatisfied with the ALJ decisions, the beneficiary can request a review by the Appeals Counsel. Finally, if dissatisfied with the Appeals Counsel decision, the beneficiary may file an action for review in federal district court.

In 2009, the SSA General Counsel advised ATF that the SSA does not adjudicate individuals as ''mental defectives,'' or commit individuals to mental institutions, within the meaning of the GCA. Therefore, the SSA did not need to establish a federal relief of disability program under the NICS Improvement Amendment Act of 2007 (''NIAA''), which mandated that federal agencies provide relevant records to the Attorney General for inclusion in NICS. In 2010, ATF stated in a memorandum to the Department's Office of Legal Policy that the SSA procedures fell under the ''adjudicated mental defective'' provision of 18 U.S.C. 922(g)(4) and 27 CFR 478.11 because the SSA makes formal decisions with due process that, due to a mental condition, a person is unable to manage his benefit payments and appoints a representative payee. On December 19, 2016, the SSA issued a final rule to implement the provisions of the NIAA. 81 FR 91702 (2016). The final rule added a new part to SSA regulations that established a program for identifying, on a prospective basis, records for inclusion in NICS, procedures to provide notice to the individuals affected, and a relief program. Specifically, the SSA provision, 20 CFR 421.110, provided that SSA will report to NICS those individuals, in relevant part, that the SSA has determined ''based on a finding

[14] *See* Jordan B. Cohen, Cong. Research Serv., TE10109, *Correcting VA's Violations of Veterans' Due Process and Second Amendment Rights,* at 6 (Jan. 23, 2025) (''The VA employees tasked with adjudicating whether a veteran is financially incompetent are Veterans Service Representatives and Rating Veterans Services Representatives and their training does not require them to have legal or medical expertise.''); *see also id.* at 7 (''As of the end of 2023, of the 270,851 active entries in NICS submitted by federal agencies for having been 'adjudicated as a mental defective' or committed to mental institutions, 264,893 (97.8%) were submitted by the VA, though all of these were not necessarily because a veteran was determined mentally incompetent and needed a fiduciary to collect benefit payments.'').

[15] ''In FY2022, VA data indicates there were 135 hearings on incompetency determinations, 24 of which resulted in a finding of competency.'' Jordan B. Cohen, Cong. Research Serv., TE10109, *Correcting VA's Violations of Veterans' Due Process and Second Amendment Rights,* at 8 (2025). By contrast, the VA before FY2024 *reported* upwards of 10,000 individuals to NICS annually. *See* Legislative Hearing on H.R. 472; H.R. 1041; H.R. 740; and H.R. 1391, Before the H. Comm. On Veterans' Affairs, 119th Cong., at 28–29 (Feb. 25, 2025) (statement of Beth Murphy, Acting Principal Deputy Undersecretary for Benefits, Veterans Health Administration, U.S. Department of Veterans Affairs).

[16] *See generally* Jordan B. Cohen and Madeline D. Moreno, Cong. Research Serv., R47626, *Gun Control, Veterans' Benefits, and Mental Incompetency Determinations* (2023); *see also generally* Lynn Sears, Cong. Research Serv., IF13019, *The VA Fiduciary Program, An Overview* (2025); Jordan B. Cohen, Cong. Research Serv., TE10109, *Correcting VA's Violations of Veterans' Due Process and Second Amendment Rights* (2025).

[17] *See* Legislative Hearing on H.R. 472; H.R. 1041; H.R. 740; and H.R. 1391, Before the H. Comm. On Veterans' Affairs, 119th Cong., at 28–29 (Feb. 25, 2025) (statement of Beth Murphy, Acting Principal Deputy Undersecretary for Benefits, Veterans Health Administration, U.S. Department of Veterans Affairs). However, this 13,000 figure is a snapshot in time and is fluid. The VA takes steps to monitor and update the files it submits to NICS. If a file no longer meets the requirements to be considered ''adjudicated as a mental defective,'' then it is removed from NICS.

[18] *Id.*

[19] ATF notes, following its own review, VA independently concluded that fiduciary incompetency determinations under 38 U.S.C. 5502 do not constitute lawful adjudications within the meaning of 18 U.S.C. 922(g)(4), as such determinations lack the judicial finding of dangerousness or mental defectiveness that the statute requires. Consistent with this conclusion, VA directed the removal from the NICS Indices of records submitted solely on the basis of fiduciary appointments, while retaining in NICS any records that had an independent qualifying basis. VA's prior action thus reflects the same legal distinction ATF's proposed rule would now formalize, and supports the accuracy of ATF's proposed revised definition.

that the individual's impairment(s) meets or medically equals the requirements of one of the Mental Disorders Listing of Impairments (section 12.00 of appendix 1 to subpart P of part 404 of this chapter) under the rules in part 404, subpart P, of this chapter, or under the rules in part 416, subpart I, of this chapter.'' 81 FR 91714. The SSA's mental disorders listing codified as part of the SSA's regulations includes various disorders including physical disorders, mental disorders, and neurological disorders. However, Congress disapproved of the SSA's final rule by joint resolution pursuant to the Congressional Review Act, which resulted in the final rule having no force and effect. Public Law 115–8 (Feb. 28, 2017).

The SSA determination suffers from the same flaw in the VA adjudication. The SSA process does not necessarily determine whether persons have sufficient intellectual capacity for other responsibilities beyond whether the beneficiary can manage their own affairs. Specifically, the determinations under 20 CFR 404.210 and 416.610 are specifically whether the beneficiary can manage or direct the management of payments. These competency determinations provide no insight into whether persons should be considered a danger to themselves or others based on their intellectual capacity. Congress evidenced their concern with the reporting of these adjudications to NICS as indicated by the Congressional Review Act disapproval of the SSA final rule that requires reporting of these records. As of December 2025, there is only one active entry in the NICS indices for an individual that is adjudicated mental defective from the SSA.

3. Judicial Interpretations of ''Adjudicated as a Mental Defective'' and ''Committed to a Mental Institution''

The need to reevaluate the regulatory definitions for the categories of persons prohibited from possessing or receiving firearms under sections 922(g)(4) and (d)(4) is made more acute by the fact that those definitions largely are not based upon relevant, reasoned judicial decisions. In formulating the definitions for ''adjudicated as a mental defective'' and ''committed to a mental institution,'' ATF relied on four judicial decisions—two from the Supreme Court and two from the courts of appeals. But at least as applied to the term ''adjudicated as a mental defective,'' the decisions that ATF cited are either off-topic or contain little legal analysis. The first Supreme Court decision, *Huddleston* v. *United States,* 415 U.S. 814 (1974), is about whether a pawn redemption is an ''acquisition'' within the meaning of section 922(a)(6) of the GCA. *Id.* at 815. Although *Huddleston* recited some broadly-applicable GCA legislative history (*e.g.,* a congressional floor statement that ''[n]o one can dispute the need to prevent . . . persons with a history of mental disturbances . . . from buying, owning, or possessing firearms''), and asserted that there ''can be no doubt of Congress's intention to deprive the juvenile, the mentally incompetent, the criminal, and the fugitive of the use of firearms,'' the decision did not reach any holding related to sections 922(d)(4) or (g)(4) in particular. *Id.* at 827–28. The Supreme Court's decision in *Barrett* v. *United States,* 423 U.S. 212 (1976), is similarly off topic; that case was about the commerce nexus required to convict someone of illegal possession of a firearm. *Id.* at 213.

Unlike the two Supreme Court cases, the two courts of appeals' opinions cited in the 1996 proposed rule do specifically address the relevant provisions of the GCA. Both decisions, however, are of little assistance. In *United States* v. *Buffaloe,* 449 F.2d 779 (4th Cir. 1971), the Fourth Circuit did no statutory analysis when it affirmed the defendant's section 922 false statement conviction for ''purchas[ing] pistols stating that he had never been adjudicated a mental defective or committed to a mental institution.'' *Id.* at 780. In that case, the Government proved the defendant had previously been acquitted by reason of insanity and then committed to a mental institution as a ''criminally insane person.'' *Id.* In one conclusory sentence, the Fourth Circuit held that ''[w]e agree with the district judge that [the defendant] was adjudicated and committed within the meaning of 18 U.S.C. 922(d)(4).'' 449 F.2d at 779. The court did not explain what ''mental defective'' meant or why the defendant fell within the category. The court effectively treated ''adjudicated as a mental defective'' and ''committed to a mental institution'' as a unitary phrase, not warranting separate analyses.

The second case, *United States* v. *Waters,* 23 F.3d 29 (2d Cir. 1994), involved a ''commitment,'' not an adjudication of mental defectiveness. The defendant in *Waters* had a prior admission to a psychiatric hospital, and the question presented was whether that admission constituted a ''commitment'' within the meaning of section 922(g)(4). *Id.* at 31. The court ultimately concluded that it did, but undertook no analysis of the term ''mental defective,'' which was not at issue. *Id.* at 36.

Unlike the four cases ATF cited in its earlier 1996 NPRM, the Eighth Circuit's decision in *United States* v. *Hansel,* 474 F.2d 1120 (8th Cir. 1973), thoroughly opined on the definition of ''adjudicated a mental defective'' as used in the GCA. In *Hansel,* an individual determined by the Board of Mental Health of Lancaster County, Nebraska to be ''mentally ill'' was convicted for falsely certifying in the course of purchasing a firearm that he had not been ''adjudicated a mental defective.'' [20] *Id.* at 1121–22. Because the term ''mental defective'' is not defined in the GCA, and the ATF regulations had not yet been issued, it fell to the court to consider as a matter of first impression the meaning of the term and decide whether it had been appropriately applied. *Id.* at 1123.

The *Hansel* court first considered trial testimony on the subject by the doctor who had examined Hansel while he was temporarily in a state mental hospital for observation. The doctor was asked if he was familiar with the term and its meaning; when he responded that he was, he was asked how he understood the term. The doctor stated that it would be ''an impairment of intellectual abilities so it would be synonymous with mental retardation.'' *Id.* at 1123. The doctor also stated that Hansel, who had a mental illness, would not qualify as mentally defective or deficient. *Id.* at 1123–24. The court also noted, citing several cases and other legal sources, that the law has usually distinguished between persons who are mentally defective or deficient—which ''normally designates an individual of marked subnormal intelligence''—and those who are mentally diseased or ill. *Id.* at 1124 (citing *People* v. *Thayer,* 121 Misc. 745, 202 N.Y.S. 633 (Ulster County Ct. 1923); Interstate Compact on Mental Health, 5A Ark. Stat. Ann.,§ 59–801; Herzog, Medical Jurisprudence, §§ 561–585 (1931); 1 Wharton and Stille, Medical Jurisprudence, §§ 1073–1093 (5th ed. 1905); *People* v. *Hoffmann,* 255 App. Div. 404, 8 N.Y.S.2d 83, 85 (App. Div. 1938)).

The *Hansel* court also reviewed several standard and psychiatric dictionaries to determine the meaning of ''mental defectiveness.'' The court noted that Webster's Dictionary (1935) defined

[20] The Board of Mental Health had ordered the defendant hospitalized, and so the government initially argued that the defendant had also been ''committed to a[] mental institution'' within the meaning of the GCA. *Hansel,* 474 F.2d at 1121–22. But ''[t]he government conceded on appeal that the defendant was not committed because there [had been] no compliance with [Nebraska state law governing commitment procedures].'' *Id.* at 1122–23.

the term as indicating ''marked subnormal intelligence'' or ''lack of intelligence,'' and further described subnormal intelligence levels as descending on a scale of ''moronity, imbecility, and idiocy.'' *Id.* The court also quoted a psychiatric dictionary from 1960, more closely aligned in time with the GCA and the *Hansel* decision, which defined the term as meaning ''subnormal intellectually, feebleminded.'' *Id.*

The court also relied heavily on *Encyclopedia Britannica* (1972) as well as findings of the Royal Commission on Capital Punishment (1953). *Encyclopedia Britannica,* the *Hansel* court said, stated that ''mental defectiveness, mental deficiency, and feeblemindedness are synonyms which denote limitations of development of the personality, usually including intellectual retardation.'' *Id.* Likewise, the court relied on the Royal Commission's statement that '' 'Mental deficiency' is generally understood as meaning intellectual defect, or defect of understanding, existing from birth or from an early age. In England, 'mental defectiveness' is defined by statute as 'a condition of arrested or incomplete development of mind existing before the age of eighteen years, whether arising from inherent causes or induced by disease or injury.' '' *Id.*

Following this historical review, the Eighth Circuit in *Hansel* determined that the term ''mental defective'' as used by the GCA in 1968 denoted a ''person who has never possessed a normal degree of intellectual capacity,'' as opposed to those who are mentally ill, diseased, or insane, and thus potentially had ''faculties which were originally normal'' before being ''impaired by mental disease.'' *Id.* The Eighth Circuit added that, ''[i]f it is the desire of Congress to prohibit persons who have any history of mental illness from possessing guns, it can pass legislation to that effect, but we cannot read into this criminal statute an intent to do so.'' *Id.* at 1125. Accordingly, the court vacated the defendant's GCA convictions on the basis that he had not been ''adjudicated as a mental defective'' (or ''committed to a mental institution'') within the meaning of the statute. *Id.*

4. Meaning of the Term of ''Mental Defective''

The *Hansel* decision highlighted an important nuance in Congress's use of the term ''mental defective.'' Congress could have used a term that broadly included any mental illness. Or, it could have explicitly mentioned both mental illness and mental defectiveness, which would have been viable based on the terminology and psychological understanding at the time. Notably, however, Congress did neither.

Hansel was decided not long after the GCA was adopted, and its reasoning remains relevant. When interpreting a statute, ATF must consider the words Congress used, or chose not to use, and must give those words their true meaning.[21] Therefore, ATF has reviewed practical resources dated close in time to when the GCA was enacted to define the term ''mental defective.'' Although the first edition of the Diagnostic and Statistical Manual: Mental Disorders (''DSM–I'') (published in 1952) did not use the term ''mental defective,'' the DSM–I classified mental disorders associated with impairment of brain-tissue function as either acute brain disorders, chronic brain disorders, or mental deficiency (one of the synonyms for mental defective listed by *Encyclopedia Britannica*). ''Acute'' indicated situations in which the patient would generally recover from the impairment, whereas ''chronic'' indicated the impairment was relatively permanent. DSM–I at 15, 18. And similar to the *Hansel* court, the DSM–I identified ''mental deficiency'' as describing those cases ''primarily'' involving ''a defect of intelligence existing since birth, without demonstrated organic brain disease or prenatal cause.'' DSM–I, at 23.

DSM–I further categorized mental deficiency as either mild, moderate, or severe. ''Mild'' referred to functional or vocational impairment with an expected IQ range of approximately 70 to 85. ''Moderate'' referred to functional impairment requiring special training and guidance with an expected IQ range between 50 and 70. And ''severe'' referred to functional impairment requiring custodial care with an expected IQ less than 50. Moderate and severe mental deficiencies generally corresponded with the terms ''moron'' and ''imbecile,'' respectively, as used in the International Classification of Diseases, Revision 6 (1948) (''ICD–6'').

DSM–I was updated in a second edition in 1968 (''DSM–II'')—the same year Congress passed the GCA. DSM–II reclassified mental deficiencies, as well as chronic brain disorders presenting with mental deficiencies, under the general term ''mental retardation.'' Based on these definitions, which all originated close in time to when the GCA was drafted and passed, ATF believes that Congress—in choosing to use the phrase ''adjudicated as a mental defective''—was primarily intending to prohibit firearm possession by those who have sufficiently subnormal intellectual capacity that they cannot act responsibly with potentially dangerous instrumentalities.

Surveys of legal materials confirm that the contemporaneous legal understanding of the term ''mental defective'' applied to those with significant and longstanding intellectual disabilities. In 1954, Kentucky's involuntary commitment statute defined ''mentally defective person'' to mean ''a person with a defect in mental development at birth, or at an early age, and which is of such a degree that he is incapable of caring for himself or managing his affairs and requires supervision, care, training, control or custody for his own welfare or for the welfare of others.'' [22] The term included ''idiot,'' ''feeble-minded person'' and ''feeble-minded and epileptic,'' but it did not include '''lunatic,' 'insane' or 'insane person,' and epileptic,'' who fell within the category of those who were ''mentally ill.'' [23]

In 1955, New Mexico's ''Act Relating to Mental Defectives'' defined ''mental defective'' as ''any person not classified as insane but mentally underdeveloped or faultily developed, or mentally backward or retarded, to the degree that he is incapable of managing himself and his affairs, and requires supervision, care and control for his own welfare, or for the welfare of others, or for the welfare of the community.'' [24] Similarly, in 1957, North Carolina in its commitment statute defined ''mental defective'' as:

> a person who is not mentally ill but whose mental development is so retarded that he has not acquired enough self-control, judgment, and discretion to manage himself and his affairs, and for whose own welfare or that of others, supervision, guidance, care, or control is necessary or advisable. The term shall be construed to include 'feeble-minded', 'idiot', and 'imbecile'.[25]

Sources from other common-law jurisdictions accord. In 1911, New Zealand passed ''An Act to Consolidate and Amend the Law Relating to the Care

[21] *See Duncan* v. *Walker,* 533 U.S. 167, 174 (2001); *see also* Cong. Research Serv., R45153, *Statutory Interpretation: Theories, Tools, and Trends,* at 20–21, 51 (Mar. 10, 2023).

[22] S. Journal, Ky. Gen. Assemb., Reg. Sess. 1954, at 43, *https://heinonline.org/HOL/P?h=hein.ssl/ssky0089&i=55.*

[23] *Id.*

[24] S. Journal, 22d Leg., Reg. Sess. (N.M. 1955), at 456–57, *https://heinonline.org/HOL/P?h=hein.ssl/ssnm0074&i=465.*

[25] Journal of the Senate, N.C. Gen. Assemb., Reg. Sess. 1957, at 1168 *https://heinonline.org/HOL/P?h=hein.ssl/ssnc0053&i=1218.*

and Control of Mentally Defective Persons.'' [26] That act defined ''mentally defective person'' as:

a person who, owning to his mental condition, requires oversight, care, or control for his own good or in the public interest, and who according to the nature of his mental defect and to the degree of oversight, care, or control deemed to be necessary is included in one of the following classes:—

Class I:—''Persons of unsound mind''—that is, persons who, owing to disorder of the mind, are incapable of managing themselves or their affairs:

Class II:—''Persons mentally infirm''—that is, persons who, through mental infirmity arising from age or the decay of their faculties, are incapable of managing themselves or their affairs:

Class III—''Idiots''—that is, persons so deficient in mind from birth or from an early age that they are unable to guard themselves against common physical dangers and therefore require the oversight, care, or control required to be exercised in the case of young children:

Class IV—''Imbeciles''—that is, persons who though capable of guarding themselves against common physical dangers are incapable, or if of school age will presumably when older be incapable, of earning their own living by reason of mental deficiency existing from birth or from an early age:

Class V—''Feeble-minded''—that is, persons who may be capable of earning a living under favourable circumstances, but are incapable from mental deficiency existing from birth or from an early age of competing on equal terms with their normal fellows, or of managing themselves and their affairs with ordinary prudence:

Class VI—''Epileptics''—that is, persons suffering from epilepsy.[27]

In 1913, the United Kingdom defined mental defective to comprise the following four categories of persons:

(a) Idiots; that is to say, persons so deeply defective in mind from birth or from an early age as to be unable to guard themselves against common physical dangers;

(b) Imbeciles; that is to say, persons in whose case there exists from birth or from early age mental defectiveness not amounting to idiocy, yet so pronounced that they are incapable of managing themselves or their affairs, or, in the case of children, of being taught to do so;

(c) Feeble-minded persons; that is to say, persons in whose case there exists from birth or from an early age mental defectiveness not amounting to imbecility, yet so pronounced that they require care, supervision, and control for their own protection or for the protection of others, or, in the case of children, that by reason of such defectiveness appear to be permanently incapable of receiving proper benefit from the instruction in ordinary schools;

(d) Moral imbeciles; that is to say, persons who from an early age display some permanent mental defect coupled with strong vicious or criminal propensities on which punishment has had little or no deterrent effect.[28]

In 1959, Canada passed ''The Mental Defectives Act.'' That act defined ''mentally defective person'' as ''a person in whom there is a condition of arrested or incomplete development of mind existing before the age of eighteen years, whether arising from inherent causes or induced by disease or injury.'' [29]

As these sources make clear, the term ''mental defective,'' as it was understood in the early- to mid-twentieth century, had a core and a periphery. The core of the term was a person who had significant intellectual disabilities, generally beginning from birth or an early age. The term could also apply to those who acquired such infirmities later due to age or disease, such as those who acquired intellectual deficits because of dementia, stroke, or other permanent physical causes. At the periphery, the term sometimes applied to those with mental illnesses, where those illnesses were of a permanent or chronic nature and were severe enough that the person required guardianship to manage his own affairs.

It is also clear from these sources who was usually *not* considered a ''mental defective.'' Mental defectiveness was generally separate from mental illness. A finding of insanity or incompetence to stand trial was not inherently sufficient to trigger a finding of mental defectiveness, particularly when that insanity or incompetence was of a transient nature and the person could otherwise manage his own affairs.

Part of the problem with ATF's present regulatory definition of ''mental defective'' may be that ATF's current interpretation of the definition has strayed from the definition's original intent. As mentioned, the current regulation defines ''adjudicated as a mental defective'' to include persons for whom there is a judicial or quasi-judicial finding that the person ''[l]acks the capacity to contract or manage his own affairs.'' 27 CFR 478.11. The sources just discussed indicate that, properly construed, this provision should have included only those individuals who have broad functional deficits across multiple domains such that they are substantially incapable of contracting, managing money, and otherwise caring for their own welfare. Contrary to ATF's statement in the 1997 final rule, the provision should not apply to those who simply are incapable of managing certain government benefits. In light of this confusion, ATF believes it is necessary to revise and supplement the regulatory definition of ''adjudicated as a mental defective.'' In particular, ATF believes it is necessary to delete from the definition the ''[l]acks the capacity to contract or manage his own affairs'' provision, because that provision can too easily be construed as including persons with isolated limitations in performing specific tasks, as opposed to only persons with global functional deficits.

5. Properly Defining and Distinguishing ''Adjudicated as a Mental Defective'' and ''Committed to a Mental Institution''

As explained in the background section, the 1997 final rule also classified several other adjudications, beyond those involving capacity to contract or manage one's own affairs, as adjudications of mental defectiveness. Those include a finding of insanity in a criminal case; a finding that a person is a danger to himself or others; and a finding that a person is incompetent to stand trial or not guilty by lack of mental responsibility under the Uniform Code of Military Justice (''UCMJ''). 62 FR 34637.

The 1996 proposed rule contained no reasoning or textual analysis in support of the conclusion that the term ''mental defective'' is properly understood to include all of these concepts. In the proposed rule, ATF stated only that it had reviewed ''the legislative history of the term, applicable case law, and the interpretation of the term by other federal agencies.'' 61 FR 47097. Based on this review, ATF believed that a broad definition of ''mental defective'' was warranted because ''Congress would broadly apply the prohibition against the ownership of firearms by 'mentally unstable' or 'irresponsible' persons.'' *Id.* Additionally, ATF added the UCMJ provision at the request of the DoD, similar to the way it accepted in its final rule the VA's view that a VA

[26] Mental Defectives Act 1911, 2 Geo. V No. 6 (N.Z.), *https://www.nzlii.org/nz/legis/hist_act/mda19112gv1911n6240.pdf.*

[27] *Id.* at 14.

[28] Mental Deficiency Act 1913, 3 & 4 Geo. 5 c. 28 sec. I(1) (U.K.), *https://www.education-uk.org/documents/acts/1913-mental-deficiency-act.html.*

[29] The Mental Defectives Act, R.S.A. 1955, c. 199, sec. 1 (Alta.), *https://www.canlii.org/en/ab/laws/hstat/rsa-1955-c-199/latest/rsa-1955-c-199.html.*

incompetency determination would meet ATF's regulatory definition.

On further reflection, ATF is unsure that the 1997 final rule correctly demarcated the difference between ''adjudicated as a mental defective'' and ''committed to a mental institution.'' Although ATF recognizes that usages of the term ''mental defective'' were not perfectly consistent at the time of the GCA's enactment, its predominant meaning referred to individuals who had significant and longstanding intellectual disabilities rather than mental illnesses. *See Hansel,* 474 F.2d at 1124 (''In law, a distinction has usually been made between those persons who are mentally defective or deficient on the one hand, and those who are mentally diseased or ill on the other.''); *see also* Black's Law Dictionary 1137 (4th ed. 1951) (''Mental Defect. As applied to the qualification of a juror, this term must be understood to embrace either such gross ignorance or imbecility as practically disqualifies any person from performing the duties of a juror.''). As explained above, the statutory definitions in both U.S. and other common-law jurisdictions also distinguish ''mental defective'' from ''mental illness'' or ''insanity.'' It appears that insane persons fall outside the traditional definition of ''mental defective,'' except in certain severe cases where a person has a permanent or chronic condition that requires guardianship.

One other textual clue suggests that ATF's current definition of ''adjudicated as a mental defective'' does not accord with the GCA: under ATF's current definition, the ''committed to a mental institution'' prong of the statute would be largely (if not entirely) superfluous. Involuntary commitments generally require a ''lawful'' ''determination'' that a person is insane or poses a danger to himself or others, and ATF's definition of ''mental defective'' already independently encompasses such findings.

ATF is therefore requesting comments on whether parts of the definition of ''adjudicated as a mental defective'' should be moved to the definition of ''committed to a mental institution.'' As explained further below, ATF is proposing that, for persons who cannot responsibly handle firearms due to mental illness, the triggering event under the GCA should be an involuntary commitment to a mental institution. That commitment may be triggered for the reasons previously identified in the ''mental defective'' prong: a finding that a person is a danger to himself or others, an acquittal by reason of insanity, or a finding of incompetence to stand trial or acquittal by reason of lack of mental responsibility under the UCMJ.

ATF is soliciting comments on both legal and policy questions. Legally, ATF requests comments about the original public meaning of ''mental defective'' in 1968. With respect to policy, ATF is particularly interested in whether this reorganization of the rule would have any adverse impact on public safety. Specifically, ATF is interested in whether there are individuals who are found not guilty by reason of insanity or found in a proceeding to be a danger to themselves or others but are not committed to a mental institution as proposed by the definition. ATF also seeks comment on whether the reorganization of the rule along the lines proposed above would permit any mentally unstable persons to acquire firearms who could not do so today.

6. The Second Amendment and 18 U.S.C. 922(g)(4)

The Second Amendment presumptively guarantees law-abiding U.S. citizens the right to bear arms. *New York State Rifle & Pistol Ass'n, Inc.* v. *Bruen,* 597 U.S. 1, 32–33 (2022). However, the Supreme Court has concluded that this Nation's historical tradition of firearms regulation allows the government to disarm individuals who present a credible threat to the physical safety of others.[30] Although the Supreme Court has yet to squarely confront the issue, there are strong arguments that our Nation's historical tradition likewise permits disarming those who have such profound cognitive disabilities that they cannot live independently, or require the appointment of a guardian, because such persons cannot safely handle dangerous instruments like firearms. On the other hand, though, restricting individuals' Second Amendment rights solely based on their assessed inability to manage their government benefits or other financial assets incorrectly assumes that they lack mental capacity to responsibly possess firearms—and often does so in the absence of any formal adjudication before a judicial or other competent authority.

B. Proposed Changes

In proposing the changes indicated below, ATF is guided by the original public meaning of the statute. *See Food Mktg. Inst.,* 588 U.S. at 433–34. The need to examine original public meaning is more acute because ATF's regulations no longer receive deference under *Chevron U.S.A. Inc.* v., *Natural Resources Defense Council, Inc.,* 467 U.S. 837, 842–43 (1984). Previously, under *Chevron,* courts would defer to agency interpretations of statutes that were permissible but not necessarily the best. But in *Loper Bright Enterprises* v. *Raimondo,* 603 U.S. 369 (2024), the Supreme Court overturned *Chevron.* The court explained that ''[i]n the business of statutory interpretation, if it is not the best, it is not permissible.'' *Id.* at 400.

Given *Loper Bright,* ATF has conducted an exhaustive review of the original public meaning of ''adjudicated as a mental defective'' and ''committed to any mental institution'' in 18 U.S.C. 922(d)(4) and (g)(4). ATF has also rejected previous interpretations of these provisions that have elevated legislative history and legislative purpose over the plain meaning of the statute.

1. ''Adjudicated as a Mental Defective''

This rule proposes to amend the definition of ''adjudicated as a mental defective'' in 27 CFR 478.11 by revising the definition to have two main components—one substantive and one procedural—and by defining additional terms within the definition for more clarity. Additionally, ATF proposes moving parts of the current definition of ''adjudicated as a mental defective'' into the revised ''committed to a mental institution'' definition. Overall, these changes would ensure more faithful adherence to the statutory language of 18 U.S.C. 922(g)(4) and (d)(4) and the congressional intent underlying those prohibitions.

ATF proposes to restructure the definition of ''adjudicated as a mental defective,'' which currently has two paragraphs. Paragraph (a) defines a person as ''adjudicated as a mental defective'' when there is ''[a] determination by a court, board, commission, or other lawful authority that [the] person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease'' ''[i]s a danger to himself or others'' or ''[l]acks the mental capacity to contract or manage his own affairs.'' Paragraph (b) provides that the term ''shall include'' both ''[a] finding of insanity by a court in a criminal case'' and ''[t]hose persons found incompetent to stand trial or found not guilty by reason of lack of mental responsibility pursuant to . . . the Uniform Code of Military Justice.''

In its restructuring, ATF proposes (1) breaking paragraph (a) into four

[30] *United States* v. *Rahimi,* 602 U.S. 680, 700 (2024) (holding that an individual who poses a credible threat to the physical safety of others may be temporarily disarmed consistent with the Second Amendment).

paragraphs, each identifying a category of persons who will be considered to have been ''adjudicated as a mental defective'' under the revised definition; (2) replacing the existing paragraph (b) with a definition of ''intellectual disability''; (3) moving the existing contents of paragraph (b) into the revised definition of ''committed to a mental institution''; and (4) adding a new paragraph (c) to define the procedural requirements for a qualifying ''adjudication'' under the statute.

Proposed Categories of Persons ''Adjudicated as a Mental Defective''

The proposal would alter the definition of ''adjudicated as a mental defective'' to refer primarily to those conditions involving intellectual disabilities. Substantively, paragraph (a) of the current regulations would be revised under the proposed rule to provide that a person is ''adjudicated as a mental defective'' for purposes of the GCA if a court, board, commission, or other lawful authority has (1) appointed the person a guardian because of an intellectual disability or mental illness; (2) found the person to have a permanent physical condition, such as dementia, provided the person has reached the functional capability equivalent to that of a person with an intellectual disability and has had a guardian appointed; or (3) found the person to be incompetent to stand trial based on a mental disease or defect where there is no reasonable possibility of restoring competence.

The purpose of the proposed definition would be to identify those who suffer from sufficiently subnormal intellectual capacity that, as a categorical rule, they cannot be entrusted to responsibly handle firearms—even if they do not have a documented propensity for violence. Instead, these individuals have such profound and permanent disabilities that they lack the cognitive ability to make mature judgments. Congress determined that those who are cognitively incapable of making responsible judgments across many functional areas cannot be trusted to independently possess firearms.

The proposed categories in paragraph (a) would primarily tie a person's status as ''adjudicated as a mental defective'' to a finding by a court, board, commission, or other lawful authority that the person has an ''intellectual disability.'' Accordingly, as discussed below, ATF also proposes to define ''intellectual disability,'' as well as to set forth what constitutes an ''adjudication'' for purposes of section 922(g)(4). For physical conditions only, the rule proposes to make clear that, under the proposed definition, the condition affecting a person's intellectual capabilities must be permanent.

Although the proposed rule would generally separate its treatment of intellectual disability (governed primarily by ''adjudicated as a mental defective'') from its treatment of mental illness (governed primarily by ''committed to a mental institution''), ATF acknowledges that the line separating these two concepts is blurry, not bright. One difficult case involves a person for whom a guardian has been appointed due to extensive mental illness, but who has not been involuntarily committed. ATF proposes that when a mental illness becomes severe enough to warrant a judicial appointment of a guardian, that would qualify a person as ''adjudicated as a mental defective.'' This case shares an essential trait with the appointment of a guardian for intellectual disability: a determination by a court that a person is cognitively unable to make responsible decisions as an independent adult. Such persons are the kind of irresponsible persons who Congress decided should not be entrusted with firearms. And as explained above, such persons were recognized at the periphery of various statutory definitions of ''mental defective'' around the time the GCA was enacted.

The proposed rule would also make clear that neither temporary guardianship for a physical disability nor the appointment of a limited fiduciary counts as an adjudication of mental defectiveness. The concept of mental defectiveness describes a person who broadly lacks the cognitive capacity to act as a responsible adult. Mental defectiveness does not encompass an otherwise responsible person who is temporarily cognitively incapacitated due to a transient physical condition or who requires assistance in a single functional area (*e.g.,* managing money).

Through paragraph (a)(3), the rule would also include in the category of ''adjudicated as a mental defective'' those who have been found by a court (or by the convening authority in a court-martial) to be incompetent to stand trial based on a mental disease or defect where there is no reasonable possibility of restoring competence. Some defendants are never found legally insane because medical therapy proves ineffective and so they never attain competency to stand trial. Because such individuals have profound and longstanding cognitive disabilities, though, ATF believes that such individuals fall within the definition of ''mental defective'' irrespective of whether they have been committed to a mental institution or found insane by a court in a criminal case. Nevertheless, for this category, ATF recognizes that most of these individuals will also likely be involuntarily committed for treatment.

Persons will also be found incompetent to stand trial if they lack ''sufficient present ability to consult with [their] lawyer with a reasonable degree of rational understanding'' or if they lack ''a rational as well as factual understanding of the proceedings against [them].'' *Dusky* v. *United States,* 362 U.S. 402, 402 (1960) (per curiam). A person could be deemed temporarily incompetent for a variety of transient physical or mental conditions. ATF does not believe that the term ''mental defective'' was meant to reach those with temporary physical disabilities or those who had a temporary mental condition during which they momentarily did not understand the proceedings against them or could not contribute to their own defense. Some individuals, however, suffer from severe mental illness and are not responsive to medical therapy. ATF believes that such individuals—who are often indefinitely confined, but for whom a formal finding of insanity was never made because they were never competent to stand trial—fall within the scope of ''mental defective,'' irrespective of whether they are involuntarily committed, because they broadly lack the cognitive ability to live independently and to engage in responsible adult behavior.

ATF also proposes moving three components of the current definition of ''adjudicated as a mental defective'' to the definition of ''committed to a mental institution.'' These are: (1) individuals found to be a danger to themselves or others; (2) individuals found insane in a criminal case; and (3) individuals found incompetent to stand trial or found not guilty by reason of lack of mental responsibility under the UCMJ. To be clear, ATF is not proposing to eliminate these as a basis for a firearms prohibition under 18 U.S.C. 922(g)(4) or 922(d)(4). ATF is merely requesting comment on whether individuals in these categories are properly understood to be prohibited on the basis of an involuntary commitment rather than an adjudication of mental defectiveness.

Proposed Definition of ''Intellectual Disability'' for Purposes of ''Adjudicated as a Mental Defective''

The first category in the proposed new definition of ''adjudicated as a mental defective,'' at paragraph (a)(1), involves persons who have had a

guardian appointed by a court, board, commission, or other lawful authority because of an intellectual disability. Similarly, the proposed new second category, at paragraph (a)(2), encompasses persons who, as a result of a permanent physical condition, have the functional capacity equivalent to a person with an intellectual disability and who have accordingly been placed in a guardianship. ATF is therefore proposing to define ''intellectual disability'' (also known as ''intellectual developmental disorder'') consistently with the latest psychiatric guidelines, in a new paragraph (b) within the definition of ''adjudicated as a mental defective.'' In new paragraph (b)(1), ATF proposes to define intellectual disability as existing when a person (1) has a full-scale IQ score (''FSIQ'') below 45 or (2) has a FSIQ less than 69 and has limitations in multiple adaptive functioning domains such that the person is incapable of living independently.

This part of the proposed definition focuses on individuals who suffer from an intellectual disability severe enough that they require guardianship and cannot live independently. This is in line with the current DSM (''Diagnostic and Statistical Manual of Mental Disorders''), which emphasizes the diagnostic significance of functional disabilities, not just low performance on an IQ test. *See* American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition—Text Revision,* 34 (2022) (''DSM–V–TR''). Like DSM–V–TR, ATF is differentiating between those with a mild intellectual disability—who would not always be covered by ATF's proposed definition of the term—and those with a more-limiting moderate, severe, or profound diagnosis—who would necessarily be covered by that definition. As the DSM–V–TR explains, individuals with a moderate diagnosis can care for their own personal needs but require extended instruction and ongoing support from others. Individuals with a severe diagnosis require support for all daily activities and always require supervision for the well-being of themselves or others. And individuals with a profound diagnosis are dependent on others for all physical care, health, and safety. DSM–V–TR does not provide an intelligence quotient (''IQ'') score for each level of severity like earlier DSM editions did.[31] Rather, DSM–V–TR notes that IQ tests are less reliable as the score gets lower and so instead bases intellectual disability on both cognitive capacity (*i.e.,* IQ) *and* adaptive functioning, rather than IQ alone.

For individuals with an IQ of 45 or lower, ATF does not believe that a separate inquiry into adaptive functioning is necessary because adaptive deficits will be immediately apparent. Although DSM–V–TR does not include a specific IQ range for each intellectual disability diagnosis level, the previous DSM did, and they remain instructive for ATF. *See* American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition,* 40 (1994) (''DSM–IV''). Under DSM–IV, diagnoses of moderate, severe, or profound intellectual disability generally occur in individuals with an IQ of less than 50. *See id.*[32] The approximate mental age for those with a moderate intellectual disability is six- to nine-years-old; those with a severe disability have an approximate mental age of three- to six-years-old; and those with a profound intellectual disability have a mental age of 3-years-old or younger. *See Children's Health Issues,* supra note 30. Individuals in these categories usually require training and support for daily living needs. ATF believes that such individuals, if placed in guardianships or found incompetent to stand trial, are categorically ''adjudicated as [ ] mental defective[s]'' for purposes of 18 U.S.C. 922(g)(4) and (d)(4), given their cognitive inability to engage in responsible adult behavior. While DSM–IV classified those with an IQ under 50 as having moderate or greater intellectual disability, ATF believes that setting the categorical IQ limit at under 45 would avoid any troubling consequences from any margin of error in intellectual testing.

Persons with a mild intellectual disability generally have IQs between 50 and 69 and may function age-appropriately. They may need support, however, for complex living tasks. It is generally believed that these individuals have an approximate mental age between 9- and 12-years-old. ATF's proposed definition of ''intellectual disability'' would not include individuals with mild intellectual disability unless they demonstrate significant functional impairments across multiple functional areas. This is more consistent with understandings of intellectual disability than the current regulatory criteria, under which functional inability in a single area (*e.g.,* inability to manage money) can result in a lifetime firearms disability.

To be clear, determining whether a person has an intellectual disability is not achieved simply by conducting an IQ test. As DSM–V–TR explains, whether an individual has an intellectual disability depends on both intellectual capacity and adaptive functioning. Thus, under the proposed rule, persons with an IQ between 46 and 69 would not be determined mentally defective for firearms purposes unless there was evidence that they also exhibited significant limitations in multiple adaptive functioning domains, such that they were incapable of living independently. Persons with an IQ of 45 or less would necessarily have profound functional deficits, so, while the combination of the two would still be applicable, additional evidence on those deficits would not be necessary at that IQ level. As reflected in the four categories in paragraph (a), however, ATF's proposed rule would not disqualify everyone who tested with an IQ of 45 or below from possessing firearms. Instead, the rule would prohibit only those found to be intellectually disabled who also had guardians appointed or who were found incompetent to stand trial. Those latter proceedings would also likely examine functional deficits.

Because all intelligence tests have a margin of error, ATF believes that an inquiry into adaptive functioning would help resolve marginal cases where a person might test with an IQ between 46 and 69. For example, an inquiry into adaptive functioning would demonstrate that a person who tests with an IQ of 53 might actually have a true IQ below 46 if the person has significant limitations across multiple adaptive functions. In such a case, the person who tests with an IQ of 53 but shows significant limitations in multiple adaptive functions would still fall within the definition of ''intellectually disabled.''

ATF also proposes to add a second paragraph, paragraph (b)(2), to the definition of ''intellectual disability'' to address proceedings where there is no explicit finding of intellectual disability according to the modern diagnostic criteria discussed above. Under this paragraph, a person would also be deemed intellectually disabled when an

[31] ''Intellectual functioning is typically measured with individually administered and psychometrically valid, comprehensive, culturally appropriate, psychometrically sound tests of intelligence. Individuals with intellectual disability have scores of approximately two standard deviations or more below the population mean, including a margin for measurement error (generally ±5 points). On tests with a standard deviation of 15 and a mean of 100, this involves a score of 65–75 (70 ± 5). Clinical training and judgment are required to interpret test results and assess intellectual performance.'' DSM–V–TR at 42.

[32] *See also* Children's Health Issues—Levels of Intellectual Disability (Merck Manual Consumer Version), *https://www.merckmanuals.com/home/pages-with-widgets/tables?mode=list* (last visited Dec. 3, 2025) [*https://perma.cc/VL3Y-XTSD*].

adjudicator makes findings that the individual has cognitive and functional deficits that would be equal to or greater than those described in paragraph (b)(1). This provision would prevent determinations of mental defectiveness from depending upon findings of fact that exactly mirror modern diagnostic criteria or other ''magic words.'' A finding that a person has major adaptive limitations across multiple functional domains as a result of significant subnormal intelligence would still count as a determination that the person is intellectually disabled, even if there was no explicit finding of IQ on the record. For example, an adjudicator might find that, because of subnormal intelligence, a person has multiple severe functional deficits, requires constant guardian supervision, and, thus, cannot live independently. Such adjudications would suffice to establish a person's intellectual disability for purposes of the proposed rule even though they do not mention a specific IQ number. This provision reflects that the core of being intellectually disabled is exhibiting severe functional limitations resulting from subnormal intelligence, not a specific score on an intelligence test. Again, this definition of ''intellectually disabled'' aligns with the current medical and psychiatric understanding of cognitive capacity. DSM–V–TR generally pulls away from specific IQ ranges, focusing instead on the patient's general functional ability in order to discern mild, moderate, severe, and profound categories of intellectual disability. *See* DSM–V–TR at 31–37.

ATF also proposes in paragraph (b)(3) to clarify that a determination of mental defectiveness under the GCA must result from a mental illness or defect, or from a permanent physical disability or disease. Under the current regulatory definition, a person could be declared mentally incompetent and trigger the firearms prohibition by merely having a fiduciary appointed due to a temporary physical condition. For example, persons in a coma for 60 days might require a temporary fiduciary to manage their financial affairs only during that time. However, records showing that the person had a fiduciary appointed could cause the person to be prohibited from possessing a firearm indefinitely. Likewise, individuals who need assistance in a single functional area (*e.g.,* managing money) are not categorically persons who are ''mentally defective'' and unable to engage in responsible adult behavior. Yet, under the current regulatory definition, persons in these examples and others could be prohibited from firearm ownership for life unless they applied for relief from disability or underwent another state process to remove the resulting prohibition. That could be true even if they did not suffer from any mental illness or defect and were not ordinarily thought of as the kind of persons who, because of subnormal intelligence, could not manage their affairs and engage in responsible adult behavior. ATF believes this understanding of ''mental defective'' is overbroad and was not Congress's intent when enacting this provision.

The proposed rule would therefore make clear that a person who is appointed a temporary guardian because of a temporary physical disability, or who is appointed a fiduciary solely because they need assistance managing their financial affairs, would not be ''adjudicated as a mental defective'' for purposes of sections 922(g)(4) and (d)(4). This revision would prevent, for example, people who require a temporary guardian during recovery from an accident or illness from being prohibited under the GCA. Accordingly, ATF is proposing to include paragraph (b)(3) under the definition of ''intellectual disability,'' which would state: ''An intellectual disability shall not be deemed to exist solely because an individual has had a temporary guardian appointed due to a transient physical disability or because an individual has had a fiduciary appointed solely to assist with managing their financial affairs.''

Proposed Procedural Requirements for Adjudications

Procedurally, ATF is proposing to establish, in a new paragraph (c) in the definition of ''adjudicated as a mental defective,'' the minimum due process requirements that an adjudication must adhere to for a person to qualify as having been ''adjudicated'' as a mental defective for purposes of the GCA. While ''adjudicated as a mental defective'' is often found in conjunction with the second statutory prong—''committed to a mental institution''—it is not statutorily required that both occur for a person to be prohibited under 18 U.S.C. 922(g)(4) or (d)(4). Due process requirements in mental health commitment proceedings have been addressed by the Supreme Court, most notably in *Addington* v. *Texas,* 441 U.S. 418 (1979). However, there is little case law to explain what process is necessary for a person to be ''adjudicated as a mental defective'' without a subsequent commitment.

Under the current definition of the statutory term, this leads to the possibility that persons could be found to pose a danger to themselves or others or to lack the mental capacity to contract or manage their own affairs without certain procedural standards that should be met before their constitutional rights are impacted. For example, as explained above in section II.A.2, many veterans for whom a fiduciary was appointed to handle their VA benefits were deemed prohibited persons under sections 922(g)(4) and (d)(4) of the GCA, even though no formal competency hearing was conducted. In such cases, disarmament resulted from an assessment by a single administrator.[33] The prospect of a constitutional right being stripped away without greater procedural protections raises concerns under the Second, Fifth, and Fourteenth Amendments. In addition, the plain meaning of the word ''adjudication'' requires the opportunity for an adversarial process. Accordingly, the proposed rule would identify the procedural requirements necessary to be ''adjudicated as a mental defective,'' so as to provide the same level of procedural protections for any Second Amendment restriction under sections 922(g)(4) and (d)(4), whether or not it stems from a formal ''commitment.''

ATF proposes that an ''adjudication'' within the meaning of section 922(g)(4) occurs when a court, board, commission, or other lawful authority has provided individuals as to whom a determination is being made with:

(1) An in-person or remote hearing before an unbiased adjudicator;

(2) An opportunity to hear opposing evidence, to present evidence, and to confront adverse witnesses;

(3) Permission to be represented by counsel;

(4) An appointed counsel or a *guardian ad litem* when there are reasonable grounds to believe that individuals lack a sufficient factual or rational understanding of the proceedings to represent themselves or act in their own defense;

(5) Adequate notice of the hearing; and

(6) In a civil proceeding, a determination based on at least clear and convincing evidence.

These are basic procedural protections. Congress has specified many of these protections in other

[33] *See generally* Jordan B. Cohen and Madeline D. Moreno, Cong. Research Serv., R47626, *Gun Control, Veterans' Benefits, and Mental Incompetency Determinations* (2023); *see also generally* Lynn Sears, Cong. Research Serv., IF13019, *The VA Fiduciary Program, An Overview* (2025); Jordan B. Cohen, Cong. Research Serv., TE10109, *Correcting VA's Violations of Veterans' Due Process and Second Amendment Rights* (2025).

contexts relating to federal firearms laws, so ATF believes they are likely also captured by the plain meaning of ''adjudicated'' in the context of the GCA.[34]

These proposed procedural protections are included to ensure that the right to possess arms is not removed without due process. For a proceeding to satisfy ATF's definition of ''adjudication,'' a court (or other covered adjudicator) would be required to appoint counsel or *guardians ad litem* if there are reasonable grounds to believe persons are incapable of representing themselves. Persons do not have due process if they lack a sufficient factual or rational understanding of the proceedings involving them, such that they are incapable of providing for their own defense or presenting evidence on their own behalf. ATF seeks comment on this requirement, particularly on whether any jurisdictions permit potentially incompetent persons to face guardianship or other legal proceedings without either appointing counsel or a *guardian ad litem.* ATF also seeks comment on whether any jurisdictions permit competency or capacity determinations to be made without hearings, including at the election of the individual involved.

The applicable standard of proof would vary depending on the nature of the proceeding. In civil commitment proceedings, the Supreme Court has required the state to prove the necessity of commitment by clear and convincing evidence. *Addington* v. *Texas,* 441 U.S. 418, 433 (1979). This is because ''the individual's interest in the outcome of a civil commitment proceeding,'' which could result in the loss of liberty, ''is of such weight and gravity.'' *Id.* at 427. Although the term ''adjudicated as a mental defective'' does not require commitment, ATF believes that clear and convincing evidence should be the general minimum standard before persons are prohibited from exercising their Second Amendment rights, and this is the standard generally employed in adult guardianship proceedings.

In criminal proceedings, however, a lower standard of proof can be more protective of the defendant. For example, in *Cooper* v. *Oklahoma,* 517 U.S. 348 (1996), the petitioner argued that a statutory requirement that the criminal defendant prove his incompetence to stand trial by clear and convincing evidence was a violation of due process. *Id.* at 353. The Supreme Court held that a state could not require persons to prove their incompetency by clear and convincing evidence in order to safeguard the fundamental right not to stand trial while incompetent. *Id.* at 369. Thus, in a criminal proceeding, a person may face mandatory commitment based on a preponderance of the evidence standard. *See, e.g., United States* v. *Shaway,* 865 F.2d 856, 859–610 (7th Cir. 1989). By making clear that the ''clear and convincing'' standard is for civil proceedings only, this rule would not restrict application of the lower standard of proof, *i.e.,* preponderance of the evidence, in criminal proceedings. This is necessary to avoid the anomaly that committed persons in criminal proceedings could retain their firearm rights where civilly committed persons could not, simply because criminal proceedings have burdens of proof that are more friendly to the defendant.

2. ''Committed to a Mental Institution''

ATF also proposes revising the definition of ''committed to a mental institution.'' The current definition of ''committed to a mental institution'' is ''[a] formal commitment of a person to a mental institution by a court, board, commission, or other lawful authority. The term includes a commitment to a mental institution involuntarily. The term includes commitment for mental defectiveness or mental illness. It also includes commitments for other reasons, such as for drug use. The term does not include a person in a mental institution for observation or a voluntary admission to a mental institution.''

ATF proposes revising this definition in two ways. First, the proposed rule would add examples of qualifying commitments, including those removed from paragraph (b) of the ''adjudicated as a mental defective'' definition. The three examples from the ''adjudicated'' prong that would be moved into the ''committed to a mental institution'' prong are: (1) individuals who are found to be a danger to themselves or others; (2) individuals found insane in a criminal case; and (3) individuals found incompetent to stand trial or found not guilty by reason of lack of mental responsibility under the UCMJ.

Second, the revised definition of ''committed to a mental institution'' would make clear that the commitment must be ''[a] formal and involuntary commitment of a person to a mental institution by a court, board, commission, or other lawful authority.'' This largely follows the current definition, except for the inclusion of the word ''involuntary.'' The current regulation states that the term ''includes a commitment to a mental institution involuntarily'' and ''does not include . . . a voluntary admission to a mental institution.'' 27 CFR 478.11. Accordingly, the position of ATF and the courts has long been that voluntary admissions of any kind do not qualify under the statute. Consequently, ATF is adding ''involuntary'' as a core part of the definition.

The definition would include a non-exhaustive list of examples that qualify as involuntary commitments for purposes of 18 U.S.C. 922(g)(4) and (d)(4). These include:

(1) Commitments resulting from determinations that individuals are a danger to themselves or others based upon mental disease or defect;

(2) Commitments resulting from other reasons, such as for drug use;

(3) Commitments resulting from a verdict of insanity by a court in a criminal case;

(4) Commitments resulting from a verdict of not guilty by reason of lack of mental responsibility pursuant to article 50a of the Uniform Code of Military Justice;

(5) Commitments resulting from a person being found incompetent to stand trial under article 72b of the Uniform Code of Military Justice; and

(6) Commitments resulting from a determination that a person is incompetent to stand trial in a civilian criminal case, if the basis for that determination is a mental disease or defect.

Paragraphs (1), (3), (4), and (5) would be the provisions transferred from the ''adjudicated as a mental defective'' prong to the ''committed'' prong. Again, ATF requests comments about whether this transfer will have any adverse impact on public safety. ATF is particularly interested to learn whether any individuals who would meet the current definition of ''adjudicated as a mental defective'' on the basis of being judicially found to be a danger to themselves or others or being found not guilty by reason of insanity would not be involuntarily committed to a mental institution.

Paragraph (2) would simply continue current practice without change. Paragraph (6), which complements paragraph (5), is added to prevent dissimilar treatment of analogous military and civilian proceedings.

[34] *See, e.g.,* 18 U.S.C. 921(a)(33)(B) (providing procedural protections required for an individual to be considered to have been convicted of a misdemeanor crime of domestic violence); 34 U.S.C. 10152(a)(1)(I)(iv) (conditioning criminal justice grants for state ''extreme risk protection order programs'' on states' implementation of various procedural safeguards).

III. Statutory and Executive Order Review

A. Executive Orders 12866 and 13563

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.

Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of agencies quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

This rule amends 27 CFR part 478.11 to update the definitions of ''adjudicated as a mental defective'' and ''committed to a mental institution.'' ATF's aim is to both give effect to the statutory language and to ensure that all persons falling under the ''adjudicated as a mental defective'' prong receive due process before their Second Amendment rights are affected. The proposed amendments to the definition of ''adjudicated as a mental defective'' eliminate the risk of persons losing the right to bear arms based solely on a determination that they lack the mental capacity to contract or manage their own affairs—a determination that, under past practice, was often based on findings pertaining specifically to an inability to independently manage financial affairs. The proposed amendments instead focus on an individual's overall intellectual capacity and ability to safely handle firearms. The proposed amendments would also more clearly distinguish between the definitions of ''adjudicated as a mental defective'' and ''committed to a mental institution.''

The Office of Management and Budget (''OMB'') has determined that this proposed rule would be a ''significant regulatory action'' under Executive Order 12866.

1. Need Statement

As discussed above, ATF believes its current regulation is overbroad because it encompasses individuals who do not suffer from the kinds of mental disabilities that fell within the term ''mental defective'' at the time the GCA was enacted. Specifically, since the regulation was first published in 1997, the term ''adjudicated as a mental defective'' has been interpreted to encompass individuals who have only narrow functional deficits, such as the inability to manage financial benefits, as opposed to those individuals who have broadly subnormal intellectual capacity such that they cannot responsibly handle firearms.

For example, veterans deemed incompetent to manage their financial affairs and assigned a fiduciary have been considered ''adjudicated as a mental defective'' under the existing interpretation of that phrase, absent any further assessment or finding as to whether they are a danger to themselves or others.[35] These VA competency determinations frequently have no nexus to a person's ability to handle firearms responsibly, and are in practice instead based largely on a person's ability to independently manage their financial affairs. Thus, persons have been denied the Second Amendment right to bear arms simply because they are not financially responsible, even though they are otherwise able to manage their own lives. But ATF has concluded that persons with isolated functional deficits are not the kind of individuals who are mentally defective as that term was used in the GCA. Nor are such individuals the kind of irresponsible or dangerous persons who Congress sought to prohibit from possessing firearms under section 922(g)(4).[36]

Moreover, current regulations also fail to properly distinguish between ''adjudicated as a mental defective'' and ''committed to a mental institution.'' For example, in the 1997 final rule, ATF accepted the DoD's recommendation to amend the definition of ''adjudicated as mental defective'' to include certain military personnel who were committed after being found not guilty ''for reason of a lack of mental responsibility.'' 62 FR 34637. But individuals who are involuntarily committed for that reason or because they have been found incompetent to stand trial under the UCMJ should be primarily disqualified based on the ''committed to a mental institution'' prong of 18 U.S.C. 922 (g)(4) and (d)(4), not the ''adjudicated as a mental defective'' prong.[37] Similarly, it is ATF's understanding that individuals found by courts to be a danger to themselves or others, or found ''not guilty by reason of insanity,'' generally are committed to mental institutions. ATF's classification of these individuals as ''mental defective[s]'' therefore appears to have improperly blended two different disqualifications under 18 U.S.C. 922(g)(4) and (d)(4).

Thus, this proposed rule would make two principal changes. First, the proposed rule would clarify that the term ''adjudicated as a mental defective'' describes only those individuals who, as a result of a serious global intellectual deficit, cannot responsibly handle firearms. The proposed rule would provide a definition of ''intellectual disability'' in order to clarify the level of deficit a person must generally possess in order to be considered a ''mental defective'' under the GCA. The proposed rule would also make clear that individuals who present solely with isolated functional deficits, such as the inability to manage their government benefits, are not mentally defective within the meaning of the GCA.

The proposed rule would also set forth several conditions that a proceeding must meet to qualify as an ''adjudication'' within the meaning of sections 922(g)(4) and (d)(4). Among other requirements, the proposed rule would provide that in a civil proceeding the determination of mental defectiveness must be made based on at least clear and convincing evidence. ATF determined this change is necessary because a higher evidentiary standard should be met before persons are prohibited from exercising their Second Amendment rights.

Second, the proposed rule would more explicitly distinguish the ''adjudicated as a mental defective'' and ''committed to a mental institution'' prongs of sections 922(g)(4) and (d)(4) by expressly realigning to the latter certain qualifying commitments that ATF understands to be currently encompassed by the former. Examples of commitments that would transfer over because they fit better under the ''committed'' prong are: (1) commitments resulting from a determination that an individual is a danger to themselves or others; (2) commitments resulting from a verdict of insanity in a criminal case; and (3) commitments resulting because the person is found incompetent to stand trial or found not guilty by reason of lack of mental responsibility under the UCMJ. The revised definition of ''committed to a mental institution'' would also include other examples of commitments that are already covered by the current definition.

ATF is also making clear that the term ''commitment'' requires ''[a] formal and involuntary commitment of a person to a mental institution by a court, board, commission, or other lawful authority.'' And the proposed definition would codify the longstanding position of ATF and the courts that a ''commitment'' under the GCA does not include ''a

[35] *See* supra section II.A.2.

[36] *See* 114 Cong. Rec. 21657, 21791, 21832, and 22270 (1968).

[37] As explained above, in separating these categories, ATF recognizes that there may still be some overlap between them.

voluntary admission to a mental institution.''

2. Benefits

The proposed rule amends the definitions in 27 CFR 478.11 to define the terms ''adjudicated as a mental defective'' and ''committed to a mental institution.'' The changes to the definitions will both give effect to the statutory language and ensure that veterans (and other affected persons) can retain their Second Amendment rights when a fiduciary or limited guardian is appointed to manage their financial or personal affairs. ATF estimates that the proposed rule would beneficially impact a specific segment of the public by providing qualitative benefits primarily to current and future firearm owners who would otherwise be prohibited under 18 U.S.C. 922(g)(4) and (d)(4) because they possess narrow functional limitations, on the basis that they ''[l]ack the mental capacity to contract or manage [their] own affairs.'' ATF does not have data on the entire subset of persons who fall into this group, but must use the best available data to estimate the size of this affected population.

The Brady Handgun Violence Prevention Act of 1993, Public Law 103–159, requires federal firearms licensees (''FFLs'') to request background checks on prospective firearm transferees. In 1998, the Federal Bureau of Investigation (''FBI'') established NICS to process these background checks. NICS queries three national databases for possible matches when conducting a NICS check. These databases are: (1) National Crime Information Center (''NCIC''), which contains records of wanted persons, subjects of protection orders, and other persons who pose a threat to officer and public safety; (2) Interstate Identification Index (''III''), which provides access to criminal history records; and (3) the NICS Indices, which contain information on prohibited persons as defined by 18 U.S.C. 922(g) or (n) or state law. The information in the NICS Indices is provided by federal, state, local, and tribal agencies. As a result of the NICS Improvement Amendments Act of 2007 (''NIAA''), Public Law 110–180 (122 Stat. 2599), federal agencies are required to make available to NICS all records that are relevant to determining whether a person is disqualified from possessing or receiving a firearm under 18 U.S.C. 922(g) or (n). Federal agencies satisfy this obligation by adding applicable information to NCIC, III, or the NICS Indices. However, at the state level, providing information to NCIC, III, or the NICS Indices is optional unless otherwise required by state law or federal funding requirements.

For purposes of this population size analysis, ATF focused on the NICS Indices, which include the majority of records pertinent to adjudications that would be affected by this rule.[38] Again, records submitted to the NICS Indices are categorized according to the federal prohibitions under 18 U.S.C. 922(g) and (n), or in a catch-all file that tracks state prohibitions and court-ordered firearm restrictions. Records on persons adjudicated as mental defectives or involuntarily committed to mental institutions are entered into the NICS Indices and categorized under the 922(g)(4) prohibition. Documents relevant to this prohibition include judgment and commitment orders; sentencing orders; and records of judicial or administrative proceedings adjudicating persons' inability to manage their own affairs, if the adjudication is based on marked subnormal intelligence or mental illness, incompetency, condition, or disease.

Of the 34,036,267 active records submitted to the NICS Indices as of December 31, 2025, a total of 8,213,415, or 24 percent of all records, were categorized as falling under the section 922(g)(4) prohibition. Of the ten GCA prohibited categories, this prohibition appears to be the second-largest source of records in the NICS Indices, second only to the 16,063,869 records submitted under the prohibition against firearm possession by illegal/unlawful aliens (18 U.S.C. 922(g)(5)). Nevertheless, the 8,213,415 number is an imprecise proxy for the population affected by the proposed rule, as it includes adjudications of mental defectiveness that would not be affected by this proposed rule, as noted above, and also includes persons who were entered into the NICS Indices because they were ''committed to a mental institution'' (whether separately from or in addition to having been ''adjudicated as [ ] mental[ly] defective'').

The closest proxy for the population affected by the portion of the definition ATF proposes to revise may therefore be the set of NICS Indices data submitted by the VA. As discussed in the preamble, a significant number of veterans currently fall under the ''[l]acks the mental capacity to contract or manage his own affairs'' provision on the basis of a single functional limitation—*i.e.,* due to determinations that they need a fiduciary to assist them with managing VA benefits. By the end of December 31, 2025, there were 74,749 active VA records in the NICS Indices that the VA believed triggered the ''adjudicated as a mental defective'' prohibition. However, this number may still be overinclusive because these records could include some individuals who would continue to qualify as having been ''adjudicated as a mental defective'' under ATF's proposed revisions to the current regulation, such as veterans appointed guardians as a result of an intellectual disability or mental illness. In addition, an unknown percentage of these records pertain to veterans who have not attempted to purchase or possess firearms, and would continue not to even under the proposed rule. ATF therefore does not have a valid set of data for precisely assessing the number of individuals who would be affected by the changes in the proposed rule. ATF welcomes public comment on additional data sources or proxies to further estimate the affected population of individuals, veterans or otherwise, who have been deemed mentally defective by a court, board, commission, or other lawful authority based solely on their narrow functional limitations, on the grounds that they are unable to contract or manage their own affairs within the meaning of ATF's current regulatory definition.

Regardless of the size of the affected population, they would realize the proposed amendment's qualitative benefits in three ways. First, and most broadly, the proposed rule would prevent persons from losing their Second Amendment rights based solely on a determination that they have certain narrow functional limitations. This expected benefit is impossible to quantify or monetize but can certainly be deemed valuable to an unknown proportion of current or prospective gun owners who would otherwise qualify as ''adjudicated as a mental defective,'' as well as persons who already have lost their firearms rights on this basis under the existing definition.

Second, veterans in the affected population would realize a benefit because the proposed amendments would enable the VA to fully assess whether a veteran requires a fiduciary to

[38] The other two databases NICS queries, NCIC and III, consist primarily of criminal records, so these databases are generally not relevant to estimating the size of the population that will primarily benefit from the proposed rule: persons with narrow functional limitations who fall under the ''[l]acks the mental capacity to contract or manage his own affairs'' element of the current regulation. The NCIC and III do, however, supply data about persons found insane in a criminal case, found incompetent to stand trial, or found not guilty by reason of lack of mental responsibility, so they still have some bearing on the overall population of persons currently considered ''adjudicated as a mental defective.''

assist with financial matters without fear of negatively impacting a veteran's Second Amendment rights. Additionally, such a change would allow a veteran to seek needed assistance from the VA without fear of permanently losing firearms rights, and would therefore potentially increase veterans' willingness to be treated. That would ostensibly improve their quality of life and that of their families who may depend on their proper treatment. Similar benefits would accrue to non-veterans who have had a fiduciary appointed for financial matters, but who are otherwise able to act responsibly and manage other aspects of their life.

Third, ATF expects the proposed rule would benefit certain at risk or vulnerable persons affected by the current regulatory definition, as it would obviate the collateral processes those persons encounter if they are deemed to be prohibited. Because individuals who have been appointed a fiduciary solely to assist with managing their financial affairs or who have been appointed a temporary guardian due to a temporary physical condition would no longer be considered ''adjudicated as a mental defective'' under the proposed rule, they would be spared the financial burden of later applying for relief from disability under 18 U.S.C. 925(c) or a qualified state relief program,[39] or otherwise going through a cumbersome process of having their records updated and removed from NICS once they recover from their temporary physical condition or no longer have a fiduciary to manage their financial affairs. Thus, this third benefit would constitute both a qualitative benefit as well as a quantitative cost savings. In its recent proposed rule titled ''Application for Relief From Disabilities Imposed by Federal Laws with Respect to the Acquisition, Receipt, Transfer, Shipment, Transportation, or Possession of Firearms,'' 90 FR 34394 (July 22, 2025), the Department proposed a new relief from disabilities process. The Department estimated that, under this new process, applying for relief from a firearms disability will take approximately 60 minutes.

Because affected individuals falling under ATF's current definition of ''adjudicated as a mental defective'' would likely apply for relief from disability in their personal capacity, ATF estimates that the opportunity cost of applying for relief under section 925(c) would be based on the value of their free time or ''leisure time.'' ATF calculated the monetized value of that time using a standard leisure wage formula. For an applicant's rate calculation, ATF relied on a methodology developed by the Department of Health and Human Services (''HHS'')[40] for calculating the hourly leisure wage. Because HHS's methodology relies on Bureau of Labor Statistics (''BLS'') data that is updated monthly, we did not need to use an inflation-adjusted wage rate.

Accordingly, consistent with HHS's methodology, ATF used the BLS median weekly income for full-time employees as the base for calculating the hourly leisure wage. Based on this methodology, ATF attributes a rounded value of $23 per hour for time spent by respondents completing the application form. Because ATF does not have data on the actual size of the affected population, ATF provides the following cost savings estimate as an illustrative case. If, for example, 10 percent of the approximately 74,000 individuals in the accumulated set of VA records submitted to NICS were prohibited because they had a fiduciary appointed solely to assist with managing their financial affairs or were placed in a temporary guardianship due to a temporary physical condition, and these veterans accordingly had to later apply for relief from firearms disability under 18 U.S.C. 925(c), that would be 7,400 veterans. This set of potentially affected persons would currently accrue a total of $170,200 in monetized time burden ($23/hour * 1 hour * 7,400), which they would then save due to this proposed rule.

In addition, the Department's proposed rule would require a $20 per-application fee to fully self-sustain the first year of the new relief program's operation.[41] As a result, assuming the Department imposes this fee and all 7,400 potential applicants would have paid it in the future, this would result in an additional future cost of $148,000 in the first year that these potential applicants would save due to ATF's proposed rule. Therefore, ATF estimates the total annual costs saved (or quantifiable benefits) in the first year of this proposed rule at $318,200. In reality, the costs saved could be greater because ATF's estimate does not encompass the entire population affected by the proposed rule, and instead is based only on data pertaining to veterans.

ATF welcomes public comments on the population that might be affected by the changes in this proposed rule; the quantifiable savings that would result from a reduction in requests for relief from disability; and the savings that members of the affected population would realize over time.

3. Costs

Potential Public Safety Risks of the Proposed Rule

In addition to the benefits discussed above, ATF estimates the proposed rule would also generate potential qualitative costs to the public. The primary cost that ATF's proposed rule would introduce is an increase in public safety risk. This could stem from persons who are currently prohibited from acquiring firearms on the basis of narrow functional limitations and happen to pose a danger to themselves or others, but who may not have been evaluated on this second basis. Under the proposed rule, however, this subset of possibly dangerous persons would no longer necessarily be prohibited possessors. Nor does this proposed rule require these persons, who are potentially suffering from mental illnesses or other conditions affecting their competency, to then undergo a mental health evaluation to determine if they can safely handle firearms and thus automatically have their ability to purchase firearms restored. The only way this subset of persons would be prevented from acquiring firearms under this proposed rule is if they are determined to fall into one of the specific categories laid out in the proposed rule—a determination which might not be within the relevant authority's remit to make even if the case supports such a finding—or if they somehow independently meet one of the other prohibited possessor categories under the GCA. In particular, under ATF's proposed realignment of certain elements of the current definition of ''adjudicated as a mental defective,'' a finding that a person poses a danger to themselves or others is not independently sufficient to prevent them from possessing firearms. Instead, the proposed rule would raise the threshold for which persons are adjudicated as mentally deficient or are formally and involuntarily committed to a mental institution. As a result, some portion of these dangerous persons, although adjudicated or committed, would no longer be prohibited. ATF acknowledges that, while adjudications appointing a fiduciary or limited

[39] *See* ATF, *List of States with a Qualifying Relief of Disability Program, https://www.atf.gov/media/21166/download* [*https://perma.cc/GHQ3-9N7H*].

[40] U.S. Department of Health and Human Servs., *Valuing Time in the U.S. Department of Health and Human Services Regulatory Impact Analyses: Conceptual Framework and Best Practices,* at 40–41 (June 2017), *https://aspe.hhs.gov/sites/default/files/private/pdf/257746/VOT.pdf* (last visited April 29, 2026).

[41] 90 FR 34399.

guardian do not typically address whether a person presents a danger to themselves or others, an unknown-but-greater-than-zero percentage of persons who require these forms of assistance also *do* pose a danger to themselves or others. Currently, even if the relevant lawful authority does not specifically adjudicate on that topic, such persons are not able to acquire firearms after their adjudication and thus do not pose a risk to public safety in that manner.

This public safety cost would be experienced by the general public in addition to members of the affected population itself (*i.e.,* those who would no longer be subject to the firearms restriction as a result of the proposed rule). This risk may be minimal, or may be considerably greater (up to and including potential mass casualty events), based upon the strength of state and federal processes regarding guardianship and involuntary commitment.

ATF welcomes public comment on the degree to which persons currently prohibited from possessing firearms under the baseline criterion of those ''lack[ing] the mental capacity to contract or manage [their] own affairs'' may pose a danger to themselves or others. As discussed, this affected population would no longer be prohibited from possessing firearms under the proposed rule unless they were involuntarily committed, found permanently incompetent to stand trial, or had a guardian appointed due to a severe permanent mental illness or ''intellectual disability'' as defined by the proposed rule.

The primary driver of the potentially increased public safety risk is the specific definitional change as proposed. While the existing definition may be overinclusive and onerous for those affected, ATF's proposed solution runs the risk of overcorrecting in the opposite direction and allowing relief to a greater segment of the affected population than warranted, given the scarcity of the data. Restricting individuals' Second Amendment rights based on the fact that they are unable to manage their VA benefits or other financial affairs may incorrectly assume that the individual poses some physical threat or possesses subnormal intelligence, without any specific finding by a judicial or other competent authority on those questions. However, the correction that ATF proposes—amending the definition of ''adjudicated as a mental defective'' to eliminate the prong on ''lack[ing] the mental capacity to contract or manage his own affairs'' as a result of marked subnormal intelligence, mental illness, incompetency, condition, or disease—could exclude individuals (veterans and non-veterans alike) who are now captured by that prong and indeed pose a danger to themselves or to others.

ATF is proposing to amend the definition by instead requiring a finding by a competent, independent authority that the individual substantially lacks mental capacity in general. This change would require that an adjudication affecting Second Amendment rights be tied to a specific finding that a person has an intellectual disability or mental condition of substantial severity, such that it would be likely to affect their ability to safely handle firearms.

Therefore, for instance, the proposed rule would default most, if not all, persons assigned fiduciaries by the VA (*e.g.,* a large segment of the VA's NICS Indices section 922(g)(4) entries) as not being prohibited from owning and handing firearms on that basis, even though some members of this pool could potentially be dangerous. Overall, under the proposed rule persons who are adjudicated as requiring assistance with their financial affairs would be able to possess or acquire firearms. This would occur whether the persons are veterans or non-veterans, unless there is a finding by a competent authority that they exhibit severe limits to their mental capacity indicating they lack the ability to safely handle firearms. There is a lack of naturally occurring interface between this population and authorities who could assess their total mental state under procedures that meet the conditions of the proposed rule. As a result, ATF recognizes this arrangement may be overbroad in its application and may result in persons, whom the statute intended to be prohibited, obtaining and potentially using firearms to harm themselves or others.[42]

Potential Costs to States or Other Entities That Submit Records to NICS, and Soliciting Public Comments on Such Costs

As mentioned above, the FBI established the NICS system and now manages it. 28 CFR 25.5(a). FBI regulations provide that each data source that submits to NICS is ''responsible for ensuring the accuracy and validity of the data it provides to the NICS Index,'' and further require each source to ''immediately correct any record determined to be invalid or incorrect.'' *Id.* at § 25.5(b). While federal agencies are required to provide their relevant records to the NICS Indices, states submit theirs on a voluntary basis. *Id.* at § 25.4. Thus, states or other sources that submit records to the NICS Indices are responsible for maintaining the accuracy of the records they provide. Participating states and other sources already incur costs, such as paying employees and maintaining systems, to fulfill this responsibility. These are sunk costs.

Many states have a unified court system such that, if mental health information meeting the criteria for section 922(g)(4) is entered into the system, it is automatically sent to the NICS Indices. To comply with this proposed rule, states may need to review their previous NICS Indices entries because records previously submitted to NICS may not include language establishing that a person has a qualifying intellectual disability or mental health issue warranting guardianship, or that they otherwise meet the section 922(g)(4) criteria under ATF's proposed revised definition. The extent to which previous entries would no longer be accurate under the proposed rule will vary from state to state. Records may need to be reviewed for lack of information because such information was not collected initially, even if, in reality, facts exist that would satisfy the section 922(g)(4) regulatory definitions as revised. Further, state proceedings may need to be reviewed to confirm that they fall within the proposed revised definition of ''adjudicated.'' Some states may be able to perform this review expeditiously, while other states may need additional time or resources to review section 922(g)(4) records for accuracy under the proposed rule's new criteria. States might also need to review for compliance with the proposed rule any records that are appealed through a qualified state relief program. This review process would be a one-time cost to comply with this rule. Nevertheless, ATF does not believe that this one-time cost that states and other sources may incur would be substantial, as they would be unlikely to hire additional personnel and the cost of maintaining records is a sunk cost since it is a part of states' responsibility when submitting records to NICS.

However, ATF does not currently have sufficient information to understand the scope of how each state or other source may deal with extra work that would result should this definitional change go into effect. ATF

[42] For example, suicide is among the leading causes of death in the U.S., with almost 50,000 Americans each year dying by suicide. More than 70 percent of suicides by veterans use a firearm, while that figure is about 50 percent for the overall U.S. population. Given that this population is at risk, narrowing the prohibition and allowing automatic restoration of firearms across the board could have a negative impact on this group and other similarly at-risk groups.

is thus seeking public comment and information from states and other sources on:

- The identities of the NICS Indices sources, such as whether they are state agencies, local governments, federal agencies, etc.; the scale and scope of these sources' records submissions to NICS, especially section 922(g)(4) records; and similar information for context;
- Whether the state or other source anticipates that their records submissions—including their processes for submitting records—would have to change as a result of implementing this proposed rule, and, if so, in what ways or for what types of tasks. ATF requests details and supporting data or bases for these estimates so it can understand how processes, personnel, and systems might be impacted, and to what extent;
- What the state or other source anticipates the additional monthly or yearly cost in time or other expenses would be to come into compliance with the proposed rule, and for how long, with supporting data or bases for the estimate;
- Whether the state or other source currently utilizes any automated systems to review records, how those systems or processes work, and how they would need to change;
- Whether a state source receives federal grants for its NICS submission processes and records, whether those grants would include the transitional costs to implement this rule, and if not, the extent of the anticipated shortfall;
- Any other changes the state or other source would need to make to their records systems or processes and the costs they might incur as a result, with details and supporting data or bases, so that ATF can understand the anticipated impact of this proposed rule.

4. Regulatory Alternatives

ATF considered six alternatives: (1) continuing the status quo without changing the existing regulatory definitions; (2) issuing guidance to NICS and others who enforce sections 922(g)(4) and (d)(4); (3) proposing a rule clarifying only that VA incompetency determinations are not adjudications of mental defectiveness; (4) proposing a rule providing that the appointment of a fiduciary or guardian does not qualify as an adjudication of mental defectiveness absent a finding of dangerousness; (5) requiring affirmative clearance for certain persons to handle firearms; or (6) revising the existing regulation in the manner described in this proposed rule.

Option 1: Continuing the Status Quo

This is also known as the no-action alternative, which ATF considered. However, ATF believes that the existing definition of ''adjudicated as a mental defective'' is unnecessarily broad because it has been interpreted to restrict Second Amendment rights based on solely on a determination that a person lacks the ability to manage certain personal or financial affairs. ATF deemed this interpretation to be a qualitative burden on the public. As a result, ATF determined that it must take some action to resolve these issues.

Option 2: Guidance

ATF considered issuing guidance to relevant components and stakeholders (*e.g.,* to FBI's NICS), that would set out updated enforcement practices and would inform them that the appointment of a fiduciary is insufficient to trigger the statutory prohibition in sections 922(g)(4) and (d)(4). The contemplated guidance would request that the components adjust their internal enforcement practices to align with ATF's revised interpretation. ATF believes providing guidance to the other components is an important option, especially in the short term. ATF considers this to be a better option than issuing a rulemaking insofar as it would inform other components of ATF's views sooner, enabling them to begin adjusting their internal guidance and practices much more quickly than if they had to wait for a regulatory change. Guidance would also contain more detailed information and explanations than would be appropriate in a regulation.

However, because ATF explicitly stated in the 1997 final rule that the VA had correctly interpreted ATF's definition of ''adjudicated as a mental defective'' to mean that persons found incompetent under the VA's 38 CFR 3.353 provision will be considered to meet the definition, ATF determined that guidance was an insufficient replacement for a rulemaking to revise ATF's official interpretation of the term. Moreover, as there are various sources of records to NICS, information provided in guidance to the usually-targeted stakeholders, described above, may not reach all the necessary parties. By contrast, formal rulemaking allows ATF to ensure that all involved parties are made aware of these changes, so there is consistent implementation of section 922(g)(4). The notice of proposed rulemaking also helps to solicit information from the public regarding the questions ATF presented in the preamble so that ATF may provide more clarification in the final rule regarding the difference between the ''adjudicated as a mental defective'' and ''committed to a mental institution'' prongs of the statute. If ATF merely issued guidance, its interpretation of sections 922(g)(4) and (d)(4) could not benefit from commenters' knowledge on these issues.

Option 3: Rulemaking To Alter the Weight of VA Processes

ATF considered proposing a rule stating only that VA proceedings would not satisfy the statute for purposes of the ''adjudicated as a mental defective prong,'' rather than a broader rule removing the ''lacks the mental capacity to contract or manage his own affairs'' provision from that definition, among other changes. That option would achieve a similar result as the proposed alternative. However, ATF is concerned that there are other competency procedures beyond those conducted by the VA that would not have been captured by this approach, yet should not suffice to make someone ''adjudicated as a mental defective'' under the correct understanding of that phrase. ATF thus rejected this alternative.

Option 4: Rulemaking To Require a Finding of Dangerousness

ATF also considered an alternative to correct the issues related to veterans and similarly situated non-veterans by simply amending the definition of ''adjudicated as a mental defective'' to make clear that the appointment of a guardian or fiduciary alone is insufficient to trigger that prong. Instead, ATF would have clarified that, to qualify under section 922(g)(4) on that basis, persons would have to have undergone a proceeding where they were found to be a danger to themselves or others. This would better limit the fiduciary trigger to persons who pose a public risk, and would not capture those who should otherwise not have their firearms rights affected. However, this alternative ultimately was not advanced over the proposed rulemaking because ATF determined that there are some individuals who suffer from an intellectual disability severe enough that they are incapable of safely handling firearms, even if they are not formally found to be dangerous to themselves or others. Thus, ATF determined that a person placed in a guardianship on the basis of demonstrating substantial intellectual deficits or as a result of mental illness should also trigger the ''adjudicated as a mental defective'' prong of section 922(g)(4).

Option 5: Rulemaking To Require Positive Clearance To Handle Firearms

This alternative to the proposed rule would have required that persons who lack the capacity to manage their own affairs and are appointed fiduciaries would continue to be deemed mental defectives unless an adjudicating authority also makes a specific finding or determination that these persons do not have an intellectual disability or mental condition that affects their ability to safely handle firearms. Should the VA, or any other court, board, commission, or other lawful authority determine that a person with an assigned fiduciary is not a danger to themselves or society in general, and is capable of safely handling firearms, the prohibition on receiving or possessing firearms would not apply even though the person might need a fiduciary or guardian for other purposes. This option was not ultimately advanced over the proposed rulemaking because it is not clear how lawful authorities would retroactively make such findings as to persons who have been previously deemed to require such assistance. ATF thus determined this option did not address its overarching concerns about existing infringements of constitutional rights.

Option 6: Rulemaking Proposing Default Clearance To Handle Firearms (Proposed Rule)

ATF also considered the option of defaulting in the other direction, which means that all persons who have an adjudication solely appointing a fiduciary or guardian are automatically deemed to still have the capacity to safely handle firearms unless they fall into one of the specific categories described by the proposed rule. ATF selected this option and determined that, as noted above, the rulemaking as proposed is necessary to revise the broader definition of ''adjudicated as a mental defective'' contained in the current regulation. Revising the definition so that it does not cover individuals solely because they have been assigned fiduciaries or temporary guardians reduces hardship on the affected population. ATF's proposal would require that an adjudication affecting Second Amendment rights be tied to a specific finding that a person has an intellectual disability or mental condition of such severity that ATF believes it would be likely to permanently affect their ability to safely handle firearms. ATF also believes that certain minimum procedural standards must be satisfied before a person's Second Amendment rights are affected, and thus the proposed rule establishes certain procedural requirements for a qualifying adjudication under sections 922(g)(4) and (d)(4). As discussed in the preamble, ATF believes that this interpretation of ''adjudicated'' adheres more faithfully to the text of the GCA and the congressional purpose underlying it. Additionally, this proposed rule clarifies the definition of ''committed to a mental institution'' by listing various types of qualifying commitments and reinforcing ATF's longstanding position that a commitment must be formal and involuntary to qualify.

B. Executive Order 14192

Executive Order 14192 (Unleashing Prosperity Through Deregulation) requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed or revised when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation that qualifies as an Executive Order 14192 regulatory action (defined in OMB Memorandum M–25–20 as a final significant regulatory action under section 3(f) of Executive Order 12866 that imposes total costs greater than zero). In furtherance of this requirement, section 3(c) of Executive Order 14192 requires that any new incremental costs associated with such new regulations must, to the extent permitted by law, also be offset by eliminating existing costs associated with at least ten prior regulations. This rule as proposed would be a significant regulatory action as defined by Executive Order 12866. However, because the economic impact would not impose costs greater than zero, this proposed rule would not be an Executive Order 14192 regulatory action. This proposed rule revises the definition of a current firearms prohibition to reduce the number of persons inadvertently covered by the definition outside the statutorily intended scope. ATF therefore expects this proposed rule, if finalized as proposed, to qualify as an Executive Order 14192 deregulatory action (defined by OMB Memorandum M–25–20 as a final action that imposes total costs less than zero). As discussed in detail in section III.A.3 of this preamble, ATF anticipates that some states and other sources of NICS records might have to expend time to review and cull existing section 922(g)(4) records they have submitted and adjust their processes to ensure they do not submit records in the future that would not comply with this proposed rule. However, ATF believes that the costs that submitting organizations incur for these purposes would not go up for most, as they are sunk costs. Therefore, ATF is soliciting public comments on these topics and may revise its Executive Order 14192 assessment as a result.

C. Executive Order 14294

Executive Order 14294 (Fighting Overcriminalization in Federal Regulations) requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to each element of those offenses. This proposed rule would not create a criminal regulatory offense and is thus exempt from Executive Order 14294 requirements.

D. Executive Order 13132

As far as ATF is able to ascertain at this point, this proposed rule would not have substantial direct effects on the states, the relationship between the federal government and the states, or the distribution of power and responsibilities among the various levels of government. ATF believes that the costs that states and other sources incur to submit records to NICS or review already-submitted records would not go up for most sources, as the costs to review and maintain systems are sunk costs. However, ATF does not know the specific aspects of every single state or other source's records-submission and review systems and processes or how each one might change. ATF also lacks other relevant context, such as the extent to which these systems receive federal grants, etc. Therefore, ATF is soliciting public comments on these topics and may revise its federalism assessment as a result. Please see section III.A.3 of this preamble for a detailed discussion on this topic.

In accordance with section 6 of Executive Order 13132 (Federalism), the Director has determined that this proposed rule could impose substantial direct compliance costs on state and local governments, preempt state law, or meaningfully implicate federalism. However, unless ATF receives data from public comments that supports a federalism impact, the information ATF currently has does not warrant preparing a federalism summary impact statement.

E. Executive Order 12988

This proposed rule meets the applicable standards set forth in

sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform).

F. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–612, agencies are required to conduct a regulatory flexibility analysis of any proposed rule subject to notice-and-comment rulemaking requirements unless the agency head certifies, including a statement of the factual basis, that the proposed rule would not have a significant economic impact on a substantial number of small entities. Small entities include certain small businesses, small not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Director certifies, after consideration, that as far as ATF is currently able to ascertain, this proposed rule would not have a significant economic impact on a substantial number of small entities, as defined above. This rule would not impose any additional costs on small businesses or small not-for-profit organizations. However, it is possible that this rule could have a significant economic impact on small governmental jurisdictions with populations of less than 50,000 that might submit records to NICS. Therefore, ATF is soliciting public comments to aid it in assessing this possibility and may revise its assessment as a result. Please see section III.A.3 of this preamble for a detailed discussion on this topic.

G. Unfunded Mandates Reform Act of 1995

As far as ATF is able to ascertain at this point, this proposed rule would not include a federal mandate that might result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it would not significantly or uniquely affect small governments. ATF believes that the costs that states and other sources incur to submit records to NICS or review already-submitted records would not go up for most sources, as the costs to review and maintain systems are sunk costs. However, ATF does not know the specific aspects of every single state or other source's records-submission and review processes or systems or how each one might change. ATF also lacks other relevant context, such as the extent to which these systems receive federal grants, etc. Therefore, ATF is soliciting public comments on these topics and may revise its unfunded mandate assessment as a result. Please see section III.A.3 of this preamble for a detailed discussion on this topic. ATF has determined that no actions are currently necessary under the provisions of the Unfunded Mandates Reform Act of 1995, but that some might become necessary based on public input.

H. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (''PRA''), 44 U.S.C. 3501–3521, agencies are required to submit to OMB, for review and approval, any information collection requirements a rule creates or any impacts it has on existing information collections. An information collection includes any reporting, record-keeping, monitoring, posting, labeling, or other similar actions an agency requires of the public. *See* 5 CFR 1320.3(c). This proposed rule would not create any new information collection requirements or impact any existing ones covered by the PRA.

IV. Public Participation

A. Comments Sought

ATF requests comments on the proposed rule from all interested persons. ATF specifically requests comments on the clarity of this proposed rule and how it may be made easier to understand, as well as on ATF's proposal regarding moving certain components of the ''adjudicated as a mental defective'' definition to the definition of ''committed to a mental institution.'' As discussed throughout section II of this preamble, ATF seeks comment on:

- The public meaning of ''mental defective'' in 1968.
- Whether the reorganization proposed in this rule would have any adverse impact on public safety.
- Whether there are jurisdictions where individuals may be found not guilty by reason of insanity or found in a proceeding to be a danger to themselves or others without being committed to a mental institution as proposed by the definition.
- Whether the reorganization as proposed in this rule would permit other mentally unstable persons to acquire firearms who could not do so today.
- Whether individuals in the following three categories are more properly understood to be prohibited on the basis of having been involuntarily committed than having been adjudicated as mental defectives. The three categories are: (1) individuals found to be a danger to themselves or others; (2) individuals found insane in a criminal case; and (3) individuals found incompetent to stand trial or found not guilty by reason of lack of mental responsibility under the UCMJ.
- Whether there are any jurisdictions that permit potentially incompetent persons from undergoing guardianship or other legal proceedings without either appointing counsel or a guardian ad litem.
- Whether any jurisdictions permit competency or capacity determinations to be made without hearings, including at the election of the individual involved.

In addition, ATF requests comments on the costs or benefits of the proposed rule and on the appropriate methodology and data for calculating those costs and benefits. As discussed in section III.A.3 of this preamble, ATF seeks comment on:

- Additional data sources or proxies to further estimate the population of individuals, veterans or otherwise, who have been deemed mentally defective by a court, board, commission, or other lawful authority solely because they possess a narrow functional limitation.
- Whether there is any additional information or comment on the described affected population, *i.e.,* persons currently prohibited from possessing firearms under the baseline criterion of those ''lack[ing] the mental capacity to contract or manage [their] own affairs,'' and the degree to which they may pose a danger to themselves or others.

ATF also seeks comment and information on potential costs to states and other sources related to maintaining and submitting records to NICS. Please see section III.A.3 of this preamble for a detailed discussion of this topic.

All comments must reference this document's RIN 1140–AB04 and, if handwritten, must be legible. If submitting by mail, you must also include your complete first and last name and contact information. If submitting a comment through the federal e-rulemaking portal, as described in section IV.C of this preamble, you should carefully review and follow the website's instructions on submitting comments. Whether you submit comments online or by mail, ATF will post them online. If submitting online as an individual, any information you provide in the online fields for city, state, zip code, and phone will not be publicly viewable when ATF publishes the comment on *https://www.regulations.gov.* However, if you include such personally identifying information (PII) in the body of your online comment, it may be posted and viewable online. Similarly, if you

submit a written comment with PII in the body of the comment, it may be posted and viewable online. Therefore, all commenters should review section IV.B of this preamble, ''Confidentiality,'' regarding how to submit PII if you do not want it published online. ATF may not consider, or respond to, comments that do not meet these requirements or comments containing excessive profanity. ATF will retain comments containing excessive profanity as part of this rulemaking's administrative record but will not publish such documents on *https://www.regulations.gov.* ATF will treat all comments as originals and will not acknowledge receipt of comments. In addition, if ATF cannot read your comment due to handwriting or technical difficulties and cannot contact you for clarification, ATF may not be able to consider your comment.

ATF will carefully consider all comments, as appropriate, received on or before the closing date.

B. Confidentiality

ATF will make all comments meeting the requirements of this section, whether submitted electronically or on paper, and except as provided below, available for public viewing on the internet through the federal e-rulemaking portal, and subject to the Freedom of Information Act (5 U.S.C. 552). Commenters who submit by mail and who do not want their name or other PII posted on the internet should submit their comments with a separate cover sheet containing their PII. The separate cover sheet should be marked with ''CUI//PRVCY'' at the top to identify it as protected PII under the Privacy Act. Both the cover sheet and comment must reference RIN 1140–AB04. For comments submitted by mail, information contained on the cover sheet will not appear when posted on the internet, but any PII that appears within the body of a comment will not be redacted by ATF and may appear on the internet. Similarly, commenters who submit through the federal e-rulemaking portal and who do not want any of their PII posted on the internet should omit such PII from the body of their comment and any uploaded attachments. However, PII entered into the online fields designated for name, email, and other contact information will not be posted or viewable online.

A commenter may submit to ATF information identified as proprietary or confidential business information by mail. To request that ATF handle this information as controlled unclassified information (''CUI''), the commenter must place any portion of a comment that is proprietary or confidential business information under law or regulation on pages separate from the balance of the comment, with each page prominently marked ''CUI//PROPIN'' at the top of the page.

ATF will not make proprietary or confidential business information submitted in compliance with these instructions available when disclosing the comments that it receives but will disclose that the commenter provided proprietary or confidential business information that ATF is holding in a separate file to which the public does not have access. If ATF receives a request to examine or copy this information, it will treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). In addition, ATF will disclose such proprietary or confidential business information to the extent required by other legal process.

C. Submitting Comments

Submit comments using either of the two methods described below (but do not submit the same comment multiple times or by more than one method). Hand-delivered comments will not be accepted.

- *Federal e-rulemaking portal:* ATF recommends that you submit your comments to ATF via the federal e-rulemaking portal at *https://www.regulations.gov* and follow the instructions. Comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that is provided after you have successfully uploaded your comment.
- *Mail:* Send written comments to the address listed in the **ADDRESSES** section of this document. Written comments must appear in minimum 12-point font size, include the commenter's first and last name and full mailing address, and may be of any length. See also section IV.B of this preamble, ''Confidentiality.''

D. Request for Hearing

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director within the 90-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing is necessary.

Disclosure

Copies of this proposed rule and the comments received in response to it are available through the federal e-rulemaking portal, at *https://www.regulations.gov* (search for RIN 1140–AB04).

Severability

Consistent with the Administrative Procedure Act, the issues raised in this proposed rule may be finalized, or not, independently of each other, after consideration of comments received. ATF has determined that this proposed rule implements and is fully consistent with governing law. However, in the event this proposed rule is finalized, if any provision of that final rule, an amendment or revision made by that rule, or the application of such provision or amendment or revision to any person or circumstance, is held to be invalid or unenforceable by its terms, the remainder of that final rule, the amendments or revisions made by that rule, and application of the provisions of the rule to any person or circumstance shall not be affected and shall be construed so as to give them the maximum effect permitted by law.

List of Subjects in 27 CFR Part 478

Administrative practice and procedure, Arms and munitions, Exports, Freight, Imports, Intergovernmental relations, Law enforcement officers, Military personnel, Penalties, Reporting and record-keeping requirements, Research, Seizures and forfeitures, Transportation.

For the reasons discussed in the preamble, ATF proposes to amend 27 CFR part 478 as follows:

PART 478—COMMERCE IN FIREARMS AND AMMUNITION

■ 1. The authority citation for part 478 continues to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 847, 921–931; 44 U.S.C. 3504(h).

■ 2. Revise, in § 478.11, the definitions of ''Adjudicated as a mental defective'' and ''Committed to a mental institution'' to read as follows:

§ 478.11 Meaning of terms.

* * * * *

Adjudicated as a mental defective.

(a) *Definition.* Individuals are adjudicated as a mental defective if they have—

(1) Had a guardian appointed by a court, board, commission, or other lawful authority because of an intellectual disability or mental illness;

(2) Been found by a court, board, commission, or other lawful authority to have a permanent physical condition, such as dementia, provided the individuals have reached the functional capability equivalent to that of a person

with an intellectual disability and have had a guardian appointed; or

(3) Been found by a court (or by the convening authority in a court-martial) to be incompetent to stand trial based on a mental disease or defect where there is no reasonable possibility of restoring competence.

(b) *Intellectual disability.*

(1) An intellectual disability exists when an individual has a full-scale IQ score of 45 or below. An intellectual disability also exists when a person has a full-scale IQ score of less than 69 and has limitations in multiple adaptive functioning domains such that the individual is incapable of living independently.

(2) In proceedings where there is no finding of intellectual disability using the precise criteria described in paragraph (b)(1), an intellectual disability exists if the adjudicator makes findings that the individual has cognitive and functional deficits that would be equal to or greater than those described in paragraph (b)(1) of this section.

(3) An intellectual disability does not exist solely because an individual has had a temporary guardian appointed due to a transient physical disability or because an individual has had a fiduciary appointed solely to assist with managing their financial affairs.

(c) *Adjudication.* For purposes of this definition, an ''adjudication'' occurs when a court, board, commission, or other lawful authority has provided individuals about whom the authority is making a determination with:

(1) An in-person or remote hearing before an unbiased adjudicator;

(2) An opportunity to hear opposing evidence, to present evidence, and to confront adverse witnesses;

(3) Permission to be represented by counsel;

(4) An appointed counsel or guardian ad litem when there are reasonable grounds to believe that individuals lack sufficient mental competency to represent themselves or act in their own defense;

(5) Adequate notice of the hearing; and

(6) In a civil proceeding, a burden of proof based on at least clear and convincing evidence.

* * * * *

Committed to a mental institution.

(a) *Definition.* A formal and involuntary commitment of a person to a mental institution by a court, board, commission, or other lawful authority.

(b) *Included types.* The term includes the following types of commitments to a mental institution:

(1) Commitments resulting from determinations that individuals are a danger to themselves or others based upon mental disease or defect;

(2) Commitments resulting from other reasons, such as for drug use;

(3) Commitments resulting from a verdict of insanity by a court in a criminal case;

(4) Commitments resulting from a verdict of not guilty by reason of lack of mental responsibility pursuant to article 50a of the Uniform Code of Military Justice;

(5) Commitments resulting from a person being found incompetent to stand trial under article 72b of the Uniform Code of Military Justice; and

(6) Commitments resulting from a determination that a person is incompetent to stand trial in a civilian criminal case, if the basis for that determination is a mental disease or defect.

(c) *Not included.* The term does not include a person in a mental institution for observation or a voluntary admission to a mental institution.

Robert Cekada,

Director.

[FR Doc. 2026–09156 Filed 5–7–26; 8:45 am]

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DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Part 478

[Docket No. ATF–2026–0166; ATF No. 2025R–28P]

RIN 1140–AA87

Removing Youth Handgun Safety Act Notice

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives; Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms, and Explosives (''ATF'') proposes to remove Department of Justice (''Department'') regulations regarding the Youth Handgun Safety Act. If finalized, this rule would remove the requirement that federal firearms licensees who deliver handguns to non-licensees post signs and provide written notice regarding the Act's provisions to each handgun purchaser.

DATES: Comments must be submitted in writing, and must be submitted on or before (or, if mailed, must be postmarked on or before) August 6, 2026. Commenters should be aware that the federal e-rulemaking portal comment system will not accept comments after midnight Eastern Time on the last day of the comment period.

ADDRESSES: You may submit comments, identified by RIN 1140–AA87, by either of the following methods—

- *Federal e-rulemaking portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* ATF Rulemaking Comments; Mail Stop 6N–518, Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave. NE, Washington, DC 20226; *ATTN: RIN 1140–AA87.*

Instructions: All submissions must include the agency name and number (RIN 1140–AA87) for this notice of proposed rulemaking (''NPRM'' or ''proposed rule''). ATF may post all properly completed comments it receives from either of the methods described above, without change, to the federal e-rulemaking portal, *https://www.regulations.gov.* This includes any personally identifying information (''PII'') or business proprietary information (''PROPIN'') submitted in the body of the comment or as part of a related attachment they want posted. Commenters who submit through the federal e-rulemaking portal and do not want any of their PII posted on the internet should omit it from the body of their comment and any uploaded attachments that they want posted. If online commenters wish to submit PII with their comment, they should place it in a separate attachment and mark it at the top with the marking ''CUI//PRVCY.'' Commenters who submit through mail should likewise omit their PII or PROPIN from the body of the comment and provide any such information on the cover sheet only, marking it at the top as ''CUI//PRVCY'' for PII, or as ''CUI//PROPIN'' for PROPIN. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at *https://www.regulations.gov.* Commenters must submit comments by using one of the methods described above, not by emailing the address set forth in the following paragraph.

FOR FURTHER INFORMATION CONTACT: Office of Regulatory Affairs, by email at *ORA@atf.gov,* by mail at Office of Regulatory Affairs; Enforcement

Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave. NE, Washington, DC 20226, or by telephone at 202–648–7070 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Attorney General is responsible for enforcing the Gun Control Act of 1968 (''GCA''), as amended. This responsibility includes the authority to promulgate regulations necessary to enforce the provisions of the GCA.[1] *See* 18 U.S.C. 926(a). Congress and the Attorney General have delegated the responsibility for administering and enforcing the GCA to the Director of ATF (''Director''), subject to the direction of the Attorney General and the Deputy Attorney General. *See* 28 U.S.C. 599A(b)(1), (c)(1); 28 CFR 0.130(a)(1)–(2); Treas. Order No. 221(2)(a), (d), 37 FR 11696–97 (June 10, 1972).[2] Accordingly, the Department and ATF have promulgated regulations to implement the GCA in 27 CFR part 478.

With some exceptions, the Youth Handgun Safety Act (''YHSA''), 18 U.S.C. 922(x), makes it unlawful for a person to sell, deliver, or otherwise transfer to a juvenile a handgun, or ammunition suitable for use only in a handgun, and for a juvenile to knowingly possess such items. The YHSA's implementing regulations are set forth in 27 CFR part 478, subpart F—Conduct of Business. In July 1998, ATF published a final rule titled ''Posting of Signs and Written Notification to Purchasers of Handguns'' [3] (''1998 final rule''). ATF published that rule in response to a presidential memorandum [4] that was part of an effort to implement the YHSA and to make handgun purchasers familiar with its provisions. The regulation, 27 CFR 478.103, requires each licensed importer, manufacturer, dealer, or collector (''federal firearms licensee'' or ''FFL'') that delivers a handgun to a non-licensee to (1) provide written notice to the non-licensee (*e.g.,* use ATF I 5300.2 or include the required information in the sales receipt, invoice, or other packing material) and (2) display a sign (ATF I 5300.1) at its licensed premises.

Prior to issuing the 1998 final rule, ATF published a proposed rule in 1997 with a public notice and comment period.[5] One commenter disputed ATF's authority under the GCA to require any sort of warning or notice of the YHSA requirements to handgun purchasers.[6] Section 922(x) itself contains no such requirement. Similarly, another commenter noted that ATF had not required notices or signs to warn purchasers about other GCA provisions or the statutory prohibitions against certain categories of persons possessing firearms.[7]

II. Proposed Rule

ATF has reevaluated the 1998 final rule and agrees with the commenters that the GCA does not require any sort of warning or notification under section 922(x). ATF has also reevaluated the costs and benefits of the 1998 final rule and has concluded that the 1998 final rule's required written notices and displays place an undue burden on FFLs.

The original impetus for providing a warning or notice was to ''advise handgun purchasers of the still relatively new requirements of the YHSA.'' [8] Over 30 years have passed since the YHSA was enacted. Its requirements are no longer ''relatively new.'' The law is well-established, and FFLs and the public are aware of its requirements. Widespread use of the internet has only increased licensees' and the public's awareness. The YHSA's requirements are readily available on several websites that are easy to find on search engines. Information about the YHSA is more readily accessible now than ever before. Moreover, ATF discusses federal, state, and local requirements with first-time FFL applicants at in-person interviews,[9] and those interviews discuss the requirements of section 922(x). In addition, the YHSA was published in the Statutes at Large and the U.S. Code, which self-executes notice. *See Fed. Crop Ins. Corp.* v. *Merrill,* 332 U.S. 380, 384 (1947) (''[E]veryone is charged with knowledge of the United States Statutes at Large.''). There are no new requirements of which to make the public and FFLs aware. Thus, the regulation's impetus is moot, and its requirements are superfluous. Nothing in the statute requires, or authorizes, the separate sort of notice, or signs, that the regulation requires. Therefore, ATF proposes rescinding 27 CFR 478.103. Rescinding the regulation will better honor the YHSA's text and eliminate an unnecessary and unduly burdensome regulatory requirement.

III. Statutory and Executive Order Review

A. Executive Orders 12866 and 13563

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.

Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of agencies quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting public flexibility.

The Office of Management and Budget (''OMB'') has determined that this rule would not be a ''significant regulatory action'' under Executive Order 12866. Therefore, it did not review this rule. ATF provides the following analysis to comply with Executive Orders 12866 and 13563.

1. Need Statement

While juveniles are not permitted to possess a handgun or ammunition, the YHSA requirements have been published, and the public has been aware of its requirements over the course of 30 years. ATF has reevaluated the 1998 final rule and concludes that requiring FFLs to provide notice unnecessarily burdens FFLs. Because the majority of FFLs are small businesses, ATF is seeking ways to reduce the administrative hurdles that would inhibit growth for small businesses.

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[1] Some GCA provisions still refer to the ''Secretary of the Treasury.'' However, the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, transferred the functions of ATF from the Department of the Treasury to the Department of Justice, under the general authority of the Attorney General. 26 U.S.C. 7801(a)(2); 28 U.S.C. 599A(c)(1). Thus, for ease of reference, this proposed rule refers to the Attorney General where relevant.

[2] In Attorney General Order Number 6353–2025, the Attorney General delegated authority to the Director to issue regulations pertaining to matters within ATF's jurisdiction, including under the National Firearms Act, GCA, and Title XI of the Organized Crime Control Act. ATF's jurisdiction also includes those portions of sec. 38 of the Arms Export Control Act pertaining to permanently importing defense articles and services and the Contraband Cigarette Trafficking Act.

[3] Posting of Signs and Written Notification to Purchasers of Handguns, 63 FR 37740 (July 13, 1998).

[4] *See* Administration of William J. Clinton, ''Memorandum on Enforcing the Youth Handgun Safety Act,'' 33 Weekly Comp. Pres. Doc 856 (June 11, 1997).

[5] Posting of Signs and Written Notification to Purchasers of Handguns, 62 FR 45364 (Aug. 27, 1997).

[6] 63 FR 37741.

[7] National Rifle Association of America, Comment Letter on Proposed Rule Regarding Posting of Signs and Written Notification to Purchasers of Handguns (Aug. 27, 1997).

[8] *Id.*

[9] ATF, *Apply for a License, https://www.atf.gov/firearms/apply-license* [*https://perma.cc/QFA6-65NX*].

2. Benefits

Rescinding 27 CFR 478.103 would achieve significant cost-savings for FFLs. Specifically, FFLs would no longer need to provide signs or paper notices about the YHSA for all sales to non-licensed individuals acquiring a handgun. ATF estimates that, over the course of 10 years, the undiscounted cost-savings would be $8 million.

Because the notice requirements apply to every handgun or pistol transfer by a licensee, ATF had to first estimate the number of such firearms transferred or otherwise disposed of (''transferred'' or ''transfers'') per year, from which to calculate projected savings. Every year, ATF inspects a certain subset of FFLs for compliance purposes. As part of the inspection process, ATF may ask that FFLs provide a general estimate on the number of transfers that have occurred over the calendar year. ATF's data does not specify whether the firearms are transferred to other FFLs or to individuals. Dealer-FFL transfers are typically retail sales to non-licensed individuals. Importer-FFLs and manufacturer-FFLs may also engage in retail sales to non-licensed individuals, but generally their transfers are intermediary shipments to other FFLs. Therefore, this analysis relied on the data reported by dealer-FFLs as the most likely to involve transfers to non-licensees. Because FFL-reported transfers do not specify whether they were sales to other FFLs or to non-licensed individuals, ATF acknowledges that this analysis under-reports the savings likely to accrue from this proposed rule for transfers to non-dealer FFLs. Table 1 shows the historical number of dealer-estimated transfers by year.

TABLE 1—TRANSFERS BY YEAR

Year	Number of dealer FFLs inspected	Average number of all transfers
2018	1,048	547
2019	8,341	561
2020	2,267	656
2021	3,778	1149
2022	3,920	1279

However, the dealer-estimated transfers include sales of all firearms, including rifles and shotguns, while this rulemaking pertains only to sales of handguns (pistols and revolvers). ATF excluded the sales of all other firearms by using the ratio of handguns to other firearms manufactured each year, as a proxy for the number of handguns sold. ATF estimates that the number of firearms manufactured each year closely approximates the number sold, due to market forces. Currently, manufacturers must submit to ATF an Annual Firearms Manufactured or Exported Report. ATF used data from those reports for this analysis. Table 2 provides an annual, historic number of firearms manufactured in the United States, as reported in ATF's *Firearms Commerce in the United States* report.[10]

TABLE 2—FIREARMS MANUFACTURED OR EXPORTED IN THE UNITED STATES

Year	Pistols	Revolvers	Rifles	Shotguns	Total firearms manufactured	Total handguns	Percentage of handguns
2013	4,441,726	725,282	3,979,570	1,203,072	10,349,650	5,167,008	49.92
2014	3,633,454	744,047	3,379,549	935,411	8,692,461	4,377,501	50.36
2015	3,557,199	885,259	3,691,799	777,273	8,911,530	4,442,458	49.85
2016	4,720,075	856,291	4,239,335	848,617	10,664,318	5,576,366	52.29
2017	3,691,010	720,917	2,504,092	653,139	7,569,158	4,411,927	58.29
2018	3,881,158	664,835	2,880,536	536,126	7,962,655	4,545,993	57.09
2019	3,046,013	580,601	1,957,667	480,735	6,065,016	3,626,614	59.80
2020	5,509,183	993,078	2,760,392	476,682	9,739,335	6,502,261	66.76
2021	6,751,919	1,159,918	3,934,374	675,426	12,521,637	7,911,837	63.19
2022	6,150,667	830,786	3,577,951	662,350	11,221,754	6,981,453	62.21
2023	3,939,517	805,054	3,119,376	602,782	8,466,729	4,744,571	56.04

ATF estimated the annual number of handguns sold to non-licensed individuals by each dealer-FFL by taking the percentages of handguns manufactured each year and applying it to the average number of transfers by dealer-FFLs. Then, to estimate this proposed rule's cost savings for each FFL, ATF multiplied the average number of transfers by the cost to print a black-and-white copy of each notice, which ATF estimates would be $0.03.[11] [12] Table 3 provides the average number of transfers, estimated number of handgun sales to non-licensed individuals, and estimated cost for each FFL to provide print notices.

[10] ATF, *Firearms Commerce in the United States: Statistical Update 2024, https://www.atf.gov/resource-center/docs/report/2024firearmscommerce reportpdf/download* [*https://perma.cc/Q3ME-CP8S*].

[11] *See, e.g.,* Staples, *Copy Paper, https://www.staples.com/staples-copy-paper-11-x-17-20-lbs-white-500-sheets-ream-5-reams-carton-512215/product_512215* [*https://perma.cc/SB29-732R*].

[12] $0.03 per page = $74.89 box of paper/5 reams per box/500 sheets of paper per ream.

TABLE 3—2018–2022 ESTIMATED COST PER FFL TO PROVIDE YHSA NOTICES FOR HANDGUN SALES

Year	Number of dealer FFLs inspected	Average number of transfers	Percent of handguns manufactured	Estimated handguns sold to public	Paper savings per FFL
2018	1,048	547	57.09	312	$9.36
2019	8,341	561	59.80	335	10.05
2020	2,267	656	66.76	438	13.14
2021	3,778	1149	63.19	726	21.78
2022	3,920	1279	62.21	796	23.88
Average	.....	.....	.....	.....	16.00

As Table 2 shows, the average annual cost to provide YHSA notices with all handgun sales between 2018 and 2022 was $16 per FFL. ATF assumes these percentages would remain consistent in the future, as the population of FFLs is typically stable.[13] Under this proposed rule, FFLs would not incur these costs, so the future projected cost savings from this rule would also be $16 annually per FFL. Based on data from ATF's Federal Firearms Licensing Center, there are approximately 50,000 dealer FFLs in any given year. At $16 per FFL, this rulemaking would provide an annual or annualized industry savings of $794,272. Over the course of 10 years, the undiscounted savings would be $8 million.

3. Costs

To the extent this proposed rule imposes any costs on anyone, those costs could only relate to the risk that the public might not be informed of existing requirements not to deliver or transfer firearms to juveniles. That risk is de minimis because, as already discussed above, the YHSA was published in the Statutes at Large and the U.S. Code, which self-executes notice. Moreover, the statutory requirement has existed for 30 years, during which time all purchasers have been notified consistently.

4. Regulatory Alternatives

Alternative 1. Maintaining the status quo (the no-action alternative).

Maintaining the status quo would continue requiring FFLs to provide notices, with every purchase of a handgun, that transferring or delivering handguns and ammunition to juveniles is illegal. This alternative would not create additional costs or additional benefits because this is the current and existing requirement. ATF has rejected this alternative because other alternatives provide more benefits by removing burdens for FFLs.

Alternative 2. Rulemaking (the proposed alternative).

ATF considered the alternative of rulemaking to rescind the requirement to provide paper notification of the YHSA's provisions upon every handgun purchase. Because the notices contain information that is already readily available—in its entirety—in the U.S. Code and Statutes at Large, and the paper-notice requirement has been in effect for 30 years, the paper-notice requirement is an administrative burden that is unnecessary and redundant. Removing the paper-notice requirement will provide cost savings and benefits, especially to small businesses who may have smaller profit margins than large businesses and may benefit from reduced administrative burdens.

Alternative 3. Issuing guidance.

This alternative was considered but rejected. While this alternative would not impose any additional costs, it would not rescind the requirements currently published by regulation. It also would not have the force and effect of a regulation, so the guidance would not be able to affect the existing regulatory requirement, which is unnecessary; therefore, this alternative was rejected.

B. Executive Order 14192

Executive Order 14192 (Unleashing Prosperity Through Deregulation) requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed or revised when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation that qualifies as an Executive Order 14192 regulatory action (defined in OMB Memorandum M–25–20 as a final significant regulatory action as defined in section 3(f) of Executive Order 12866 that imposes total costs greater than zero). In furtherance of this requirement, section 3(c) of Executive Order 14192 requires that any new incremental costs associated with such new regulations must, to the extent permitted by law, also be offset by eliminating existing costs associated with at least ten prior regulations. However, this proposed rule would not be an Executive Order 14192 regulatory action because it is not a significant regulatory action as defined by Executive Order 12866 and it would not impose total costs greater than zero. This proposed rule would remove a regulatory requirement to post signs and provide notices, and would provide an undiscounted savings of $8 million over the course of 10 years. In addition, ATF expects this rule, if finalized as proposed, to qualify as an Executive Order 14192 deregulatory action (defined by OMB Memorandum M–25–20 as a final action that imposes total costs less than zero).

C. Executive Order 14294

Executive Order 14924 (Fighting Overcriminalization in Federal Regulations) requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to each element of those offenses. This proposed rule would not create a criminal regulatory offense and is thus exempt from Executive Order 14294 requirements.

D. Executive Order 13132

This proposed rule would not have substantial direct effects on the states, the relationship between the federal government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132 (Federalism), the Director has determined that this proposed rule would not impose substantial direct compliance costs on state and local governments, preempt state law, or meaningfully implicate federalism. It thus does not warrant preparing a federalism summary impact statement.

[13] ATF notes that, based on historical data, the number of FFLs leaving and entering the market are very similar from year to year, making the overall population of FFLs stable over time.

E. Executive Order 12988

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform).

F. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), agencies are required to conduct a regulatory flexibility analysis of any proposed rule subject to notice-and-comment rulemaking requirements unless the agency head certifies, including a statement of the factual basis, that the rule would not have a significant economic impact on a substantial number of small entities. Small entities include certain small businesses, small not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Director certifies, after consideration, that this proposed rule would not have a significant impact on a substantial number of small entities because it removes previous regulatory requirements, thereby also removing any costs or burdens of complying with them. This proposed rule is deregulatory and would not impose any additional costs.

G. Unfunded Mandates Reform Act of 1995

This proposed rule does not include a federal mandate that might result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, ATF has determined that no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

H. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (''PRA''), 44 U.S.C. 3501–3521, agencies are required to submit to OMB, for review and approval, any information collection requirements a rule creates or any impacts it has on existing information collections. An information collection includes any reporting, record-keeping, monitoring, posting, labeling, or other similar actions an agency requires of the public. *See* 5 CFR 1320.3(c). This proposed rule would not create any new information collection requirements or impact any existing ones covered by the PRA.

I. Congressional Review Act

This proposed rule would not be a major rule as defined by the Congressional Review Act, 5 U.S.C. 804.

IV. Public Participation

A. Comments Sought

ATF requests comments on the proposed rule from all interested persons. ATF specifically requests comments on the clarity of this proposed rule and how it may be made easier to understand. In addition, ATF requests comments on the costs or benefits of the proposed rule and on the appropriate methodology and data for calculating those costs and benefits.

All comments must reference this document's RIN 1140–AA87 and, if handwritten, must be legible. If submitting by mail, you must also include your complete first and last name and contact information. If submitting a comment through the federal e-rulemaking portal, as described in section IV.C of this preamble, you should carefully review and follow the website's instructions on submitting comments. Whether you submit comments online or by mail, ATF will post them online. If submitting online as an individual, any information you provide in the online fields for city, state, zip code, and phone will not be publicly viewable when ATF publishes the comment on *https://www.regulations.gov.* However, if you include such personally identifying information (''PII'') in the body of your online comment, it may be posted and viewable online. Similarly, if you submit a written comment with PII in the body of the comment, it may be posted and viewable online. Therefore, all commenters should review section IV.B of this preamble, ''Confidentiality,'' regarding how to submit PII if you do not want it published online. ATF may not consider, or respond to, comments that do not meet these requirements or comments containing excessive profanity. ATF will retain comments containing excessive profanity as part of this rulemaking's administrative record but will not publish such documents on *https://www.regulations.gov.* ATF will treat all comments as originals and will not acknowledge receipt of comments. In addition, if ATF cannot read your comment due to handwriting or technical difficulties and cannot contact you for clarification, ATF may not be able to consider your comment.

ATF will carefully consider all comments, as appropriate, received on or before the closing date.

B. Confidentiality

ATF will make all comments meeting the requirements of this section, whether submitted electronically or on paper, and except as described below, available for public viewing on the internet through the federal e-rulemaking portal, and subject to the Freedom of Information Act (5 U.S.C. 552). Commenters who submit by mail and who do not want their name or other PII posted on the internet should submit their comments with a separate cover sheet containing their PII. The separate cover sheet should be marked with ''CUI//PRVCY'' at the top to identify it as protected PII under the Privacy Act. Both the cover sheet and comment must reference this RIN 1140–AA87. For comments submitted by mail, information contained on the cover sheet will not appear when posted on the internet, but any PII that appears within the body of a comment will not be redacted by ATF and may appear on the internet. Similarly, commenters who submit through the federal e-rulemaking portal and who do not want any of their PII posted on the internet should omit such PII from the body of their comment and in any uploaded attachments. However, PII entered into the online fields designated for name, email, and other contact information will not be posted or viewable online.

A commenter may submit to ATF information identified as proprietary or confidential business information by mail. To request that ATF handle this information as controlled unclassified information (''CUI''), the commenter must place any portion of a comment that is proprietary or confidential business information under law or regulation on pages separate from the balance of the comment, with each page prominently marked ''CUI//PROPIN'' at the top of the page.

ATF will not make proprietary or confidential business information submitted in compliance with these instructions available when disclosing the comments that it receives but will disclose that the commenter provided proprietary or confidential business information that ATF is holding in a separate file to which the public does not have access. If ATF receives a request to examine or copy this information, it will treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). In addition, ATF will disclose such proprietary or confidential business information to the extent required by other legal process.

C. Submitting Comments

Submit comments using either of the two methods described below (but do not submit the same comment multiple times or by more than one method). Hand-delivered comments will not be accepted.

• *Federal e-rulemaking portal:* ATF recommends that you submit your comments to ATF via the federal e-rulemaking portal at *https://www.regulations.gov* and follow the instructions. Comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that is provided after you have successfully uploaded your comment.

• *Mail:* Send written comments to the address listed in the **ADDRESSES** section of this document. Written comments must appear in minimum 12-point font size, include the commenter's first and last name and full mailing address, and may be of any length. See also section IV.B of this preamble, ''Confidentiality.''

D. Request for Hearing

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director within the 90-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing is necessary.

Disclosure

Copies of this proposed rule and the comments received in response to it are available through the federal e-rulemaking portal, at *https://www.regulations.gov* (search for RIN 1140–AA87).

List of Subjects in 27 CFR Part 478

Administrative practice and procedure, Arms and munitions, Exports, Freight, Imports, Intergovernmental relations, Law enforcement officers, Military personnel, Penalties, Reporting and recordkeeping requirements, Research, Seizures and forfeitures, Transportation.

For the reasons discussed in the preamble, ATF proposes to amend 27 CFR part 478 as follows:

PART 478—COMMERCE IN FIREARMS AND AMMUNITION

■ 1. The authority citation for 27 CFR part 478 continues to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 847, 921–931; 44 U.S.C.3504(h).

§ 478.103 [Removed and Reserved]

■ 2. Remove and reserve § 478.103.

Robert Cekada,

Director.

[FR Doc. 2026–09165 Filed 5–7–26; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Part 478

[Docket No. ATF–2026–0070; ATF No. 2025R–09P]

RIN 1140–AA96

Importing Dual-Use Frames, Receivers, or Barrels

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms, and Explosives (''ATF'') proposes amending Department of Justice (''Department'') regulations to clarify that federal firearms licensees (''FFLs'') may lawfully import frames, receivers, or barrels that may be used on both sporting and non-sporting firearms (''dual-use frames, receivers, or barrels'') if, at the time imported, there is an identified firearm sporting configuration for the frame, receiver, or barrel. Further, once the frame, receiver, or barrel is in the United States, a dual-use frame, receiver, or barrel may be used to assemble a sporting, non-sporting, or National Firearms Act (''NFA'') firearm, provided assembling such firearm complies with other federal firearms laws.

DATES: Comments must be submitted in writing, and must be submitted on or before (or, if mailed, must be postmarked on or before) August 6, 2026. Commenters should be aware that the federal e-rulemaking portal comment system will not accept comments after midnight Eastern Time on the last day of the comment period.

ADDRESSES: You may submit comments, identified by RIN 1140–AA96, by either of the following methods—

• *Federal e-rulemaking portal: https://regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* ATF Rulemaking Comments; Mail Stop 6N–518, Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave. NE; Washington, DC 20226; *ATTN: ATF 1140–AA96.*

Instructions: All submissions must include the agency name and number (RIN 1140–AA96) for this notice of proposed rulemaking (''NPRM'' or ''proposed rule''). ATF may post all properly completed comments it receives from either of the methods described above, without change, to the federal e-rulemaking portal, *https://www.regulations.gov.* This includes any personally identifying information (''PII'') or business proprietary information (''PROPIN'') submitted in the body of the comment or as part of a related attachment they want posted. Commenters who submit through the federal e-rulemaking portal and do not want any of their PII posted on the internet should omit it from the body of their comment and any uploaded attachments that they want posted. If online commenters wish to submit PII with their comment, they should place it in a separate attachment and mark it at the top with the marking ''CUI//PRVCY.'' Commenters who submit through mail should likewise omit their PII or PROPIN from the body of the comment and provide any such information on the cover sheet only, marking it at the top as ''CUI//PRVCY'' for PII, or as ''CUI//PROPIN'' for PROPIN. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at *https://www.regulations.gov.* Commenters must submit comments by using one of the methods described above, not by emailing the address set forth in the following paragraph.

FOR FURTHER INFORMATION CONTACT: Office of Regulatory Affairs, by email at *ORA@atf.gov,* by mail at Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave. NE; Washington, DC 20226, or by telephone at 202–648–7070 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Attorney General is responsible for enforcing the Gun Control Act of 1968 (''GCA''), as amended. This responsibility includes the authority to promulgate regulations necessary to enforce the provisions of the GCA.[1] *See*

[1] Some GCA provisions still refer to the ''Secretary of the Treasury.'' However, the

18 U.S.C. 926(a). Congress and the Attorney General have delegated the responsibility for administering and enforcing the GCA to the Director of ATF (''Director''), subject to the direction of the Attorney General and the Deputy Attorney General. *See* 28 U.S.C. 599A(b)(1), (c)(1); 28 CFR 0.130(a)(1)–(2); Treas. Order No. 221(2)(a), (d), 37 FR 11696–97 (June 10, 1972).[2] Accordingly, the Department and ATF have promulgated regulations to implement the GCA in 27 CFR part 478.

In November 2005, ATF published an open letter addressing the importability of barrels that may be used on both sporting and non-sporting firearms (''dual-use barrels'') under section 925(d)(3) and determined that such barrels were importable only if used to assemble importable firearms. *See ATF Open Letter to Federally Licensed Firearms Importers and Registered Importers of U.S. Munitions Import List Articles* (Nov. 22, 2005), *https://www.atf.gov/file/84856/download* [*https://perma.cc/QPD5-45GH*]. While the 2005 open letter did not specify the barrel's previous use as a factor in this analysis, ATF considered previous use as a factor and denied permits to import barrels that were formerly assembled on non-importable firearms (*i.e.,* NFA, non-sporting, or military surplus firearms). ATF made the sporting determination for the barrel based on the firearm the barrel originated from, not on its ability to be incorporated into a sporting firearm configuration.

After inquiries from importers and based in part on the ubiquitous nature of dual-use barrels, ATF reviewed its interpretation of 18 U.S.C. 925(d) regarding dual-use barrels and rescinded the November 2005 Open Letter on June 23, 2025, when it published ATF Ruling 2025–1.[3]

II. Proposed Rule

ATF is proposing to codify ATF Ruling 2025–1 in the regulations that implement the GCA. Additionally, as ATF Ruling 2025–1 was specific only to dual-use barrels, ATF is proposing to extend the dual-use analysis contained in Ruling 2025–1 to frames and receivers. Section 925(d)(3) makes it unlawful to ''import any frame, receiver, or barrel of such firearm which would be prohibited if assembled.'' As described in further detail below, the statutory inclusion of frames, receivers, or barrels within the same clause within section 925(d)(3) requires a consistent analysis. This proposal is to clarify that (1) a frame, receiver, or barrel may be lawfully imported if, at the time it is imported, there is an identified firearm sporting configuration for the frame, receiver, or barrel, regardless of whether that frame, receiver, or barrel had been previously configured on non-sporting, military surplus, or NFA firearms; and (2) a frame, receiver, or barrel that is imported because there is an identified firearm sporting configuration at the time of importation may be used to assemble a sporting, non-sporting, or NFA firearm, provided assembling such firearm complies with 18 U.S.C. 922(r) and the NFA, 26 U.S.C. chapter 53, as applicable.

A. Importing Dual-Use Frames, Receivers, or Barrels

The GCA makes it unlawful for any person knowingly to import or bring into the United States any firearm. 18 U.S.C. 922(l). Certain exceptions to this general prohibition are enumerated under section 925(d). Section 925(d)(3) provides that the Attorney General shall authorize a firearm to be imported if it ''is generally recognized as particularly suitable for or readily adaptable to sporting purposes'' and it does not fall within the definition of a firearm under the NFA or is not a surplus military item. Further, section 925(d)(3) makes it unlawful to import ''any frame, receiver, or barrel of such firearm which would be prohibited if assembled.'' Even though frames and receivers are included in the definition of ''firearm'' under 18 U.S.C. 921(a)(3), those that were used on a non-sporting firearm that would otherwise be non-importable under 925(d)(3) may still be imported as a sporting firearm as long as they can be used in a sporting configuration. For example, there are standard AR–15 or AK receivers, which are ''firearms'' under section 921(a)(3), that can be used on non-sporting firearms. However, this rule would clarify that those frames and receivers may be imported as sporting firearms because they can be used on firearms for which there is a sporting configuration. By contrast, a receiver for a 20mm Lahti, an anti-tank rifle, is not a sporting firearm and also cannot be configured for use on other sporting firearms, therefore this type of receiver cannot be imported because it is not dual use. This frame, receiver, or barrel import restriction is limited to those components of such firearms, *i.e.,* non-sporting, military surplus, and NFA firearms, ''which would be prohibited if assembled.'' ATF has determined that section 925(d)(3) requires a consistent standard to determine whether a frame, receiver, or barrel may be imported.

ATF has concluded that the plain language of the statute does not require a distinction between frames, receivers, or barrels that were formerly used on non-importable firearms. Rather, the restriction on importing frames, receivers, or barrels should look to whether the frame, receiver, or barrel may be assembled in a sporting configuration. Thus, if, at the time the item is being imported, there is an identified sporting configuration for which the frame, receiver, or barrel may be used, it is sporting and may be imported. In other words, the frame, receiver, or barrel remains importable, even if there are other non-sporting configurations for which it could be used.

The Attorney General has some discretion, which has been delegated to ATF, within statutory bounds, to determine what is generally recognized as particularly suitable for sporting purposes. *See* 18 U.S.C. 925(d)(3). ATF has tentatively determined that dual-use barrels are particularly suitable for sporting purposes because firearms technology has progressed over the past 20 years.[4] Many parts, including frames, receivers, or barrels, are modular. This modularity allows the same frame, receiver, or barrel to be used in both sporting and non-sporting firearm configurations. Because dual-use frames, receivers, or barrels are now a significantly larger portion of the market than in 2005, ATF is proposing to permit dual-use frames, receivers, or barrels to be lawfully imported.

B. Assembling With Dual-Use Frames, Receivers, or Barrels

The post-importation use of frames, receivers, or barrels is addressed in a different section of the GCA, 18 U.S.C. 922(r). That provision does not prohibit using imported frames, receivers, or barrels to assemble non-sporting or NFA firearms. Rather, section 922(r) provides that it ''shall be unlawful for any person to assemble from imported parts any semiautomatic rifle or any shotgun which is identical to any rifle or

Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, transferred the functions of ATF from the Department of the Treasury to the Department of Justice, under the general authority of the Attorney General. 26 U.S.C. 7801(a)(2); 28 U.S.C. 599A(c)(1). Thus, for ease of reference, this proposed rule refers to the Attorney General where relevant.

[2] In Attorney General Order Number 6353–2025, the Attorney General delegated authority to the Director to issue regulations pertaining to matters within ATF's jurisdiction, including under the National Firearms Act, GCA, and Title XI of the Organized Crime Control Act. ATF's jurisdiction also includes the Arms Export Control Act and the Contraband Cigarette Trafficking Act.

[3] ATF Ruling 2025–1, *Importing Dual-Use Barrels* (June 23, 2025), *https://www.atf.gov/firearms/docs/ruling/atf-ruling-2025-1-importing-dual-use-barrels/download* [*https://perma.cc/9G4S-BB6R*].

[4] *See* ATF Ruling 2025–1, p. 2.

shotgun prohibited from importation under section 925(d)(3).'' Section 925(d)(3) and section 922(r) work in conjunction to prevent the importing of non-sporting firearms. It is unlawful to import a non-sporting firearm under 925(d)(3), whereas 922(r) prohibits the domestic assembly of that same non-sporting firearm from imported component parts. This prevents the foreign disassembly; importation of the component parts; and subsequent domestic reassembly of non-sporting firearms. Accordingly, once the frames, receivers, or barrels are determined to have a legitimate sporting use, they may be lawfully imported, and once lawfully imported, they may be used to assemble firearms in compliance with the provisions of section 922(r).

C. Proposed Changes

This proposed rule would amend 27 CFR part 478 to clarify frames, receivers, or barrels that may be used on both sporting and non-sporting firearms may be lawfully imported into the United States if, at the time imported, there is an identified firearm sporting configuration for the frame, receiver or barrel, that such items may be used for the lawful assembly of firearms once they are imported. The proposed rule therefore would amend language at § 478.39 pertaining to the regulations on the domestic assembly of non-importable firearms and at §§ 478.112, 478.113, 478.113a, and 478.114 pertaining to the process for importing firearms.

First, the proposed rule would add new paragraph (d) to § 478.39 to clarify that a frame, receiver, or barrel that has been imported because there is an identified firearm sporting configuration at the time it was imported can be used to assemble a sporting or non-sporting or NFA firearm, provided that the assembly of such firearm complies with 18 U.S.C. 922(r), and the NFA, 26 U.S.C. chapter 53, as applicable. This amendment would codify the ATF Ruling 2025–1 determination that once a lawfully imported barrel is in the United States, it can be used to assemble a sporting, non-sporting, or NFA firearm and extend that concept to a frame or receiver, so long as assembly of the firearm complies with 18 U.S.C. 922(r), and the NFA, 26 U.S.C., chapter 53, as applicable.

Second, the proposed rule would amend § 478.112(b)(1)(vii)(F). It currently provides that a licensed importer must explain in the Application and Permit for Importation of Firearms, Ammunition and Defense Articles (ATF Form 6 Part I (5330.3A) (''ATF Form 6, part I'') why the barrel for a handgun is particularly suitable for or readily adaptable to sporting purposes. The rule would revise paragraph (b)(1)(vii)(F) to provide that if a licensee is importing a frame, receiver, or barrel, the licensee must include on the Form 6, part I an explanation of why the item has a configuration that is generally recognized as particularly suitable for, or readily adaptable to, sporting purposes (*e.g.,* if, at the time it is imported, there is an identified firearm sporting configuration for the frame, receiver, or barrel, regardless of whether that frame, receiver, or barrel had been previously configured on non-sporting firearms, military surplus, or firearms regulated under 27 CFR part 479). The proposed rule would also make a minor amendment to the section heading of § 479.112 from ''Importation by a licensed importer'' to ''Importing by a licensed importer.''

Third, the proposed rule would redesignate current paragraph (a) under § 478.113, which provides the import permit requirements for licensees other than licensed importers. The amendment would redesignate current paragraph (a) as paragraph (a)(1), and add the words frame and receiver in the third and fourth sentences that currently address the specific conditions when handgun barrels may be imported. The rule would also add new paragraph (a)(2) to state: For purposes of importing under this section, a firearm, frame, receiver, or barrel may be considered particularly suitable for or readily adaptable to sporting purposes, if at the time it is imported, there is an identified firearm sporting configuration for the frame, receiver, or barrel, regardless of whether that frame, receiver, or barrel had been previously configured on non-sporting firearms, military surplus, or firearms regulated under 27 CFR part 479.

The proposed rule would further revise § 478.113(b)(1)(vi)(F). It currently provides that a licensee other than an importer must explain in the ATF Form 6, part I why the barrel is particularly suitable for or readily adaptable to sporting purposes. The amended subparagraph would require that if the licensee is importing a firearm, frame, receiver, or barrel, the ATF Form 6, part I must explain why the frame, receiver, or barrel is generally recognized as particularly suitable for or readily adaptable to sporting purposes. ATF is also proposing minor plain writing and other technical amendments to § 478.113, including updating the section heading from ''Importation by other licensees'' to ''Importing by other licensees,'' and to paragraphs (b) and (c), which have no substantive changes, to make the instructions easier to read, reduce passive voice, and update form numbers and names.

Fourth, the proposed rule would amend § 478.113a, which governs importation of firearm barrels by non-licensees.[5] The amendment would redesignate current paragraph (a) as new paragraph (a)(1) and add new paragraph (a)(2) to state: For purposes of importing under this section, a firearm barrel may be considered particularly suitable for or readily adaptable to sporting purposes if, at the time it is imported, there is an identified firearm sporting configuration for the barrel, regardless of whether that barrel had been previously configured on non-sporting firearms, military surplus, or firearms regulated under 27 CFR part 479. ATF is also proposing minor plain writing and other technical amendments to § 478.113a, including updating the section heading from ''Importation of firearm barrels by nonlicensees'' to ''Importing firearm barrels by non-licensees'' and revising paragraphs (b) and (c), which have no substantive changes, to make the instructions easier to read, reduce passive voice, and update form numbers and names.

Finally, the proposed rule would amend § 478.114 regarding firearms imported by members of the U.S. Armed Forces. The amendments would redesignate current paragraph (a) as paragraph (a)(1), and add new paragraph (a)(2) to state: For purposes of this section, a frame or receiver may be considered particularly suitable for or readily adaptable to sporting purposes if, at the time it is imported, there is an identified firearm sporting configuration for the frame or receiver, regardless of whether it had been previously configured on non-sporting firearms, military surplus, or firearms regulated under 27 CFR part 479. The proposed rule also would redesignate current paragraphs (a)(1) as paragraph (b)(1) and the current paragraph (a)(2) as paragraph (b)(2); redesignate current paragraph (b) as paragraph (c); and redesignate current paragraph (c) as paragraph (d). Additionally, ATF is also proposing minor plain writing and other technical amendments to § 478.114, including updating the section heading from ''Importation by members of the U.S. Armed Forces'' to ''Importing by members of the U.S. Armed Forces'' and to paragraphs (b), (c), and (d) as

[5] The proposed rule does not add ''frame'' or ''receiver'' to § 478.113a as it did with §§ 478.112 and 478.113 pertaining to importing by licensees because the GCA prohibits non-licensees from receiving firearms from out of their state of residence without first receiving it through a licensee. *See* 18 U.S.C. 922 (a)(2)–(3), (a)(5).

redesignated by this proposed rule which have no substantive changes, to make the instructions easier to read, reduce passive voice, and update form numbers and names

III. Statutory and Executive Order Review

A. Executive Orders 12866 and 13563

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.

Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of agencies quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting public flexibility.

This rule amends provisions in 27 CFR part 478 to clarify lawfully importing and assembling dual-use frames, receivers, or barrels. These amendments would extend and codify the existing process ATF uses under ATF Ruling 2025–1 for importing and assembling with dual-use barrels and further extends such analysis to dual-use frames and receivers.

The Office of Management and Budget (''OMB'') has determined that, although this proposed rule would not be economically significant under section (3)(f)(1) of Executive Order 12866, this proposed rule would be a ''significant regulatory action'' under the Order. OMB has therefore reviewed this rule. This rulemaking provides qualitative benefits to various groups within the firearms industry, as described below, by providing more flexibility in complying with statutes and existing regulatory standards, but ATF does not have sufficient information to calculate quantifiable savings.

The regulatory flexibility provided by this proposed rule may apply to 1,666 importers (Type 08 FFLs) because they now have greater sources for frames, receivers, and barrels, but also 21,499 (Type 07 FFLs) domestic manufacturers to the extent that domestic manufacturers may use a subset of foreign components (regulated and non-regulated) to complete the manufacture of a complete weapon, which may ultimately reduce their overall cost to manufacture a firearm. Furthermore, sellers of firearms parts or components (*e.g.,* sellers of firearm barrels) may also benefit in that they have more options from which they can acquire barrels that they would now be able to sell on the market.

However, an unknown subset of domestic manufacturers may be adversely affected with increased competition of frames, receivers, or barrels that come in from abroad. ATF does not regulate manufacturers of firearm parts or components such as barrels. They do not need to apply for a federal firearms license nor abide by any record keeping requirements that ATF enforces. While manufacturers of frames or receivers would be FFLs because those are firearms under the law, ATF is unable to determine from license applications the specific models or types of firearms a licensee would produce. Thus, ATF does not have any additional information on these companies, much less their overall revenue or the accessories (or firearms parts) that they may manufacture.

To the extent that this rule may benefit or adversely affect these types of companies, ATF requests more information from the public regarding the potential economic effects that this rulemaking may have on the ATF regulated industries, such as importers and manufacturers, and on non-regulated firearms industries, such as manufacturers or retailers of firearm parts or components. Specifically, ATF is interested in learning whether there are domestic companies that only manufacture frames, receivers, or barrels. If so, ATF would like to know how this proposed rule could affect your overall business and revenue. ATF is also interested in learning from importers about how they may be positively or negatively affected by this rule. ATF is also soliciting comment from domestic firearms manufacturers if there are benefits they would incur from having more imported sources of dual-use frames, receivers, or barrels. For example, ATF is interested to know if domestic firearms manufacturers might save on costs incurred to produce complete weapons if they had access to more imported frames, receivers, barrels, or if they would alter certain business practices.

ATF considered various alternatives, including maintaining the status quo. Maintaining the status quo would allow the continued importing of dual-use barrels based on the existing ruling issued in 2025. However, the ruling did not address dual-use frames or receivers. ATF considered continuing this alternative and rejected it because other alternatives provide greater flexibility at the same cost and because there was no statutory basis to treat dual-use frames or receivers different from dual-use barrels.

ATF considered issuing updated guidance to allow for the importing of dual-use frames and receivers in addition to the guidance to allow dual-use barrels. While ATF could issue new interpretive guidance instead of a regulation, guidance does not have the force and effect of regulation; therefore, ATF did not proceed with this alternative.

ATF considered putting forth this proposed rule to revise its importing regulations to make clear that frames, receivers, or barrels may be imported by licensees so long as, if at the time they are imported, there is an identified sporting configuration for the frames, receivers, or barrels regardless of whether those frames, receivers, or barrels had been previously configured on non-sporting or NFA firearms previously. This proposed rule also made this analysis clear, as applicable, with respect to non-licensees importing barrels and members of the U.S. Armed Forces bringing frames or receivers back into the United States under certain conditions. This alternative was accepted because it has the force and effect of law and provides greater flexibility for members of the regulated firearms community and non-regulated members of the firearms community.

B. Executive Order 14192

Executive Order 14192 (Unleashing Prosperity Through Deregulation) requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed or revised when the agency publicly proposes for notice-and-comment or otherwise promulgates a new regulation that qualifies as an Executive Order 14192 regulatory action (defined in OMB Memorandum M–25–20 as a final significant regulatory action under section 3(f) of Executive Order 12866 that imposes total costs greater than zero). In furtherance of this requirement, section 3(c) of Executive Order 14192 requires that any new incremental costs associated with such new regulations must, to the extent permitted by law, also be offset by eliminating existing costs associated with at least ten prior regulations. However, although it would be a significant regulatory action as defined by Executive Order 12866, this proposed rule would not be an Executive Order 14192 regulatory action because it would not impose total costs greater than zero. This proposed rule would expand the kinds of frames, receivers, or barrels that importers could bring into the country. It would impose no costs. In addition, ATF expects this rule, if finalized as proposed, to qualify as an Executive Order 14192 deregulatory action (defined by OMB

Memorandum M–25–20 as a final action that imposes total costs less than zero).

C. Executive Order 14294

Executive Order 14294 (Fighting Overcriminalization in Federal Regulations) requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to each element of those offenses. This proposed rule would not create a criminal regulatory offense and is thus exempt from Executive Order 14294 requirements.

D. Executive Order 13132

This proposed rule would not have substantial direct effects on the states, the relationship between the federal government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132 (Federalism), the Director has determined that this proposed rule would not impose substantial direct compliance costs on state and local governments, preempt state law, or meaningfully implicate federalism. It thus does not warrant preparing a federalism summary impact statement.

E. Executive Order 12988

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform).

F. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–612, agencies are required to conduct a regulatory flexibility analysis of any proposed rule subject to notice-and-comment rulemaking requirements unless the head agency certifies, including a statement of the factual basis, that the proposed rule would not have a significant economic impact on a substantial number of small entities. Small entities include certain small businesses, small not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of fewer than 50,000.

ATF performed an initial regulatory flexibility analysis of the potential impacts on small businesses and other entities that would occur due to this proposed rule, if finalized as proposed.

Initial Regulatory Flexibility Analysis (''IRFA'')

The RFA establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to ensure that such proposals are given serious consideration.'' Public Law 96–354, sec. 2(b), 94 Stat. 1164 (1980).

Under the RFA, the agency is required to consider whether the proposed rule would have a significant economic impact on a substantial number of small entities. Agencies must perform a review to determine whether the proposed rule would have such an impact. If the agency determines that it would, the agency must prepare an IRFA (or a regulatory flexibility analysis for a final rule) as described in the Act. ATF prepared the following IRFA assessing the proposed rule's impact on small entities.

1. Describing the reasons why the agency is considering taking action.

ATF is proposing this rule to increase the types of frames, receivers, or barrels available to the public, which would also benefit importers with more range and sources for income, and consumers with more options. ATF does not anticipate this rule creating significant economic cost for small entities, as this rule would have deregulatory savings that would be beneficial to FFLs importing firearms and firearm parts.

2. Succinctly stating the objectives of, and legal basis for, the proposed rule.

The objective of this proposed rulemaking is to reduce the regulatory burden on importers and the public by streamlining requirements to allow dual-use frames, receivers, or barrels to be imported for use on GCA or NFA firearms.

3. Describing and, where feasible, estimating the number of small entities to which the proposed rule would apply.

Based on ATF's Federal Firearms Licensing Center, there are 1,666 FFL importers (Type 08 FFLs) that could be impacted by this rule. Most FFLs are considered small businesses as defined by the Small Business Administration. Assuming that Type 08 FFL importers track the size of FFLs more generally, the majority of these importers are likely to be small businesses, per the Small Business Administration's size standard, because the majority of FFLs are small businesses. However, this rule is deregulatory and the 1,666 FFL importers that could be impacted by this rule would benefit due to increased opportunities as they would have more foreign sources from which to acquire frames, receivers, or barrels. This rule may also have a potential benefit to approximately 21,499 firearms manufacturers (Type 07s FFLs) to the extent that they import a subset of their components (such as the frame or receiver or barrel) rather than manufacture those same components domestically. To the extent that these domestic manufacturers import certain parts of their firearms in order to manufacture a whole firearm, having additional sources of firearm parts may reduce their overall expenditures in the overall manufacture of the firearm.

However, this proposed rule may indirectly and adversely affect an unknown subset of firearm parts/components companies that only manufacture or sell frames, receivers, or barrels to the public. These firearms parts/component companies are not required to apply for a firearms license in order to manufacture or sell these items, and ATF does not know the extent or size of this industry that would otherwise be indirectly or adversely affected by this proposed rule. As mentioned above in section III.A of this preamble, ATF requests public comment from regulated and non-regulated firearms industry members.

While the majority of these manufacturers are also likely to be small, it is unlikely that the majority of these manufacturers sell only frames, receivers, or barrels and do not deal or otherwise retail in whole firearms; therefore, the overall indirect effect to these manufacturers may be small. ATF requests public comment regarding the overall impact to manufacturers of firearms, particularly those that deal only in frames, receivers, or barrels.

4. Describing the proposed rule's projected reporting, record-keeping, and other compliance requirements, including an estimate of the classes of small entities which would be subject to the requirement and the type of professional skills necessary to prepare the report or record.

There are no additional requirements or costs imposed by this proposed rule. This rule would remove costs and burdens on the regulated industry.

5. Identifying, to the extent practicable, all relevant federal rules which might duplicate, overlap, or conflict with the proposed rule.

This proposed rule would not duplicate or conflict with other federal rules.

6. Describing any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact the proposed rule might have on small entities.

ATF considered the alternative of maintaining the status quo, which is either to continue restricting the import of dual-use frames, receivers, or barrels or to continue to rely on the existing guidance that only applies to dual-use barrels. However, the stated objective would not be achieved. This regulation is the only way to achieve the goal of allowing for the import of dual-use frames, receivers, and barrels.

The Director certifies, after consideration, that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule is deregulatory and would not impose any additional costs.

G. Unfunded Mandates Reform Act of 1995

This proposed rule would not include a federal mandate that might result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it would not significantly or uniquely affect small governments. Therefore, ATF has determined that no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

H. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (''PRA''), 44 U.S.C. 3501–3521, agencies are required to submit to OMB, for review and approval, any information collection requirements a rule creates or any impacts it has on existing information collections. An information collection includes any reporting, record-keeping, monitoring, posting, labeling, or other similar actions an agency requires of the public. *See* 5 CFR 1320.3(c). This proposed rule involves three information collections under the PRA. These information collections, OMB control number 1140–0005, ATF Form 5330.3A, Application/Permit to Import Firearms, Ammunition, and Defense Articles (''Form 6, part I''), OMB control number 1140–0006, ATF Form 5330.3B, Application and Permit to Import Firearms, Ammunition, and Defense Articles (''Form 6, part II''), and OMB control number 1140–0007, ATF Form 5330.3C, Releasing/Receiving Imported Firearms, Ammunition, and Defense Articles (''Form 6A'').

Impacted ICR 1

Title: ATF Form 5330.3A, Application/Permit to Import Firearms, Ammunition, and Defense Articles (''Form 6, part I'').

OMB control number: 1140–0005.

Summary of the information collection: Importation of firearms, ammunition, and defense articles into the United States is subject to the provision of 18 U.S.C. 925(d) and (e), 22 U.S.C. 2778, and 26 U.S.C. 5844. Except as provided, or specifically authorized by the Attorney General, the importation of articles coming within the purview of these statutes is restricted or prohibited. In general, the importation of firearms is permitted only if the firearms meet certain criteria and the Attorney General authorizes the importation.

Need for information and proposed use: Data provided on the Form 6, part 1 allows ATF to determine if the article(s) described on the application qualify for importation by the importer. It also serves as authorization for the importer. The approved form also serves as authorization for U.S. Customs and Border Protection to allow the listed articles entry into the United States. Many importers use the form for internal accounting purposes. Information may be disclosed to other federal, state, foreign, and local law enforcement and regulatory agency personnel, to verify information on the application. Disclosure also aids them in the performance of their duties regarding the enforcement and regulation of firearms and/or ammunition, where such disclosure is not prohibited by law. The licensee is required to retain this form permanently.

Description of the respondents affected by this proposed rule: Importers and manufactures.

Number of respondents: 23,165 importers and manufacturers.

Frequency of response: As needed.

Number of responses: This proposed rule would increase the number of responses by an unknown amount.

Response time estimate: 0.5 hours.

Burden of response: This proposed rule would decrease hourly burden by an unknown amount.

Impacted ICR 2

Title: ATF Form 5330.3B, Application and Permit to Import Firearms, Ammunition, and Defense Articles (''Form 6, part II'').

OMB control number: 1140–0006.

Summary of the information collection: 18 U.S.C. 925(a)(4) permits the Attorney General to authorize, under certain conditions, a member of the U.S. Armed Forces on active duty outside the U.S. (or who has been on active duty outside the United States within the sixty-day period immediately preceding the importation) to import firearms and ammunition into the U.S. The implementing regulations at 27 CFR 478.114 prescribe the forms and procedures necessary to accomplish the import permit requirements.

Need for information and proposed use: ATF uses this information collection to verify the applicant's status as a member of the Armed Forces and to determine whether the article(s) listed on the application are allowed to be imported. The approved application then serves as a permit for the applicant to import the article(s) described on the form.

Description of the respondents affected by this proposed rule: Members of the U.S. Armed Forces.

Number of respondents: 312.

Frequency of response: As needed.

Response time estimate: 0.5 hours.

Burden of response: This proposed rule may increase the total hourly burden by an unknown amount.

Impacted ICR 3

Title: ATF Form 5330.3C, Release and Receipt of Imported Firearms, Ammunition, and Defense Articles (''Form 6A'').

OMB control number: 1140–0007.

Summary of the information collection: Under 18 U.S.C. 925(a), 22 U.S.C. 2778, and 26 U.S.C. 5844, the importation of firearms, ammunition and defense articles into the United States is restricted. The importation of articles coming within the purview of these statutes is prohibited. The statutes also require that persons engaged in the business of importing such articles be licensed and/or registered. Implementing regulations in 27 CFR parts, 447, 478, and 479, prescribe the forms and procedures necessary to fulfill the import permit requirements. Through these requirements, the law and regulations establish a comprehensive system for regulating the importation of firearms, ammunition, and defense articles.

Need for information and proposed use: The data provided by this information collection request are used by ATF to determine if articles imported meet the statutory and regulatory criteria for importation and if the articles shown on the permit application have actually been imported. ATF Form 6A serves as the certification of release

and receipt of the articles described on the permit application.

Description of the respondents affected by this proposed rule: FFLs (registered importers, FFLs other than importers), members of the U.S. Armed Forces, and persons not licensed by or registered with ATF.

Number of respondents: 23,165 importers and manufacturers.

Frequency of response: As needed.

Response time estimate: 0.583 hours.

Burden of response: This proposed rule would increase the total hourly burden by an unknown amount.

IV. Public Participation

A. Comments Sought

ATF requests comments on the proposed rule from all interested persons. ATF specifically requests comments on the clarity of this proposed rule and how it may be made easier to understand. In addition, ATF requests comments on the costs or benefits of the proposed rule, specifically about the benefits or reduced burdens on importers who would be able to import dual-use frames, receivers, or barrels if the rule is finalized, and on the appropriate methodology and data for calculating those costs and benefits.

All comments must reference this document's RIN 1140–AA96 and, if handwritten, must be legible. If submitting by mail, you must also include your complete first and last name and contact information. If submitting a comment through the federal e-rulemaking portal, as described in section IV.C of this preamble, you should carefully review and follow the website's instructions on submitting comments. Whether you submit comments online or by mail, ATF will post them online. If submitting online as an individual, any information you provide in the online fields for city, state, zip code, and phone will not be publicly viewable when ATF publishes the comment on *https://www.regulations.gov.* However, if you include such personally identifying information (PII) in the body of your online comment, it may be posted and viewable online. Similarly, if you submit a written comment with PII in the body of the comment, it may be posted and viewable online. Therefore, all commenters should review section IV.B of this preamble, ''Confidentiality,'' regarding how to submit PII if you do not want it published online. ATF may not consider, or respond to, comments that do not meet these requirements or comments containing excessive profanity. ATF will retain comments containing excessive profanity as part of this rulemaking's administrative record, but will not publish such documents on *https://www.regulations.gov.* ATF will treat all comments as originals and will not acknowledge receipt of comments. In addition, if ATF cannot read your comment due to handwriting or technical difficulties and cannot contact you for clarification, ATF may not be able to consider your comment.

ATF will carefully consider all comments, as appropriate, received on or before the closing date.

B. Confidentiality

ATF will make all comments meeting the requirements of this section, whether submitted electronically or on paper, and except as provided below, available for public viewing on the internet through the federal e-rulemaking portal, and subject to the Freedom of Information Act (5 U.S.C. 552). Commenters who submit by mail and who do not want their name or other PII posted on the internet should submit their comments with a separate cover sheet containing their PII. The separate cover sheet should be marked with ''CUI//PRVCY'' at the top to identify it as protected PII under the Privacy Act. Both the cover sheet and comment must reference this RIN 1140–AA96. For comments submitted by mail, information contained on the cover sheet will not appear when posted on the internet, but any PII that appears within the body of a comment will not be redacted by ATF and may appear on the internet. Similarly, commenters who submit through the federal e-rulemaking portal and who do not want any of their PII posted on the internet should omit such PII from the body of their comment and any uploaded attachments. However, PII entered into the online fields designated for name, email, and other contact information will not be posted or viewable online.

A commenter may submit to ATF information identified as proprietary or confidential business information by mail. To request that ATF handle this information as controlled unclassified information (''CUI''), the commenter must place any portion of a comment that is proprietary or confidential business information under law or regulation on pages separate from the balance of the comment, with each page prominently marked ''CUI//PROPIN'' at the top of the page.

ATF will not make proprietary or confidential business information submitted in compliance with these instructions available when disclosing the comments that it receives, but will disclose that the commenter provided proprietary or confidential business information that ATF is holding in a separate file to which the public does not have access. If ATF receives a request to examine or copy this information, it will treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). In addition, ATF will disclose such proprietary or confidential business information to the extent required by other legal process.

C. Submitting Comments

Submit comments using either of the two methods described below (but do not submit the same comment multiple times or by more than one method). Hand-delivered comments will not be accepted.

- *Federal e-rulemaking portal:* ATF recommends that you submit your comments to ATF via the federal e-rulemaking portal at *https://www.regulations.gov* and follow the instructions. Comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that is provided after you have successfully uploaded your comment.
- *Mail:* Send written comments to the address listed in the **ADDRESSES** section of this document. Written comments must appear in minimum 12-point font size, include the commenter's first and last name and full mailing address, and may be of any length. See also section IV.B of this preamble, ''Confidentiality.''

D. Request for Hearing

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director within the 90-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing is necessary.

Disclosure

Copies of this proposed rule and the comments received in response to it are available through the federal e-rulemaking portal, at *https://www.regulations.gov* (search for RIN 1140–AA96).

Severability

Consistent with the Administrative Procedure Act, the issues raised in this proposed rule may be finalized, or not, independently of each other, after consideration of comments received. ATF has determined that this proposed rule implements and is fully consistent

with governing law. However, in the event this proposed rule is finalized, if any provision of that final rule, an amendment or revision made by that rule, or the application of such provision or amendment or revision to any person or circumstance, is held to be invalid or unenforceable by its terms, the remainder of that final rule, the amendments or revisions made by that rule, and application of the provisions of the rule to any person or circumstance shall not be affected and shall be construed so as to give them the maximum effect permitted by law.

List of Subjects in 27 CFR Part 478

Administrative practice and procedure, Arms and munitions, Exports, Freight, Imports, Intergovernmental relations, Law enforcement officers, Military personnel, Penalties, Reporting and record-keeping requirements, Research, Seizures and forfeitures, Transportation.

For the reasons discussed in the preamble, the ATF proposes to amend 27 CFR part 478 as follows:

PART 478—COMMERCE IN FIREARMS AND AMMUNITION

■ 1. The authority citation for 27 CFR part 478 continues to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 847, 921–931; 44 U.S.C. 3504(h).

■ 2. Amend § 478.39 by revising the heading and adding a new paragraph (d), to read as follows:

§ 478.39 Assembling semiautomatic rifles or shotguns.

* * * * *

(d) A frame, receiver, or barrel that is imported because there is an identified firearm sporting configuration at the time of importation may be used to assemble a sporting or non-sporting firearm, or a firearm regulated under 27 CFR part 479, provided assembling such firearm complies with 18 U.S.C. 922(r), and the NFA, 26 U.S.C. chapter 53, as applicable.

■ 3. Amend § 478.112 by revising the heading and paragraph (b)(1)(vii)(F) to read as follows:

§ 478.112 Importing by a licensed importer.

* * * * *

(b) * * *

(1) * * *

(vii) * * *

(F) If a frame, receiver, or barrel, an explanation of why the frame, receiver, or barrel has a configuration that is generally recognized as particularly suitable for or readily adaptable to sporting purposes (*e.g.,* if, at the time it is imported, there is an identified firearm sporting configuration for the frame, receiver, or barrel, regardless of whether that frame, receiver, or barrel had been previously configured on non-sporting firearms, military surplus, or firearms regulated under 27 CFR part 479).

* * * * *

■ 4. Revise § 478.113 to read as follows:

§ 478.113 Importing by other licensees.

(a)(1) No person other than a licensed importer (as defined in § 478.11) may engage in the business of importing firearms or ammunition. Therefore, no firearm or ammunition may be imported or brought into the United States or a possession thereof by any licensee other than a licensed importer unless the Director issues a permit authorizing the licensee to import the firearm or ammunition. No person may import or bring into the United States or a possession thereof a frame, receiver, or barrel not generally recognized as particularly suitable for or readily adaptable to sporting purposes. Therefore, no frame, receiver, or barrel shall be imported or brought into the United States or possession thereof by any licensee other than a licensed importer unless the Director issues a permit authorizing the licensee to import the frame, receiver, or barrel.

(2) For purposes of importing under this section, a frame, receiver, or barrel may be considered particularly suitable for or readily adaptable to sporting purposes if, at the time it is imported, there is an identified firearm sporting configuration for the frame, receiver, or barrel, regardless of whether that frame, receiver, or barrel had been previously configured on non-sporting firearms, military surplus, or firearms regulated under 27 CFR part 479.

(b)(1) The licensee must submit an application for a permit, ATF Form 5330.3A, Application/Permit to Import Firearms, Ammunition, and Defense Articles, to import or bring a firearm, firearm barrel, or ammunition into the United States or a possession thereof in triplicate to the Director. The licensee must sign and date the application and must include the information requested on the form, including:

(i) Licensee's name, address, telephone number, and license number (including expiration date);

(ii) Country from which importing;

(iii) Foreign seller and foreign shipper's name and address;

(iv) Description of the firearm, firearm barrel, or ammunition being imported, including:

(A) Manufacturer's name and address;

(B) Type (*e.g.,* rifle, shotgun, pistol, revolver and, in the case of ammunition only, ball, wadcutter, shot, etc.);

(C) Caliber, gauge, or size;

(D) Model;

(E) Barrel length, if a firearm or firearm barrel (in inches);

(F) Overall length, if a firearm (in inches);

(G) Serial number, if known;

(H) Whether the firearm is new or used;

(I) Quantity;

(J) Firearm, firearm barrel, or ammunition's unit cost;

(v) Specific purpose for importing, including final recipient information if different from the applicant; and

(vi)(A) If a firearm or ammunition imported or brought in for scientific or research purposes, a statement describing such purpose; or

(B) If a firearm or ammunition for competition or training pursuant to 10 U.S.C. chapter 401, a statement describing such intended use; or

(C) If an unserviceable firearm (other than a machine gun) being imported as a curio or museum piece, a description of how it was rendered unserviceable and an explanation of why it is a curio or museum piece; or

(D) If a firearm other than a surplus military firearm, of a type that does not fall within the definition of a firearm under 26 U.S.C. 5845(a), and is for sporting purposes, an explanation of why the firearm is generally recognized as particularly suitable for or readily adaptable to sporting purposes; or

(E) If ammunition being imported for sporting purposes, a statement why the ammunition is particularly suitable for or readily adaptable to sporting purposes; or

(F) If a frame, receiver, or barrel, an explanation of why the frame, receiver, or barrel is generally recognized as particularly suitable for or readily adaptable to sporting purposes.

(2)(i) If the Director approves the application, it serves as a permit to import the firearm, firearm barrel, or ammunition, and the licensee may continue to import such firearms, firearm barrels, or ammunition under the approved application (permit) during the permit's specified period. The Director will furnish the approved application (permit) to the licensee and retain two copies for administrative use.

(ii) If the Director disapproves the application, ATF will notify the licensee of the reason.

(c) A firearm, firearm barrel, or ammunition imported or brought into the United States or a possession thereof under the provisions of this section by a licensee may be released from

Customs custody to the licensee when the licensee presents a permit from the Director to release the imported firearm, firearm barrel, or ammunition.

(1) The licensee must prepare ATF Form 5330.3C, Release/Receipt of Imported Firearms, Ammunition, and Defense Articles (''Form 6A''), in duplicate, and furnish the original Form 6A to the Customs officer releasing the firearm, firearm barrel, or ammunition. The Customs officer will, after certification, send the Form 6A to the address specified on the form.

(2) The Form 6A must contain the information requested on the form, including the:

(i) Licensee's name, address, and license number;

(ii) Manufacturer's name;

(iii) Country in which manufactured;

(iv) Type;

(v) Model;

(vi) Caliber, gauge, or size;

(vii) Serial number in the case of firearms; and

(viii) Number of firearms, firearm barrels, or rounds of ammunition released.

(Paragraph (b) approved by the Office of Management and Budget under control number 1140–0005; paragraph (c) approved by the Office of Management and Budget under control number 1140–0007)

■ 5. Revise § 478.113a to read as follows:

§ 478.113a Importing firearm barrels by non-licensees.

(a)(1) A permit will not be issued for a firearm barrel not generally recognized as particularly suitable for or readily adaptable to sporting purposes. No non-licensee may import or bring into the United States or a possession thereof any firearm barrel unless the Director issues a permit authorizing the non-licensee to import the firearm barrel.

(2) For purposes of importing under this section, a firearm barrel may be considered particularly suitable for or readily adaptable to sporting purposes if, at the time it is imported, there is an identified firearm sporting configuration for the barrel, regardless of whether that barrel had been previously configured on non-sporting firearms, military surplus, or firearms regulated under 27 CFR part 479.

(b)(1) The non-licensee must submit an application for a permit, ATF Form 5330.3A, Application/Permit to Import Firearms, Ammunition, and Defense Articles, to import or bring a firearm barrel into the United States or a possession thereof, in triplicate, to the Director. The non-licensee must sign and date the application and must include the information requested on the form, including:

(i) Non-licensee's name, address, and telephone number;

(ii) Country from which importing;

(iii) Foreign seller and foreign shipper's name and address;

(iv) Description of the firearm barrel being imported, including:

(A) Manufacturer's name and address;

(B) Type (*e.g.,* rifle, shotgun, pistol, revolver);

(C) Caliber, gauge, or size;

(D) Model;

(E) Barrel length (in inches);

(F) Quantity;

(J) Firearm barrel's unit cost;

(v) Specific purpose for importing, including final recipient information if different from the non-licensee; and

(vi) An explanation of why the barrel is generally recognized as particularly suitable for or readily adaptable to sporting purposes.

(2)(i) If the Director approves the application, it serves as a permit to import the firearm barrel, and the non-licensee may continue to import such firearm barrels under the approved application (permit) during the permit's specified period. The Director will furnish the approved application (permit) to the non-licensee and retain two copies for administrative use.

(ii) If the Director disapproves the application, ATF will notify the non-licensee of the reason.

(c) A firearm barrel imported or brought into the United States or a possession thereof under the provisions of this section by a non-licensee may be released from Customs custody to the person importing the barrel when the person presents a permit from the Director to release the imported firearm barrel.

(1) The person importing the barrel must prepare ATF Form 5330.3C, Release/Receipt of Imported Firearms, Ammunition, and Defense Articles (''Form 6A''), in duplicate, and furnish the original Form 6A to the Customs officer releasing the firearm barrel. The Customs officer will, after certification, send the Form 6A to the address specified on the form.

(2) The Form 6A must contain the information requested on the form, including the:

(i) Person importing the form's name, address, and license number;

(ii) Manufacturer's name;

(iii) Country in which manufactured;

(iv) Type;

(v) Model;

(vi) Caliber, gauge, or size; and

(viii) Number of firearm barrels released.

(Paragraph (b) approved by the Office of Management and Budget under control number 1140–0005; paragraph (c) approved by the Office of Management and Budget under control number 1140–0007)

■ 6. Revise § 478.14 to read as follows:

§ 478.114 Importing by members of the U.S. Armed Forces.

(a)(1) The Director may issue a permit authorizing the importation of a firearm or ammunition into the United States to the place of residence of any military member of the U.S. Armed Forces who is on active duty outside the United States, or who has been on active duty outside the United States within the 60-day period immediately preceding the intended importation: *Provided,* That such firearm or ammunition is generally recognized as particularly suitable for or readily adaptable to sporting purposes and is intended for the personal use of such member.

(2) For purposes of this section, a frame or receiver may be considered particularly suitable for or readily adaptable to sporting purposes if, at the time it is imported, there is an identified firearm sporting configuration for the frame or receiver, regardless of whether it had been previously configured on non-sporting firearms, military surplus, or firearms regulated under 27 CFR part 479.

(b)(1) Military members must submit to the Director an ATF Form 5330.3B, Application/Permit to Import Firearms, Ammunition, and Defense Articles (Military) (''Form 6, part II'') in triplicate, to import a firearm or ammunition into the United States under this section. The military members must sign and date the application and must provide the information requested on the form, including:

(i) Applicant's name, current address, and telephone number;

(ii) Certification that transporting, receiving, or possessing the firearm or ammunition would not violate any provision of the Act or any state law or local ordinance where the applicant resides;

(iii) Country from which importing;

(iv) Foreign seller or shipper's name and address;

(v) Description of the firearm or ammunition being imported, including:

(A) Manufacturer's name and address;

(B) Type (*e.g.,* rifle, shotgun, pistol, revolver and, in the case of ammunition only, ball, wadcutter, shot, etc.);

(C) Caliber, gauge, or size;

(D) Model;

(E) Barrel length, if a firearm (in inches);

(F) Overall length, if a firearm (in inches);

(G) Serial number;
(H) Whether the firearm is new or used;
(I) Quantity;
(J) Firearm or ammunition's unit cost;
(vi) Statement of specific purpose for importing, which is—
(A) For the applicant's personal use; and
(B) If a firearm, that it is not a surplus military firearm, that it does not fall within the definition of a firearm under 26 U.S.C. 5845(a), and why the firearm is generally recognized as particularly suitable for or readily adaptable to sporting purposes; or
(C) If ammunition, why it is generally recognized as particularly suitable for or readily adaptable to sporting purposes;
(vii) Applicant's birthdate;
(viii) Applicant's rank or grade;
(ix) Applicant's residence address;
(x) Applicant's present foreign duty station or last foreign duty station, as the case may be;
(xi) Date applicant was reassigned to a duty station within the United States, if applicable; and
(xii) Applicant's military branch.
(2)(i) If the Director approves the application, it serves as a permit to import the firearm or ammunition. The Director will furnish the approved application (permit) to the applicant and retain two copies for administrative use.
(ii) If the Director disapproves the application, ATF will notify the applicant of the reason.
(c) Except as provided in paragraph (c)(3) of this section, a firearm or ammunition imported into the United States under the provisions of this section by the applicant may be released from Customs custody to the applicant when the applicant presents a permit from the Director to release the imported firearm or ammunition.
(1) The military member must prepare ATF Form 5330.3C, Release/Receipt of Imported Firearms, Ammunition, and Defense Articles (''Form 6A'') and furnish the completed form to the Customs officer releasing the firearm or ammunition. The Customs officer will, after certification, send the Form 6A to the address specified on the form.
(2) The Form 6A must contain the information requested on the form, including the:
(i) Military member's name and address;
(ii) Manufacturer's name;
(iii) Country in which manufactured;
(iv) Type;
(v) Model;
(vi) Caliber, gauge, or size;
(vii) Serial number in the case of firearms; and
(viii) If applicable, number of firearms or rounds of ammunition released.
(3) When military members are on active duty outside the United States, they may appoint, in writing, an agent to complete the requirements in paragraphs (c)(1) and (2) of this section and collect the firearm or ammunition on their behalf. The agents must provide the written authorization and sufficient identification documents to the Customs officer releasing the firearm or ammunition.
(d) Department of Defense provisions and procedures may authorize U.S. military members to import firearms the Department of Defense determines to be war souvenirs.

(Paragraph (b) approved by the Office of Management and Budget under control number 1140–0006; paragraph (c) approved by the Office of Management and Budget under control number 1140–0007)

Robert Cekada,
Director.
[FR Doc. 2026–09163 Filed 5–7–26; 8:45 am]
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DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Part 478

[Docket No. ATF–2026–0265 ATF 2025R–47P]

RIN 1140–AA88

Defining ''Willfully'' for Firearms Violations

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms, and Explosives (''ATF'') proposes to define the term ''willfully'' in Department of Justice (''Department'') regulations that implement the Gun Control Act.

DATES: Comments must be submitted in writing, and must be submitted on or before (or, if mailed, must be postmarked on or before) August 6, 2026. Commenters should be aware that the federal e-rulemaking portal comment system will not accept comments after midnight Eastern Time on the last day of the comment period.

ADDRESSES: You may submit comments, identified by RIN 1140–AA88, by either of the following methods—

- *Federal e-rulemaking portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* ATF Rulemaking Comments; Mail Stop 6N–518, Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave NE; Washington, DC 20226; *ATTN: RIN 1140–AA88.*

Instructions: All submissions must include the agency name and number (RIN 1140–AA88) for this notice of proposed rulemaking (''NPRM'' or ''proposed rule''). ATF may post all properly completed comments it receives from either of the methods described above, without change, to the federal e-rulemaking portal, *https://www.regulations.gov.* This includes any personally identifying information (''PII'') or business proprietary information (''PROPIN'') submitted in the body of the comment or as part of a related attachment they want posted. Commenters who submit through the federal e-rulemaking portal and do not want any of their PII posted on the internet should omit it from the body of their comment and any uploaded attachments that they want posted. If online commenters wish to submit PII with their comment, they should place it in a separate attachment and mark it at the top with the marking ''CUI//PRVCY.'' Commenters who submit through mail should likewise omit their PII or PROPIN from the body of the comment and provide any such information on the cover sheet only, marking it at the top as ''CUI//PRVCY'' for PII, or as ''CUI//PROPIN'' for PROPIN. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at *https://www.regulations.gov.* Commenters must submit comments by using one of the methods described above, not by emailing the address set forth in the following paragraph.

FOR FURTHER INFORMATION CONTACT: Office of Regulatory Affairs, by email at *ORA@atf.gov,* by mail at Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave NE; Washington, DC 20226, or by telephone at 202–648–7070 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Attorney General is responsible for enforcing the Gun Control Act of 1968 (''GCA''), as amended. This responsibility includes the authority to promulgate regulations necessary to enforce the provisions of the GCA.[1] *See* 18 U.S.C. 926(a). Congress and the Attorney General have delegated the responsibility for administering and enforcing the GCA to the Director of ATF (''Director''), subject to the direction of the Attorney General and the Deputy Attorney General. *See* 28 U.S.C. 599A(b)(1), (c)(1); 28 CFR 0.130(a)(1)–(2); Treas. Order No. 221(2)(a), (d), 37 FR 11696–97 (June 10, 1972).[2] Accordingly, the Department and ATF have promulgated regulations to implement the GCA in 27 CFR part 478.

Under 18 U.S.C. 923(e), ATF may revoke any license it has issued if the licensee has willfully violated any provision of the GCA or any rule or regulation prescribed by the Attorney General to implement the GCA's provisions. ATF has implemented section 923(e) in 27 CFR 478.73(a), which provides, ''Whenever the Director has reason to believe that a licensee has willfully violated any provision of the [GCA] or this part [478], a notice of revocation of the license, ATF Form 4500, may be issued.'' Neither the GCA nor the regulations define ''willfully.'' Without a statutory or regulatory definition, courts have created their own definitions, which has resulted in different definitions from court to court, as well as different definitions applied in criminal and civil proceedings.

II. Proposed rule

A. Discussion

Although the Government has previously argued that unintentional violations may be ''willful'' under the GCA's civil revocation proceedings, ATF has decided that its previous position does not represent the best reading of the statute. ATF has re-examined the text and structure of the GCA. Both strongly suggest that Congress intended the same definition of ''willfully'' to apply to the same prohibited conduct in the same Act whether the consequences are criminal or civil.

Civil proceedings for revoking a firearms license are governed by 18 U.S.C. 923. In particular, Congress has provided that the Attorney General may revoke a license if the license holder ''has willfully violated any provision of this chapter.'' 18 U.S.C. 923(e). Criminal penalties for violating the GCA are governed by 18 U.S.C. 924. That statute provides that whoever ''willfully violates any . . . provision of this chapter [other than certain enumerated exceptions] shall be fined under this title, imprisoned not more than five years, or both.'' 18 U.S.C. 924(a)(1)(D).

The Supreme Court has already interpreted 18 U.S.C. 924(a)(1)(D)'s ''willfully violates any other provision of this chapter'' phrase to require that the defendant deliberately violate a known legal duty. *Bryan* v. *United States,* 524 U.S. 184 (1998). In *Bryan,* the Supreme Court distinguished the culpability required under ''willful'' and ''knowing'' violations of the GCA. It held that ''willful'' violations of the GCA require a higher, more culpable mens rea than ''knowing'' violations. Specifically, ''to establish a 'willful' violation of a statute, the Government must prove that the defendant acted with knowledge that his conduct was unlawful.'' *Id.* at 191–92. By contrast, the culpability required of ''knowing'' violations is ''mere[] . . . proof of knowledge of the facts that constitute the offense.'' *Id.* at 193.

Section 923(e)'s virtually identical phrase—''willfully violated any provision of this chapter''—should be given the same meaning. ''The normal rule of statutory construction assumes that identical words used in different parts of the same act are intended to have the same meaning.'' *Sorenson* v. *Sec'y of Treasury,* 475 U.S. 851, 860 (1986). Especially so here, where both section 923(e) and 924(a)(1)(D) refer to the same body of law—''any . . . provision'' of the GCA—and have the same ''willfully'' mens rea requirement without any additional qualifying language.[3]

Giving ''willfully'' the same meaning in section 923(e) as in section 924(a)(1)(D) is ''doubly appropriate here,'' because that word was ''inserted into [both sections] at the same time.'' *Powerex Corp.* v. *Reliant Energy Servs.,* 551 U.S. 224, 232 (2007). Congress has enacted and amended these provisions of the GCA in lockstep with each other. In June 1968, Congress enacted the original GCA, providing in section 924 that ''[w]hoever violates any provision of this chapter . . . shall be fined not more than $5,000 or imprisoned not more than five years, or both.'' Public Law 90–351, 82 Stat. 233 (Jun. 19, 1968). A few short months later, Congress allowed for license revocation under section 923(e) where the license holder ''has violated any provision of this chapter.'' Public Law 90–618, 82 Stat. 1222 (Oct. 22, 1968). And in May 1986, Congress passed the Firearms Owners' Protection Act (''FOPA''), which amended both sections 923(e) and 924(a)(1)(D) to what is substantially their form today by adding the ''willfully'' requirement. Public Law 99–308, 100 Stat. 453, 456 (May 19, 1986).

It makes little difference that section 923 refers to a civil penalty—revocation of a license—while section 924 concerns criminal penalties. It is true that the holding in *Bryan* was based, in part, on the fact that section 924 used the term ''willfully'' in ''the criminal context.'' *Bryan,* 524 U.S. at 191–92. But it is well settled that a statute with ''both criminal and noncriminal applications'' should still be interpreted consistently across both. *See Leocal* v. *Ashcroft,* 543 U.S. 1, 11–12 n.8 (2004); *accord Clark* v. *Martinez,* 543 U.S. 371, 380–81 (2005). The same should apply to identical statutory phrases, enacted at the same time and in the same Act.

Examining the structure of the GCA confirms this reading. Section 923(f)(4) provides that ''[i]f criminal proceedings are instituted against a licensee alleging any violation of this chapter or of rules or regulations prescribed under this chapter, and the licensee is acquitted of such charges, or such proceedings are terminated, other than upon motion of the Government before trial upon such charges, the Attorney General shall be absolutely barred from denying or revoking any license granted under this chapter where such denial or revocation is based in whole or in part on the facts which form the basis of such criminal charges.'' Issue preclusion from a criminal acquittal to a license proceeding would only make sense if the GCA's criminal definition of ''willfully'' and its civil definition of ''willfully'' carried the same meaning. It would not make sense if the GCA's criminal definition of ''willfully'' narrowly included only intentional violations of a known legal duty while

[1] Some GCA provisions still refer to the ''Secretary of the Treasury.'' However, the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, transferred the functions of ATF from the Department of the Treasury to the Department of Justice, under the general authority of the Attorney General. 26 U.S.C. 7801(a)(2); 28 U.S.C. 599A(c)(1). Thus, for ease of reference, this proposed rule refers to the Attorney General where relevant.

[2] In Attorney General Order Number 6353–2025, the Attorney General delegated authority to the Director to issue regulations pertaining to matters within ATF's jurisdiction, including under the National Firearms Act, GCA, and Title XI of the Organized Crime Control Act. ATF's jurisdiction also includes those portions of sec. 38 of the Arms Export Control Act pertaining to the permanent import of defense articles and defense services and the Contraband Cigarette Trafficking Act.

[3] To be sure, the criminal provision narrows the body of law subject to criminal punishment. But that is not the same thing as adding additional qualifications to ''willfully'' violating ''any . . . provision'' of the GCA. 18 U.S.C. 924(a)(1)(D).

its civil definition broadly included unintentional conduct that showed a plain indifference.

Statutory purpose confirms that section 923(e)'s ''willfulness'' requirement refers to a deliberate violation of a known legal duty. *See Wooden* v. *United States,* 595 U.S. 360, 378 (2022). In the GCA, Congress initially created an anomalous situation: no mens rea was explicitly adopted for license revocations but the Secretary of the Treasury was required to issue federal firearms licenses unless the applicant had previously willfully violated the GCA. *See Rich* v. *United States,* 383 F. Supp. 797, 800 (S.D. Ohio 1974). Congress resolved the ambiguity in 1986 when it passed FOPA. Congress added ''willfully'' ''to correct existing firearms statutes and enforcement policies'' and protect ''the rights of citizens to keep and bear arms under the second amendment to the United States Constitution.'' Public Law 99–308; 100 Stat. 449. Increasing the culpability required to establish violations of the GCA, thus, aimed to curb abusive enforcement practices and ensure licenses were not revoked for inadvertent errors or technical mistakes. ATF believes that it is unlikely that Congress intended ''willfully'' to defeat FOPA's impetus.[4]

Even before the 1986 amendments, at least one district court agreed that the criminal definition of ''willfulness'' applied to license revocation proceedings. In *Rich* v. *United States,* the Southern District of Ohio explained that applying the criminal definition of ''willfully'' would ''further the protective concern Congress intended'' to not ''impose undue or unnecessary restrictions upon firearms transactions.'' *See Rich,* 383 F. Supp. at 800–01. And if that were true under the original GCA, the argument would hold *a fortiori* given Congress's concerns in enacting FOPA.

Yet the circuit courts have incorrectly cast this interpretation aside. At least nine circuits have held that criminal penalties resulting from ''willfully'' violating the GCA require a more culpable mind than license revocations resulting from ''willfully'' violating the GCA. According to those courts, the same conduct, under the same Act, with the same mens rea requirements, could require less culpability when revoking a license than imposing criminal penalties. Without anything in the GCA's text suggesting that ''willfully'' means one thing in one section and another thing in another section, the courts defined ''willfully'' differently based on nothing other than the civil or criminal nature of the consequences. Six of the nine circuits specifically have concluded that the required culpability for license revocation is ''deliberate, knowing, or reckless.'' [5] All nine of the circuits have held that ''willfulness'' for license revocation occurs ''where the licensee knew of his legal obligation and purposefully disregarded or was plainly indifferent to the requirements.'' [6]

These circuit courts' notion that the civil or criminal consequences flowing from a statute's violation can change the culpability required of the same mens rea, in the same Act, that applies to violations of the same body of law rests on one case, *Safeco Insurance Company of America* v. *Burr,* 551 U.S. 47, 57 (2007).

Safeco, though, is not entirely apt. In *Safeco,* the Court considered the ''willfulness'' standard under the Fair Credit Reporting Act (''FCRA'') and focused on context-dependent levels of culpability meant by ''willfulness.'' The Court concluded that to give effect to all the other mens rea requirements in the FCRA, mere reckless disregard of the FCRA's requirements was sufficiently ''willful.'' Never in *Safeco,* however, did the Court evaluate the level of culpability required of the same mens rea, in the same Act, applied to the same underlying conduct based solely on the civil or criminal nature of the consequences. In fact, the Court determined the culpability required to be ''willful,'' 15 U.S.C. 1681n(a), relative to the level of culpability required of negligence, *id.* 1681o(a), knowledge, *id.* 1681n(a)(1)(B), and ''knowingly and willfully,'' *id.* 1681q, 1681r. The Court noted that ''willful,'' in that statute, must have a lower level of culpability than ''knowing'' because the statute imposes additional statutory damages if a ''willful'' violation was also done ''knowingly.'' That context shows that ''knowing violations are sensibly understood as a more serious subcategory of willful ones.'' *Safeco,* 551 U.S. at 59.

Put another way, for ''knowing'' to have any meaning, it must be possible under the statute to willfully, but not knowingly, violate the statute. Same thing for negligence. If ''willfully'' included the culpability amounting to ''negligence'' then all of 15 U.S.C. 1681o(a) would be surplusage because all negligent conduct would be subsumed under willfully. *Safeco* also distinguished criminal punishment. For criminal punishment, one must act ''knowingly and willfully''—paired modifiers that heighten the culpability required relative to ''willfully'' used in the same Act on its own. The culmination of those distinctions was *Safeco's* commonsense holding: For every mens rea in the act to have meaning, ''willfulness'' must allow for culpability that is less than ''knowing'' and ''knowingly and willfully,'' but more than ''negligent.''

The GCA's text is materially different from the FCRA's. Unlike the FCRA, the GCA uses ''willfully,'' without qualification, to describe the culpability required for violating the same body of law that amounts to both a criminal and civil violation. In the FCRA, ''willfully'' is reserved only for civil violations, while another mens rea, like ''knowingly and willfully,'' is required for criminal violations or consequences of greater severity. The GCA's text has none of the attributes of the FCRA's text that compelled the Supreme Court in *Safeco* to interpret ''willfully'' to require less culpability than knowledge but more than negligence. The GCA does not pair ''knowingly and willfully.'' ''Willfully'' is consistently used throughout the GCA for both criminal punishments and license revocations, and the word is meant to require more culpability than ''knowingly.'' Nowhere does the GCA's text distinguish between what is willful for criminal punishment, but not for license revocation. Moreover, the Supreme Court has already interpreted ''willfully'' in the context of criminal punishment under the GCA to require a heightened culpability of one ''act[ing] with knowledge that his conduct was unlawful.'' *Bryan,* 524 U.S. at 191–192.

Identical words used in the same Act, especially when referring to the same underlying conduct (''violate[] any . . . provision'' of the GCA), must bear the same meaning.[7] ''Willfully'' cannot

[4] *See* S. Rep. No. 98–583 at 14 (1984).

[5] *Gen. Store, Inc.* v. *Van Loan,* 560 F.3d 920, 924 (9th Cir. 2009) (quoting *Armalite Inc.* v. *Lambert,* 544 F.3d 644, 647 (6th Cir. 2008)) (citing *RSM, Inc.* v. *Herbert,* 466 F.3d 316, 321 (4th Cir. 2006); *Willingham Sports, Inc.* v. *ATF,* 415 F.3d 1274, 1277 (11th Cir. 2005); *Stein's Inc.* v. *Blumenthal,* 649 F.2d 463, 467 (7th Cir. 1980); *Lewin* v. *Blumenthal,* 590 F.2d 268, 269 (8th Cir. 1979)).

[6] *Simpson* v. *Att'y Gen.,* 913 F.3d 110, 114 (3d Cir. 2019) (citing *Borchardt Rifle Corp.* v. *Cook,* 684 F.3d 1037, 1042 (10th Cir. 2012)); *Fairmont Cash Mgmt., L.L.C.* v. *James,* 858 F.3d 356, 362 (5th Cir. 2017); *Armalite,* 544 F.3d at 647; *RSM,* 466 F.3d at 317; *Article II Gun Shop, Inc.* v. *Gonzales,* 441 F.3d 492, 497 (7th Cir. 2006); *Willingham Sports,* 415 F.3d at 1277; *Perri* v. *ATF,* 637 F.2d 1332, 1336 (9th Cir. 1981); *Lewin,* 590 F.2d at 269.

[7] *See* Valerie C. Brannon, Cong. Research Serv., R45153, Statutory Interpretation: Theories, Tools, and Trends 55 (2023) *citing Robers* v. *United States,* 572 U.S. 639, 643 (2014) (quoting *Merrill Lynch, Pierce, Fenner & Smith Inc.* v. *Dabit,* 547 U.S. 71, 86 (2006)) (internal quotation marks omitted*); see also, e.g., Cochise Consultancy, Inc.* v. *United States*

Continued

sometimes include ''knowingly,'' but sometimes not. ''Willfully'' must have a consistent meaning when it is used in the same Act in reference to the same body of law. And that meaning must be consistent with how the Supreme Court defined the term in *Bryan.*

Apart from questions of statutory interpretation, amending the regulatory definition of ''willfully'' is also appropriate in light of ATF's former enforcement policy. During the prior administration, ATF attempted to implement a ''zero tolerance'' policy for gun dealers.[8] This zero-tolerance policy directed ATF to initiate revocation proceedings for five categories of conduct: ''(1) transferring a firearm to a prohibited person, (2) failing to run a background check, (3) falsifying records, such as a firearms transaction form, (4) failing to respond to an ATF tracing request, or (5) refusing to permit ATF to conduct an inspection in violation of the law.'' [9]

Although these violations could only warrant revocation if done ''willfully,'' the prior administration's policy diluted the willfulness requirement—lowering the bar, in practice, from intentional/reckless wrongdoing to negligence. During licensing inspections, ATF Industry Operations Investigators (''IOIs'') provided federal firearms licensees (''FFLs'') with a review of the GCA's provisions and implementing regulations verbally. This practice has often been the subject of scrutiny because ATF has argued that the review of the acknowledgment with an IOI placed licensees on notice of the GCA's legal requirements—requirements that are numerous and, in some cases, difficult and technical. Because FFLs were then supposedly on notice of the GCA's pertinent legal requirements, ATF would move to revoke licenses when these requirements were violated, even if the violations were unintentional and the kind of violations that could occur through inadvertence. Specifically, FFLs were justifiably concerned that, under the prior administration's policies, ATF would initiate revocations for unintentional violations or repeat violations based on a standard of plain indifference to a known legal requirement. In practice, that culpability amounted to simple negligence. That result is precisely what Congress tried to stop when it passed FOPA.

ATF has since rescinded the zero-tolerance policy but, given this history, ATF has determined that revised regulatory language is appropriate to respond to concerns about the dilution of the GCA's mental state requirement and necessary to prevent the reimposition of abusive enforcement practices in the future. Thus, consistent with *Bryan,* ATF proposes to define ''willfully'' in 27 CFR 478.73 in a manner that aligns with the higher standard of deliberate or intentional action knowingly violating the statute. ATF proposes to require that a person must intentionally and purposely engage in conduct that the law forbids and must act with actual knowledge that the person's conduct is unlawful. While persons need not know the specific law they violate, they must know the conduct is unlawful.

In revising the regulatory language, ATF will also define ''willfully'' as it applies to repeated violations, willful blindness, and supervisor-employee liability. The delineation of these concepts will capture much of what a proper definition of ''plain indifference'' would have captured but reduce the risk of abusive enforcement practices by clarifying that a repetitive error is not inherently willful, particularly when it results from the kind of error that may be committed through inadvertence.

B. Proposed Revisions

ATF proposes to add the definition of willfully to § 478.73, rather than to the general definitions section in § 478.11, because the term ''willfully'' arises in only § 478.73 and has particular meaning in this context. It is easier for readers to understand the regulatory requirements if the particular definition is in the same location as the term used only in that section. Therefore, ATF proposes adding the definition in a new paragraph (c) under § 478.73. Paragraph (c) would define ''willfully'' while paragraphs (c)(1)–(3) would provide more information on how the term applies in specific scenarios, to clarify when an FFL's conduct rises to the level of willful behavior. These scenarios are: cases of repeated violations (failing to prevent a violation from recurring), willful blindness, and actions by a person with supervisory authority.

Paragraph (c)(1) would clarify the relationship between willfulness and repeated violations. It provides that ''[e]vidence of repeated violations with knowledge of the law's requirements may be sufficient to establish willfulness.'' Thus, a licensee who credibly claimed not to know a provision of the GCA might have a legitimate defense for a first violation. But upon a second violation, such a defense would not be credible, and evidence of a prior violation could be used as evidence that a person's conduct was willful.

Paragraph (c)(1) also recognizes, however, that not all repeat violations are willful. Given the complicated nature of the GCA and its forms and implementing regulations, some paperwork and regulatory violations may be repeated but unintentional. For example, a person may check the wrong box on a form or miss a line with information that is supposed to be filled out. Simple paperwork mistakes, done without willful intent, should not be the basis of license revocations. That is why paragraph (c)(1) provides that ''in every case, the totality of the circumstances must be considered to determine willfulness, including the nature of the repeated violations and whether they resulted from inadvertent error.''

Paragraph (c)(2) would provide that deliberately avoiding knowledge of the law or regulation is not an excuse. A person shall be deemed to act willfully if he or she takes deliberate actions to avoid learning about the law or regulation. This codifies traditional standards on willful blindness. Licensees cannot evade responsibility for willful violations by deliberately refusing to learn the law or regulation governing the activity.

Finally, paragraph (c)(3) would establish when a person with supervisory authority or a responsible person may be deemed to have willfully violated the GCA based on willful violations of his or her employees or subordinates. Supervisory authorities or responsible persons, who are not a principal in or accessory to violating the GCA, act willfully if they have actual knowledge that their employee violated the law or regulation and they ratify the employee's action by (1) failing to cure the violation; (2) concealing the violation; or (3) failing to take appropriate remedial or disciplinary action against the employee who committed the violation. This paragraph would limit the application of respondeat superior to actions ratified by the licensee, *i.e.,* those in which a

ex rel. Hunt, 587 U.S. 262, 268 (2019) (''In all but the most unusual situations, a single use of a statutory phrase must have a fixed meaning.''); *see also* William N. Eskridge, Jr. Phillip P. Fricky, Elizabeth Garrett, & James J. Brudney, Cases and Materials on Legislation and Regulation: Statutes and the Creation of Public Policy 1198 (5th ed. 2014) (''presumption of statutory consistency''); Antonin Scalia & Bryan A. Garner, Reading Law: The Interpretation of Legal Texts 170 (2012) (''presumption of consistent usage'').

[8] *See* Fact Sheet: Biden-Harris Administration Announces Comprehensive Strategy to Prevent and Respond to Gun Crime and Ensure Public Safety (Jun. 23, 2021), *https://bidenwhitehouse.archives.gov/briefing-room/statements-releases/2021/06/23/fact-sheet-biden-harris-administration-announces-comprehensive-strategy-to-prevent-and-respond-to-gun-crime-and-ensure-public-safety/* [*https://perma.cc/5KPZ-X6AK*].

[9] *Id.*

licensee has knowledge that conduct is unlawful and fails to take action to remedy the violation, conceals the violation (thus creating a personal stake in the misconduct), or fails to take reasonable steps to prevent its recurrence. Respondeat superior is a common law doctrine ''whereby a master is liable for his servant's torts committed in the course and scope of his employment.'' *Horras* v. *Leavitt,* 495 F.3d 894, 904 (8th Cir. 2007) (quoting *Burger Chef Sys., Inc.* v. *Govro,* 407 F.2d 921, 925 (8th Cir. 1969)). Courts have held that under the doctrine of respondeat superior, a type of vicarious liability, the unlawful acts of their employees can be imputed to FFLs, especially when such conduct is willful.[10]

Even if federal law permits licensees to be vicariously liable for the actions of their employees, this proposed rule seeks comment on whether such strict liability is appropriate as a matter of policy. Strict liability for employee misconduct may result in a licensee losing its license due to a single bad subordinate actor without considering remedial actions the employer may have taken. Large businesses with many employees would particularly suffer because a single rogue employee could imperil the entire business, regardless of the due care shown by managers and owners. In practice, ATF has not applied a full vicarious liability standard when revoking federal firearms licenses. The proposed rule accords with current practice and rejects full vicarious liability for employee misconduct as a matter of policy.

The proposed standard articulated in this rule would draw a proper balance between ensuring that FFLs take responsibility for the employees under their supervision while not unfairly holding them strictly liable for actions of which they were unaware. A licensee or responsible person's behavior would only be willful under the proposed standard if the licensee or responsible person had actual knowledge of the employee's unlawful misconduct and ratified the action in certain ways. The concept of a principal ''ratifying'' an agent's actions is well known in the law of agency. *See* Restatement (Third) of Agency sec. 4.01–4.08. ATF believes that the particular conduct enumerated (*e.g.,* failing to cure the violation or failing to take remedial or disciplinary action against an employee) is the kind of conduct that demonstrates that the principal assents to the conduct as if it had been authorized, *see* Restatement (Third) of Agency sec. 4.01(1), (2). That would make a violation intentional and, consequently, willful.

Paragraph (c)(3) would also reflect that the principal's assent may be shown by omission (*e.g.,* failing to cure a violation). Misconduct by an employee should trigger an employer's affirmative duty to rectify and prevent that misconduct to the extent practicable. Failing to take reasonable steps to mitigate or prevent a recurrence of the misconduct leads to a reasonable inference that the employer ratifies the misconduct. Paragraph (c)(3) would provide that an employer's conduct rises to the level of willful when it ratifies an action by ''[failing] to take appropriate remedial or disciplinary action against the employee who committed the violation.'' Appropriate employer action would depend on the circumstances. ATF is not suggesting that adverse employee action must be taken in all cases. For example, an appropriate remedial action for an inadvertent regulatory violation by an otherwise careful employee may be to educate the employee on the relevant regulation. On the other hand, stronger disciplinary actions are warranted where an employee culpably violates the GCA, and failing to take such disciplinary actions may lead to an inference that the employer accepts the misconduct.

Additionally, the employer provision applies only when the licensee ''was not a principal in or an accessory to committing a violation.'' In other words, this provision is aimed only at providing a reasonable framework for respondeat superior liability. This provision would not be applicable where licensees themselves are a principal in or an accessory to a violation. In that case, there is no vicarious liability; the licensees commit violations in their own right and would be judged by ordinary principles of willfulness defined in paragraphs (c), (c)(1), and (c)(2).

Insofar as any aspects of this rulemaking may represent an exercise of discretionary authority by ATF (*e.g.,* the provision governing employee misconduct), the GCA at 18 U.S.C. 926(a) delegates such discretion to ATF. *See Loper Bright Enters.* v. *Raimondo,* 603 U.S. 369, 394 (2024). However, ATF welcomes comments on all aspects of the interpretive analysis and how to best implement the statutory text.

In addition, ATF is taking this opportunity to restructure § 478.73(a) by breaking apart the extremely long paragraph containing multiple bases for ATF to send notice into four subparagraphs and streamlining the repetitive portions of the provisions, and making minor plain writing edits to paragraphs (a) and (b) so they are easier to read. ATF is not proposing any changes to the substantive content of paragraphs (a) and (b).

III. Statutory and Executive Order Review

A. Executive Orders 12866 and 13563

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.

Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of agencies quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting public flexibility.

This rule proposes to codify in ATF regulations a definition of ''willfully'' to clarify when a person's conduct would rise to willfully violating the GCA or its implementing regulations, in turn potentially leading to a notice that ATF intends to suspend or revoke a federal firearms license or impose a civil fine on an FFL. The proposed definition would implement the standard defined by the Supreme Court in *Bryan,* 524 U.S. at 191–92.

The Office of Management and Budget (''OMB'') has determined that this rule would be a ''significant regulatory action'' under Executive Order 12866. Therefore, it reviewed this rule. ATF provides the following analysis to comply with Executive Orders 12866 and 13563.

1. Need Statement

Codifying the definition of ''willfully'' in ATF regulations would offer greater clarity to the public and regulated licensees, and ensure that any suspensions, revocations, or fines are in line with the higher culpability required for ''willful'' violations of the GCA as defined by the Supreme Court in *Bryan.* It would also reduce the risk that unwarranted or unintentional violations would result in such sanctions.

2. Benefits

ATF estimates the impacts of the proposed rule to be primarily characterized by reduced burden on its regulated industry, specifically entailing qualitative benefits to current and future FFLs. Revising the definition of ''willfully'' would offer greater clarity and predictability to regulated licensees,

[10] *See Fairmont Cash Mgmt.,* 858 F.3d at 363 (rejecting the position that the doctrine of respondeat superior does not apply to the FFL when its employee partakes in willfully illegal conduct).

which would constitute qualitative benefits to a potential majority of the 100,000 FFLs.

In addition, properly defining ''willfully'' would result in quantifiable cost savings to FFLs who commit minor, technical, or unintentional violations. Those FFLs, under an alternative definition, could have been served notices of ATF's intent to suspend or revoke their license or impose a civil fine for inadvertent violations of the GCA. Those FFLs would either face administrative consequences or enter hearings to challenge ATF's intended action.

ATF's interpretation of ''willfully,'' however, still subjects FFLs to revocation proceedings due to willful or repeated violations of federal firearms laws that advance public safety.[11] In such situations, FFLs are entitled to due process throughout the inspection and revocation process. To revoke a license, ATF must find that the FFL willfully committed at least one violation of the GCA or its regulations. FFLs have the right to appeal a final license revocation to federal court.[12]

Between 2021 and 2024, ATF operated under the enhanced regulatory enforcement policy (''EREP''), which was based on the broader definition of ''willfully'' discussed in section II.A of this preamble. As a result, data on the number of notices or proxy letters and the number of hearings provides a baseline from which to estimate the number of persons in the future who might be impacted if this proposed rule does not go into effect. In turn, that number represents the number of FFLs who would potentially benefit from cost savings from this proposed rule.

ATF determined the portion of ATF administrative hearings and revocations/other dispositions that were attributable to the enforcement policy. Based on data over the four-year average between 2021 and 2024, out of a total of 397 inspections that resulted in notices, 183 went to hearing while 214 did not. FFLs requested hearings and incurred associated costs for 46 percent of the notices. ATF therefore applied this same percentage to the number of notices sent to FFLs for one of the qualified violations (refer to footnote 11), to estimate the number of FFLs that would no longer incur the costs of hearings if this rule were issued as proposed.

To estimate the number of notices, ATF combined data on both revocations and other non-revocation dispositions (such as suspensions, fines, or no action) over time, which resulted in the following data:

TABLE 1—DATA ON REVOCATIONS AND OTHER DISPOSITIONS

	2018	2019	2020	2021	2022	2023	2024
Revocations	49	43	40	27	90	170	195
Other dispositions	.....	.....	15	3	62	168	182
Notices/proxy letters	49	43	55	30	152	338	377
Percent change between years	.....	−12	28	−45	407	122	12

The EREP policy, which relied on a broad reading of the definition of ''willfully,'' resulted in an increase of 407 percent in ATF's estimated number of notices between 2021 and 2022 when EREP was implemented, followed by additional increases of 122 and 12 percent, respectively, over the two years that followed. Applying the statistic that 46 percent of cases result in a hearing to the number of notices for each year, ATF estimated the number of hearings over the past seven years, in Table 2.

TABLE 2—DATA ON REVOCATIONS AND OTHER DISPOSITIONS

	2018	2019	2020	2021	2022	2023	2024
Notices/proxy letters	49	43	55	30	152	338	377
Estimated number of notices resulting in hearings	23	20	25	14	70	155	173

Using this data to produce a baseline average of hearings per year before and after the EREP based on the broader definition of ''willfully'' yielded a baseline average of 20 hearings per year, compared to an EREP average of 133 hearings per year. The difference nets an increase of 113 hearings per year under the policy, assuming it would have remained steady over time—from which ATF projects that, if this rule does not go into effect, 113 more FFLs per year could, in the future, incur the costs for appeal hearings because the broader definition applied by courts in civil cases could continue being used even without the EREP.

Assuming a hearing takes six hours on average, and that legal representation would total approximately $350 per hour,[13] each hearing would result in an estimated legal cost of $2,100 per FFL. This benefit in the form of potential cost savings, when applied to the annual average of 113 hearings, results in an annual potential savings to FFLs of $237,300 from this proposed rule, which would result in cost savings of $2.373 million over ten years.

While this would be the estimated quantitative impact of reversing an internal enforcement policy, codifying a more stringent standard that would likely reduce regulatory enforcement actions over time would be similar, or perhaps slightly greater, and on an enduring basis.

3. Costs

In addition to the qualitative and quantitative benefits discussed above, ATF estimates the impacts of the proposed rule to also include potential

[11] Qualifying willful violations include: transferring a firearm to a prohibited person, failing to conduct a required background check, falsifying records, failing to respond to a trace request, and refusing to allow ATF to conduct an inspection. ATF might also revoke an FFL for willful violations of the GCA that are not included in the ATF list above.

[12] Additional information about the revocation process is available at *www.atf.gov/firearms/revocation-firearms-licenses* [*https://perma.cc/566X-9RTB*].

[13] *See, e.g.,* Clio, *Average Lawyer and Non-Lawyer Hourly Rates by State, https://www.clio.com/resources/legal-trends/compare-lawyer-rates/* [*https://perma.cc/8NZV-8TAB*].

qualitative costs in the form of greater risks to public safety.

The data above includes annual revocations under the baseline of 195 in 2024, 170 in 2023, and 90 in 2022, which results in a three-year average of 152 revoked federal firearms licenses per year. ATF expects to reduce this estimate considerably based on shifting enforcement priorities and this proposed rule, which would raise the threshold for what qualifies as a violation that could result in a suspension, revocation, or civil fine.

Many violations are likely minor and not due to purposeful evasion. Nonetheless, there remains the possibility that incidents of neglect, uncorrected subordinate employee error, or other avoidable violations could go uncorrected without the threat of consequences or incentive for mitigating or corrective action. As a result, an unknown proportion of these 152 violators per year might continue to violate the existing regulations, thereby increasing the risk of harm to public safety. While slim, there are chances that such violations might result in unfavorable social outcomes, such as a prohibited person obtaining a firearm without a background check, an FFL refusing to comply with a trace request in pursuit of a violent criminal, or other similar consequential violations.

4. Regulatory Alternatives

ATF considered three alternatives: continuing the status quo without changing the existing regulatory definition; issuing guidance to internal ATF enforcement divisions and personnel who enforce the provisions; or revising the existing regulation.

Alternative 1: Continuing the Status Quo (No Action Alternative)

ATF considered this alternative of continuing the status quo, which is to take no action; however, the existing interpretation, which is less stringent than when applied in a criminal context, has created an unpredictable and inconsistent compliance environment for licensees that could result in unintentional or unwarranted consequences for minor violations of GCA regulations. While the volume of adverse actions is relatively low and likely to be reduced further under the existing baseline, greater clarity benefits all current and future FFLs and the greater leniency for unintentional violators reduces burden on the public. ATF therefore did not elect this alternative.

Alternative 2: Issuing Guidance

ATF considered issuing guidance to internal ATF Field Industry Operations Investigators, directing them to apply the more stringent definition and enforcement standard of ''willfully'' proposed in this rule. But ATF determined that the guidance alternative was insufficient as a full replacement for a rulemaking, due to the differing court interpretations in the absence of an established ATF implementing definition. Courts would not rely on guidance for such an established definition, even if it were external, and internal guidance would carry no weight toward a more consistent definition. As a result, ATF opted to codify the definition in the regulation instead.

Alternative 3: Rulemaking (Proposed Alternative)

ATF determined that, as noted above, the rulemaking option is necessary to revise the existing definition of ''willfully'' because it would offer greater clarity to the public and regulated licensees. As discussed above, ATF believes that the current standard that prevails in the courts of appeals is not the appropriate definition of ''willfulness'' under the GCA for license revocation proceedings. At least preliminarily, ATF believes that the proposed definition is the best interpretation of what the GCA meant by ''willful.'' Thus, as a practical matter, by adopting a more stringent standard for regulatory enforcement, the proposed rule would ensure minor, technical, or unintentional violations would not result in suspension, revocation, of civil fine notices for FFLs. Providing this definition of willfulness would enable consistent application across courts and administrative proceedings.

B. Executive Order 14192

Executive Order 14192 (Unleashing Prosperity Through Deregulation) requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed or revised when the agency publicly proposes for notice-and-comment or otherwise promulgates a new regulation that qualifies as an Executive Order 14192 regulatory action (defined in OMB Memorandum M–25–20 as a final significant regulatory action under section 3(f) of Executive Order 12866 that imposes total costs greater than zero). In furtherance of this requirement, section 3(c) of Executive Order 14192 requires that any new incremental costs associated with such new regulations must, to the extent permitted by law, also be offset by eliminating existing costs associated with at least ten prior regulations. However, this proposed rule would not be an Executive Order 14192 regulatory action. Although it is a significant regulatory action as defined by Executive Order 12866, it would not impose total costs greater than zero. This proposed rule would provide qualitative benefits by offering greater clarity to the public and regulated licensees, and would provide a clear definition for courts to apply when assessing cases under ATF's implementing regulations. By adopting a more stringent standard for regulatory enforcement, the proposed rule would also ensure minor, technical, or unintentional violations would not result in suspension, revocation, or civil fine notices for FFLs. It is possible there could be some risk to public safety from FFLs that do not take the necessary steps to rehabilitate neglectful practices that may result in unfavorable social outcomes, such as a prohibited person obtaining a firearm without a background check, or not complying timely with a trace request in pursuit of a violent criminal. Those risks, however, are speculative. Therefore, as discussed above, ATF expects this rule, if finalized as proposed, to qualify as an Executive Order 14192 deregulatory action (defined by OMB Memorandum M–25–20 as a final action that imposes total costs less than zero) because it relaxes the standard upon which regulatory enforcement action may be taken against FFLs.

C. Executive Order 14294

Executive Order 14294 (Fighting Overcriminalization in Federal Regulations) requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to each element of those offenses. This proposed rule would not create a criminal regulatory offense and is thus exempt from Executive Order 14294 requirements.

D. Executive Order 13132

This proposed rule would not have substantial direct effects on the states, the relationship between the federal government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132 (Federalism), the Director has determined that this proposed rule

would not impose substantial direct compliance costs on state and local governments, preempt state law, or meaningfully implicate federalism. It thus does not warrant preparing a federalism summary impact statement.

E. Executive Order 12988

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform).

F. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–612, agencies are required to conduct a regulatory flexibility analysis of any proposed rule subject to notice-and-comment rulemaking requirements unless the agency head certifies, including a statement of the factual basis, that the proposed rule would not have a significant economic impact on a substantial number of small entities. Small entities include certain small businesses, small not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Director certifies, after consideration, that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule is deregulatory and would not impose any additional costs.

F. Unfunded Mandates Reform Act of 1995

This proposed rule does not include a federal mandate that might result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it would not significantly or uniquely affect small governments. Therefore, ATF has determined that no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

G. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (''PRA''), 44 U.S.C. 3501–3521, agencies are required to submit to OMB, for review and approval, any information collection requirements a rule creates or any impacts it has on existing information collections. An information collection includes any reporting, record-keeping, monitoring, posting, labeling, or other similar actions an agency requires of the public. *See* 5 CFR 1320.3(c). This proposed rule would not create any new information collection requirements or impact any existing ones covered by the PRA.

IV. Public Participation

A. Comments Sought

ATF requests comments on the proposed rule from all interested persons. ATF specifically requests comments on the clarity of this proposed rule and how it may be made easier to understand. In addition, ATF requests comments on the costs or benefits of the proposed rule and on the appropriate methodology and data for calculating those costs and benefits.

All comments must reference this document's RIN 1140–AA88 and, if handwritten, must be legible. If submitting by mail, you must also include your complete first and last name and contact information. If submitting a comment through the federal e-rulemaking portal, as described in section IV.C of this preamble, you should carefully review and follow the website's instructions on submitting comments. Whether you submit comments online or by mail, ATF will post them online. If submitting online as an individual, any information you provide in the online fields for city, state, zip code, and phone will not be publicly viewable when ATF publishes the comment on *https://www.regulations.gov.* However, if you include such personally identifying information (''PII'') in the body of your online comment, it may be posted and viewable online. Similarly, if you submit a written comment with PII in the body of the comment, it may be posted and viewable online. Therefore, all commenters should review section IV.B of this preamble, ''Confidentiality,'' regarding how to submit PII if you do not want it published online. ATF may not consider, or respond to, comments that do not meet these requirements or comments containing excessive profanity. ATF will retain comments containing excessive profanity as part of this rulemaking's administrative record, but will not publish such documents on *https://www.regulations.gov.* ATF will treat all comments as originals and will not acknowledge receipt of comments. In addition, if ATF cannot read your comment due to handwriting or technical difficulties and cannot contact you for clarification, ATF may not be able to consider your comment.

ATF will carefully consider all comments, as appropriate, received on or before the closing date.

B. Confidentiality

ATF will make all comments meeting the requirements of this section, whether submitted electronically or on paper, and except as provided below, available for public viewing on the internet through the federal e-rulemaking portal, and subject to the Freedom of Information Act (5 U.S.C. 552). Commenters who submit by mail and who do not want their name or other PII posted on the internet should submit their comments with a separate cover sheet containing their PII. The separate cover sheet should be marked with ''CUI//PRVCY'' at the top to identify it as protected PII under the Privacy Act. Both the cover sheet and comment must reference this RIN 1140–AA88. For comments submitted by mail, information contained on the cover sheet will not appear when posted on the internet but any PII that appears within the body of a comment will not be redacted by ATF and may appear on the internet. Similarly, commenters who submit through the federal e-rulemaking portal and who do not want any of their PII posted on the internet should omit such PII from the body of their comment and any uploaded attachments. However, PII entered into the online fields designated for name, email, and other contact information will not be posted or viewable online.

A commenter may submit to ATF information identified as proprietary or confidential business information by mail. To request that ATF handle this information as controlled unclassified information (''CUI''), the commenter must place any portion of a comment that is proprietary or confidential business information under law or regulation on pages separate from the balance of the comment, with each page prominently marked ''CUI//PROPIN'' at the top of the page.

ATF will not make proprietary or confidential business information submitted in compliance with these instructions available when disclosing the comments that it receives, but will disclose that the commenter provided proprietary or confidential business information that ATF is holding in a separate file to which the public does not have access. If ATF receives a request to examine or copy this information, it will treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). In addition, ATF will disclose such proprietary or confidential business information to the extent required by other legal process.

C. Submitting Comments

Submit comments using either of the two methods described below (but do not submit the same comment multiple times or by more than one method).

Hand-delivered comments will not be accepted.

• *Federal e-rulemaking portal:* ATF recommends that you submit your comments to ATF via the federal e-rulemaking portal at *https://www.regulations.gov* and follow the instructions. Comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that is provided after you have successfully uploaded your comment.

• *Mail:* Send written comments to the address listed in the **ADDRESSES** section of this document. Written comments must appear in minimum 12-point font size, include the commenter's first and last name and full mailing address, and may be of any length. See also section IV.B of this preamble, ''Confidentiality.''

D. Request for Hearing

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director within the 90-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing is necessary.

Disclosure

Copies of this proposed rule and the comments received in response to it are available through the federal e-rulemaking portal, at *https://www.regulations.gov* (search for RIN 1140–AA88).

Severability

Consistent with the Administrative Procedure Act, the issues raised in this proposed rule may be finalized, or not, independently of each other, after consideration of comments received. ATF has determined that this proposed rule implements and is fully consistent with governing law. However, in the event this proposed rule is finalized, if any provision of that final rule, an amendment or revision made by that rule, or the application of such provision or amendment or revision to any person or circumstance, is held to be invalid or unenforceable by its terms, the remainder of that final rule, the amendments or revisions made by that rule, and application of the provisions of the rule to any person or circumstance shall not be affected and shall be construed so as to give them the maximum effect permitted by law.

List of Subjects in 27 CFR Part 478

Administrative practice and procedure, Arms and munitions, Exports, Freight, Imports, Intergovernmental relations, Law enforcement officers, Military personnel, Penalties, Reporting and recordkeeping requirements, Research, Seizures and forfeitures, Transportation.

For the reasons discussed in the preamble, ATF proposes to amend 27 CFR part 478 as follows:

PART 478—COMMERCE IN FIREARMS AND AMMUNITION

■ 1. The authority citation for part 478 continues to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 847, 921–931; 44 U.S.C. 3504(h).

■ 2. Revise § 478.73 to read as follows:

§ 478.73 Notice of revocation, suspension, or imposition of civil fine.

(a) *Basis for action.* The Director may issue an ATF Form 4500 to notify a licensee whenever the Director has reason to believe that:

(1) The licensee has willfully violated any provision of the Act or this part and ATF intends to revoke the license;

(2) The licensee does not have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees and ATF intends to revoke the license (except in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee);

(3) The licensee has knowingly transferred a firearm to an unlicensed person and knowingly failed to comply with the requirements of 18 U.S.C. 922(t)(1) with respect to the transfer and, at the time that the transferee most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that transfer to the transferee or their receipt of a firearm would violate 18 U.S.C. 922(d), 922(g), or 922(n) (as applicable), or state, local, or tribal law, and ATF intends to revoke or suspend the license or impose a civil fine, pursuant to 18 U.S.C. 922(t)(5) and 18 U.S.C. 924(p); or

(4) The licensee has violated 18 U.S.C. 922(z)(1) by selling, delivering, or transferring any handgun to any person other than a licensee, unless the transferee was provided with a secure gun storage or safety device for that handgun, and ATF intends to revoke or suspend the license or impose a civil fine, pursuant to 18 U.S.C. 922(t)(5) and 18 U.S.C. 924(p).

(b) *Issuing the notice.* The notice must set forth the matters of fact constituting the violations specified, dates, places, and the sections of law and regulations violated. The Director must afford the licensee 15 days from the date the licensee receives the notice to request a hearing before ATF suspends or revokes the license, or imposes a civil fine. If the licensee does not file a timely request for a hearing, the Director will issue a final notice suspending or revoking the license or imposing a civil fine on ATF Form 5300.13, as provided in § 478.74.

(c) *Definition of willfully.* For purposes of this section, ''willfully'' means that the person intends to engage in conduct that the law forbids and acts with actual knowledge that the person's conduct is unlawful.

(1) *Failing to prevent a violation from recurring.* Evidence of repeated violations with knowledge of the law's requirements may be sufficient to establish willfulness. However, in every case, the totality of the circumstances must be considered to determine willfulness, including the nature of the repeated violations and whether they resulted from inadvertent error.

(2) *Willful blindness.* Persons are deemed to act willfully if they take deliberate actions to avoid learning that they are violating a law or regulation. Willful blindness will also satisfy the actual knowledge requirement in paragraphs (1) and (3) of this definition.

(3) *Person with supervisory authority.* A licensee or responsible person (who was not a principal in or an accessory to committing a violation) is deemed to act willfully based on conduct by the person's employee if, and only if, the licensee or responsible person has actual knowledge that the employee has violated a law or regulation and ratifies the violation by doing any of the following—

(i) Failing to take action to cure the violation, if the violation is susceptible of being cured;

(ii) Concealing the violation; or

(iii) Failing to take appropriate remedial or disciplinary action against the employee who committed the violation.

Robert Cekada,

Director.

[FR Doc. 2026–09159 Filed 5–7–26; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Part 478

[Docket No. ATF–2026–0002; ATF 2025R–07P]

RIN 1140–AA94

Firearms Electronic Record-Keeping

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms, and Explosives (''ATF'') proposes amending Department of Justice (''Department'') regulations to authorize federal firearms licensees (''FFLs'' or ''licensees'') to generate, maintain, and store records in an electronic record-keeping system.

DATES: Comments must be submitted in writing, and must be submitted on or before (or, if mailed, must be postmarked on or before) August 6, 2026. Commenters should be aware that the federal e-rulemaking portal comment system will not accept comments after midnight Eastern Time on the last day of the comment period.

ADDRESSES: You may submit comments, identified by RIN 1140–AA94, by either of the following methods—

- *Federal e-rulemaking portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* ATF Rulemaking Comments; Mail Stop 6N–518, Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave. NE; Washington, DC 20226; *ATTN: RIN 1140–AA94.*

Instructions: All submissions must include the agency name and number (RIN 1140–AA94) for this notice of proposed rulemaking (''NPRM'' or ''proposed rule''). ATF may post all properly completed comments it receives from either of the methods described above, without change, to the federal e-rulemaking portal, *https://www.regulations.gov.* This includes any personally identifying information (''PII'') or business proprietary information (''PROPIN'') submitted in the body of the comment or as part of a related attachment they want posted. Commenters who submit through the federal e-rulemaking portal and do not want any of their PII posted on the internet should omit it from the body of their comment and any uploaded attachments that they want posted. If online commenters wish to submit PII with their comment, they should place it in a separate attachment and mark it at the top with the marking ''CUI//PRVCY.'' Commenters who submit through mail should likewise omit their PII or PROPIN from the body of the comment and provide any such information on the cover sheet only, marking it at the top as ''CUI//PRVCY'' for PII, or as ''CUI//PROPIN'' for PROPIN. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at *https://www.regulations.gov.* Commenters must submit comments by using one of the methods described above, not by emailing the address set forth in the following paragraph.

FOR FURTHER INFORMATION CONTACT: Office of Regulatory Affairs, by email at *ORA@atf.gov,* by mail at Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave. NE; Washington, DC 20226, or by telephone at 202–648–7070 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Attorney General is responsible for enforcing the Gun Control Act (''GCA''), as amended, and the National Firearms Act (''NFA''), as amended. This responsibility includes the authority to promulgate regulations necessary to enforce the provisions of the GCA and NFA.[1] *See* 18 U.S.C. 926(a); 26 U.S.C. 7801(a)(2)(A)(ii), 7805(a). Congress and the Attorney General have delegated the responsibility for administering and enforcing the GCA and NFA to the Director of ATF (''Director''), subject to the direction of the Attorney General and the Deputy Attorney General. *See* 28 U.S.C. 599A(b)(1), (c)(1); 28 CFR 0.130(a)(1)–(2); Treas. Order No. 221(2)(a), (d), 37 FR 11696–97 (June 10, 1972); 26 U.S.C. 7801(a)(2).[2] Accordingly, the Department and ATF have promulgated regulations implementing both the GCA and the NFA in 27 CFR parts 478 and 479.

FFLs are subject to record-keeping requirements under the GCA and NFA and their implementing regulations. *See, e.g.,* 18 U.S.C. 923(g); 27 CFR 478.121, 479.131. ATF regulations require that FFLs maintain these records as a bound paper record. *See, e.g.,* 27 CFR 478.125. However, over the years, ATF has authorized individual variances for electronic record-keeping for ''good cause,'' in accordance with the regulation. 27 CFR 478.22(a)(1). As electronic record-keeping became more prevalent within industry business practices during the past 15 years, ATF issued blanket rulings to permit licensees to generate and store some required records in electronic form, including acquisition and disposition records (''A&D records''), and ATF Forms 5300.9, Firearm Transaction Records (''Form 4473'').[3] ATF also issued rulings that permitted licensees to file ATF Forms 5320.1, 5320.2, 5320.3, 5320.4, 5320.5, 5320.9, and 5320.10, related to NFA firearms, ATF Forms 5330.3A and 5330.3C, related to importing firearms, and ATF Form 5300.11, related to firearms manufacturing and exporting, electronically using the ATF eForms system.[4]

II. Proposed Rule

In response to the need to incorporate existing rulings into ATF's regulations, ATF is proposing to revise its regulations to specifically authorize

[1] Some NFA and GCA provisions still refer to the ''Secretary of the Treasury.'' However, the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, transferred the functions of ATF from the Department of the Treasury to the Department of Justice, under the general authority of the Attorney General. 26 U.S.C. 7801(a)(2); 28 U.S.C. 599A(c)(1). Thus, for ease of reference, this notice of proposed rulemaking refers to the Attorney General where relevant.

[2] In Attorney General Order Number 6353–2025, the Attorney General delegated authority to the Director to issue regulations pertaining to matters within ATF's jurisdiction, including under the NFA, GCA and Title XI of the Organized Crime Control Act. ATF's jurisdiction also includes those portions of sec. 38 of the Arms Export Control Act pertaining to permanently importing defense articles and services and the Contraband Cigarette Trafficking Act.

[3] *See* ATF Ruling 2016–1, *Requirements to Keep Firearms Records Electronically* (Apr. 29, 2016), *https://www.atf.gov/firearms/docs/ruling/2016-1-requirements-keep-firearms-records-electronically/download* [*https://perma.cc/4SZJ-SVXM*]; ATF Ruling 2016–2, *Electronic ATF Form 4473* (Apr. 29, 2016), *https://www.atf.gov/firearms/docs/ruling/2016-2-%E2%80%93-electronic-atf-form-4473/download* [*https://perma.cc/8JP3-2FN5*]; ATF Ruling 2022–01, *Electronic Storage of Forms 4473* (Aug. 17, 2022), *https://www.atf.gov/firearms/docs/ruling/2022-01-electronic-storage-forms-4473pdf/download* [*https://perma.cc/7GXS-724Q*].

[4] *See* ATF Ruling 2013–1, *Electronic Form 6 and 6A* (Jul. 10, 2013), *https://www.atf.gov/firearms/docs/ruling/2013-1-electronic-form-6-and-6a/download* [*https://perma.cc/H82Z-CZRH*]; ATF Ruling 2013–2, *ATF Procedure 2013–2* (Jul. 10, 2013), *https://www.atf.gov/resource-center/docs/guide/atf-procedure-2013-2/download* [*https://perma.cc/Z9EW-2B5S*]; ATF Ruling 2012–3, *AFMER Electronic Form* (Jun. 14, 2012), *https://www.atf.gov/firearms/docs/ruling/2012-3-afmer-electronic-form/download* [*https://perma.cc/85ZZ-HN69*].

electronic records for firearms transactions. As ATF codifies these rulings, ATF also proposes to simplify and modernize the requirements and establish a set of common standards. This rule proposes to allow FFLs to electronically generate, maintain, and store all records required by the GCA, the NFA, and their implementing regulations, and to identify minimum requirements for electronic record-keeping systems so that records are readily accessible and securely maintained. The rule's proposed revisions would also consolidate ATF's policies for electronically generating, maintaining, and storing records, simplify minimum standards for such electronic record-keeping, and focus on electronic record-keeping goals—easily accessing and reviewing required information; ensuring sufficient data integrity; and securely storing information over time to combat loss, theft, and accidental destruction—while providing more clarity and choice for the licensee.

The proposed rule would allow licensees more flexibility in choosing a record-keeping system, particularly as it relates to storing electronic records. This flexibility would give licensees freedom to modernize business practices, reduce costs, repurpose space previously used for storing hard-copy records, and create data-driven business decisions based on analyses of their electronic records. The proposed rule would create efficiencies for licensees and for ATF, as compliance inspections utilizing electronic records are faster. And if licensees use an electronic record-keeping program that flags missing information or potential regulatory violations, licensees would have fewer compliance issues and reduced risk of prohibited sales.

The proposed rule would permit licensees to remotely store their electronic data at a site they own or contracted/leased by the licensee through a host facility (*e.g.,* remote server or cloud storage provider), provided that the licensee's server is located within the United States or its territories, or if a host facility is used, that facility must have a business premises within the United States or its territories, and must be subject to U.S. legal process.

Finally, ATF has not included in this proposed rule certain detailed requirements that were in earlier ATF rulings, such as the number of terminals needed for compliance inspections based on the volume of firearms records the licensee generates. Previous ATF rulings enacted this requirement to alleviate concerns regarding access to records during the inspection process.[5] ATF wanted to avoid inconveniencing licensees during the inspection process and thus required a specific number of terminals based on the volume of transactions to ensure each FFL could access terminals to conduct business during the course of an inspection. While the proposed rule requires only one terminal for inspectors to use, ATF notes it could still be useful for high-volume dealers to have multiple terminals available to both ensure their ability to assist customers and increase the speed and efficiency of inspections. ATF therefore still recommends that FFLs provide multiple terminals to ease any impact of an ATF inspection.

As a result of these considerations, ATF proposes to create a new regulatory section in 27 CFR part 478 specifically on electronic record-keeping. This new § 478.130 would authorize licensees to electronically create, maintain, and store all records required under the GCA, NFA, and implementing regulations, provided the electronic record-keeping system meets the minimum requirements of this section.

As noted above, the proposed minimum requirements relate to the key goals of electronic record-keeping—easily accessing and reviewing required information; ensuring sufficient data integrity; and securely storing information over time to combat loss, theft, and accidental destruction—while providing more clarity and choice for licensees. The proposed requirements are divided into categories to make it easier for licensees to find information on specific topics. These categories are: records content, format, and searchability; automatically capturing and populating data; data integrity and audit trails; storing electronic records; data back-ups, temporary unavailability of electronic record-keeping system; ATF access and licensee responsibilities; discontinuing business operations; record-keeping in a single medium (*i.e.,* not mixing paper and electronic record-keeping); old records in paper form; and in accord with law and regulation. Specifically, pursuant to the proposed rule:

Records format, content, and searchability. An electronic record-keeping system maintained in conformity with the proposed regulations would contain all information required by applicable law, be formatted to ensure printouts are identical to paper copies of the relevant ATF forms, and not be freely alterable without using a separate entry to log the alteration. If a record requires supplemental documentation, such documentation would be maintained in the same file as the primary record. The records would be searchable by key terms; sortable either alphabetically (by name of purchaser), chronologically (by date of disposition), or numerically (by transaction number); and have the capacity to toggle between at least two types of records. For example, they would have the capacity to toggle between and to view the acquisition and disposition records and a specific Form 4473 for a given firearm. The sortable and searchable requirements mirror current paper storage standards at § 478.124.

Auto-populating data. The regulation permits software that allows most data to populate automatically. ATF is concurrently publishing a proposed rule that proposes amendments to 27 CFR 478.124(c)(2) to permit persons and licensees to auto-populate information for the Form 4473, Firearms Transaction Record. These amendments to § 478.124(c)(2) would also apply to all required licensee records.

Data integrity and audit trails. Data integrity is essential to electronic record-keeping, and audit trails support data integrity. A compliant electronic record-keeping system would generate audit trails, retain error corrections and other record modifications as new log entries, and document when and by whom each modification was made. This is necessary to ensure that forms cannot be improperly or accidentally altered during the course of business. Audit trails capture details like who accessed the system, from where, when, and what actions they performed (*e.g.,* viewing, modifying, deleting).

Storing electronic records. Records would be stored securely to prevent data loss and breaches. Records for each license cannot be intermingled with records for any other license. Electronic records would be stored at the business location or remotely at a host storage facility. If stored remotely, the licensee would notify ATF of the storage location within 30 days of storing one or more records at the remote facility. The host facility would have to be subject to U.S. legal process as discussed above. If licensees change the host facility at which they store records, and the new host facility is incapable of storing prior

[5] This proposed rule would incorporate (and would rescind) ATF Rulings 2012–3, 2013–1, 2016–1, 2016–2, and 2022–1. Ruling 2013–2 was previously superseded by Ruling 2020–1, which now primarily covers non-over-the-counter (NOTC) transactions, with a brief records section. 2020–1 would be rescinded by another rulemaking ATF is proposing on NOTC transactions, if finalized as proposed. If that does not occur as proposed, then ATF would revise 2020–1 to rescind the records section due to this proposed electronic record-keeping rule.

records, the licensees must download and maintain a digital copy of the old records at their licensed premises and maintain it in accordance with these regulations.

Data back-ups. Licensees would perform incremental back-ups of changes to the system at least once every 24 hours, and a full system back-up at least once per month, in a manner selected by the licensee, except for Forms 4473, which would require daily back-ups, including pending and incomplete forms (this requirement for Forms 4473 is included in the corresponding proposed rule on revisions to the Form 4473 regulations at § 478.124). These recurring back-ups could be overwritten by the subsequent back-up of the same kind. In addition, licensees would be required to perform a single, full annual back-up to a physical storage medium, such as an external hard drive. Such annual back-ups would not be overwritten and would be kept for the records retention period specified in § 478.129 to ensure that records are available in the event of an outage or a dispute with the storage provider. Certain licensees (*i.e.,* those with a large volume of transactions, and who maintain a sophisticated, secure electronic record-keeping system employing redundant data storage mechanisms) could request a variance from the annual download requirement. The proposed rule does not contain a requirement to print records.

Temporary unavailability of electronic record-keeping system. Licensees would use paper forms if the electronic record-keeping system were unavailable for ten or fewer calendar days. In such a situation, the paper records would be maintained according to existing ATF regulations on record-keeping, and the licensee would document and maintain paper records of the service disruption. If the system is down for more than ten calendar days, the licensee would contact the ATF area office for guidance. Licensees would also use paper records if the electronic system will not permit them to properly complete a document. For example, the software may have a bug preventing them from properly completing the document. Or there might be some unusual transactions for which the electronic system is not configured to accept the user inputs as complete and correct, even though they are. If the electronic system will not permit the document to be completed as required, licensees would revert to paper forms for those transactions. Licensees would note that the form could not be completed electronically. If reasonably feasible, licensees would contact the software developer or vendor to report the problem. This will put developers on notice of errors that require FFLs to fill out paper forms, with the expectation that the developers will fix such problems in future iterations of the program. But the ''if reasonably feasible'' language also makes clear that FFLs are not required to report bugs if they would incur significant burdens (whether cost or time) in doing so or if the developer has gone out of business.

ATF access and licensee responsibilities. The electronic records would have to be made available to ATF officers for compliance inspection or law enforcement purposes as required by the GCA, 18 U.S.C. 923(g)(1)(B)–(C). Licensees would have to be able to download or print the electronic records at their business premises and have a computer terminal available during a compliance inspection. As noted above, ATF would not require a specific number of terminals, but ATF does recommend that licensees with high-volume records have multiple computer terminals to avoid interruptions and delays during the inspection.

Discontinuing business operations. Before submitting records to ATF's National Tracing Center (''NTC'') Out-of-Business Records Center (''OOBRC''), the licensee would do a full system back-up of all electronically stored firearms records. Records would then be downloaded to a physical storage medium (such as a hard drive or a USB device) and labeled with the FFL number and the records' date range. Records would be submitted to the OOBRC in an imageable format with the search feature disabled to facilitate NTC's ability to convert these records into static image files not searchable by name. Records would be submitted within 30 calendar days from the end of operations, as required by 18 U.S.C. 923(g)(4).

Record-keeping in a single medium. Licensees would not be required to maintain records in an electronic format. However, if the licensee chose to maintain electronic records, all records would be kept electronically, except for those produced during a temporary system outage or because of a software problem. Persons with multiple federal firearms licenses may choose whether one or more licenses maintain electronic records. However, the medium chosen for each license must be consistent. For example, an FFL with two licenses may maintain electronic records for license 1 while maintaining paper records for license 2. The FFL would need to maintain electronic records for all of license 1's records while maintaining all paper records for license 2.

Older records in paper form. Licensees would be permitted to scan older paper records to incorporate into their electronic record-keeping system. However, they would have to verify that the records are complete (including all supplemental documents and pages) and are exact images of the originals and would have to retain the records in accordance with the other requirements of § 478.130. Once verified in those ways, the licensee could destroy the original paper versions.

In accord with law and regulation. This section would not apply to records for which any law or regulation expressly disallows electronic records.

III. Statutory and Executive Order Review

A. Executive Orders 12866 and 13563

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.

Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of agencies quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting public flexibility.

This proposed rule would amend 27 CFR part 478 to allow electronic record-keeping for all records that licensees must generate, maintain, and store under the GCA, NFA, and implementing regulations. This proposed rule would incorporate (and would rescind) Rulings 2012–3, 2013–1, 2016–1, 2016–2, and 2022–1, thereby allowing licensees to electronically complete and store Forms 4473 and A&D records.

The Office of Management and Budget (''OMB'') has determined that this proposed rule would not be a ''significant regulatory action'' under Executive Order 12866 as it would not impose any costs or savings. This proposed rule would only incorporate electronic records options that ATF has permitted for several years and that align with standard business operations in the industry. The proposed rule also does not require persons to maintain records electronically; it just allows that option.

This proposed rule incorporates Ruling 2016–1 and Ruling 2022–1, which currently allow FFLs to maintain electronic Forms 4473 and A&D records. Since these options have been available to the industry since 2016 and 2022, and because savings calculated in the

final rule titled ''Definition of Frame or Receiver and Identification of Firearms'' accounted for the costs and savings generated from allowing electronic records for both A&D records and Forms 4473,[6] this proposed rule does not identify savings since this is incorporating existing industry standards.

ATF acknowledges that some of the anticipated cost savings may be offset should a licensee need to purchase a new electronic records system, but licensees are able to meet the requirements with inexpensive versions of existing modifiable software. And, again, this is purely optional.

B. Executive Order 14192

Executive Order 14192 (Unleashing Prosperity Through Deregulation) requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed or revised when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation that qualifies as an Executive Order 14192 regulatory action (defined in OMB Memorandum M–25–20 as a final significant regulatory action under section 3(f) of Executive Order 12866 that imposes total costs greater than zero). In furtherance of this requirement, section 3(c) of Executive Order 14192 requires that any new incremental costs associated with such new regulations must, to the extent permitted by law, also be offset by eliminating existing costs associated with at least ten prior regulations. However, this proposed rule would not be an Executive Order 14192 regulatory action because it is not a significant regulatory action as defined by Executive Order 12866 and because it would not impose total costs greater than zero. ATF therefore expects this rule, if finalized as proposed, to qualify as an Executive Order 14192 deregulatory action (defined in OMB Memorandum M–25–20 as a final action that imposes total costs less than zero).

C. Executive Order 14294

Executive Order 14294 (Fighting Overcriminalization in Federal Regulations) requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to each element of those offenses. This proposed rule would not create a criminal regulatory offense and is thus exempt from Executive Order 14294 requirements.

D. Executive Order 13132

This proposed rule would not have substantial direct effects on the states, the relationship between the federal government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132 (Federalism), the Director has determined that this proposed rule would not impose substantial direct compliance costs on state and local governments, preempt state law, or meaningfully implicate federalism. It thus does not warrant preparing a federalism summary impact statement.

E. Executive Order 12988

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform).

F. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, agencies are required to conduct a regulatory flexibility analysis of any proposed rule subject to notice-and-comment rulemaking requirements unless the agency head certifies, including a statement of the factual basis, that the proposed rule would not have a significant economic impact on a substantial number of small entities. Small entities include certain small businesses, small not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Director certifies, after consideration, that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would allow businesses the option of creating and maintaining records electronically, which could represent significant savings in paper printing, mailing, transportation, and storage costs, and is likely to increase convenience and operating efficiency, even if offset in some circumstances and to some degree by the decision to purchase a new records management system. This proposed rule therefore would not impose a significant economic impact on small businesses or the industry as a whole.

G. Unfunded Mandates Reform Act of 1995

This proposed rule does not include a federal mandate that might result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it would not significantly or uniquely affect small governments. Therefore, ATF has determined that no actions are necessary for purposes of the Unfunded Mandates Reform Act of 1995.

H. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act (''PRA''), 44 U.S.C. 3501–3521, agencies are required to submit to OMB, for review and approval, any information collection requirements a rule creates or any impacts it has on existing information collections. An information collection includes any reporting, record-keeping, monitoring, posting, labeling, or other similar actions an agency requires of the public. *See* 5 CFR 1320.3(c). This proposed rule would not create any new information collection requirements, or impact any existing ones, covered by the PRA.

I. Congressional Review Act

This proposed rule would not be a major rule as defined by the Congressional Review Act, 5 U.S.C. 804.

IV. Public Participation

A. Comments Sought

ATF requests comments on the proposed rule from all interested persons. ATF specifically requests comments on the clarity of this proposed rule and how it may be made easier to understand. In addition, ATF requests comments on the costs or benefits of the proposed rule and on the appropriate methodology and data for calculating those costs and benefits.

All comments must reference this document's RIN 1140–AA94 and, if handwritten, must be legible. If submitting by mail, you must also include your complete first and last name and contact information. If submitting a comment through the federal e-rulemaking portal, as described in section IV.C of this preamble, you should carefully review and follow the website's instructions on submitting comments. Whether you submit comments online or by mail, ATF will post them online. If submitting online as an individual, any information you provide in the online fields for city, state, zip code, and phone will not be publicly viewable when ATF publishes the comment on *https://www.regulations.gov.* However, if you

[6] 87 FR 24652, 24731 (Apr. 26, 2022), *https://www.regulations.gov/document/ATF-2021-0001-249302.*

include such personally identifying information (''PII'') in the body of your online comment, it may be posted and viewable online. Similarly, if you submit a written comment with PII in the body of the comment, it may be posted and viewable online. Therefore, all commenters should review section IV.B of this preamble, ''Confidentiality,'' regarding how to submit PII if you do not want it published online. ATF may not consider, or respond to, comments that do not meet these requirements or comments containing excessive profanity. ATF will retain comments containing excessive profanity as part of this rulemaking's administrative record but will not publish such documents on *https://www.regulations.gov.* ATF will treat all comments as originals and will not acknowledge receipt of comments. In addition, if ATF cannot read your comment due to handwriting or technical difficulties and cannot contact you for clarification, ATF may not be able to consider your comment.

ATF will carefully consider all comments, as appropriate, received on or before the closing date.

B. Confidentiality

ATF will make all comments meeting the requirements of this section, whether submitted electronically or on paper, and except as provided below, available for public viewing on the internet through the federal e-rulemaking portal, and subject to the Freedom of Information Act (5 U.S.C. 552). Commenters who submit by mail and who do not want their name or other PII posted on the internet should submit their comments with a separate cover sheet containing their PII. The separate cover sheet should be marked with ''CUI//PRVCY'' at the top to identify it as protected PII under the Privacy Act. Both the cover sheet and comment must reference this RIN 1140–AA94. For comments submitted by mail, information contained on the cover sheet will not appear when posted on the internet but any PII that appears within the body of a comment will not be redacted by ATF and may appear on the internet. Similarly, commenters who submit through the federal e-rulemaking portal and who do not want any of their PII posted on the internet should omit such PII from the body of their comment and any uploaded attachments. However, PII entered into the online fields designated for name, email, and other contact information will not be posted or viewable online.

A commenter may submit to ATF information identified as proprietary or confidential business information by mail. To request that ATF handle this information as controlled unclassified information (''CUI''), the commenter must place any portion of a comment that is proprietary or confidential business information under law or regulation on pages separate from the balance of the comment, with each page prominently marked ''CUI//PROPIN'' at the top of the page.

ATF will not make proprietary or confidential business information submitted in compliance with these instructions available when disclosing the comments that it receives, but will disclose that the commenter provided proprietary or confidential business information that ATF is holding in a separate file to which the public does not have access. If ATF receives a request to examine or copy this information, it will treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). In addition, ATF will disclose such proprietary or confidential business information to the extent required by other legal process.

C. Submitting Comments

Submit comments using either of the two methods described below (but do not submit the same comment multiple times or by more than one method). Hand-delivered comments will not be accepted.

- *Federal e-rulemaking portal:* ATF recommends that you submit your comments to ATF via the federal e-rulemaking portal at *https://www.regulations.gov* and follow the instructions. Comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that is provided after you have successfully uploaded your comment.
- *Mail:* Send written comments to the address listed in the **ADDRESSES** section of this document. Written comments must appear in minimum 12-point font size, include the commenter's first and last name and full mailing address, and may be of any length. See also section IV.B of this preamble, ''Confidentiality.''

D. Request for Hearing

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director within the 90-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing is necessary.

Disclosure

Copies of this proposed rule and the comments received in response to it are available through the federal e-rulemaking portal, at *https://www.regulations.gov* (search for RIN 1140–AA94).

Severability

Consistent with the Administrative Procedure Act, the issues raised in this proposed rule may be finalized, or not, independently of each other, after consideration of comments received. ATF has determined that this proposed rule implements and is fully consistent with governing law. However, in the event this proposed rule is finalized, if any provision of that final rule, an amendment or revision made by that rule, or the application of such provision or amendment or revision to any person or circumstance, is held to be invalid or unenforceable by its terms, the remainder of that final rule, the amendments or revisions made by that rule, and application of the provisions of the rule to any person or circumstance shall not be affected and shall be construed so as to give them the maximum effect permitted by law.

List of Subjects in 27 CFR Part 478

Administrative practice and procedure, Arms and munitions, Exports, Freight, Imports, Intergovernmental relations, Law enforcement officers, Military personnel, Penalties, Reporting and record-keeping requirements, Research, Seizures and forfeitures, Transportation.

For the reasons discussed in the preamble, ATF proposes to amend 27 CFR part 478 as follows:

PART 478—COMMERCE IN FIREARMS AND AMMUNITION

■ 1. The authority citation for 27 CFR part 478 continues to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 847, 921–931; 44 U.S.C. 3504(h).

■ 2. Add a new § 478.130 to read as follows:

§ 478.130 Electronic records.

Notwithstanding any regulation requiring information to be kept on paper or in a bound volume, licensees under this part may create, maintain, and store electronically all records required under the Gun Control Act, as amended, the National Firearms Act, as amended, and their implementing regulations, provided licensees meet the following minimum conditions.

(a) *Records content, format, and searchability.* Licensees must use an

electronic record-keeping system that ensures all records they generate, maintain, or store in the system are:

(1) complete, containing all information required under applicable laws and regulations;

(2) formatted so that electronic and printed copies are identical to physical copies of ATF forms (as applicable) and include all instructions and comments;

(3) unalterable (*i.e.,* cannot be deleted or manipulated once created);

(4) inclusive, including or attaching supplemental documents in the same electronic file;

(5) searchable by key terms, including transferee name, transfer date, serial number, firearm type, model, manufacturer/importer, caliber, and size or gauge;

(6) sortable in one of the following ways: alphabetically (by purchaser name), chronologically (by disposition date), or numerically (by transaction number); and

(7) navigable, permitting viewing and toggling between at least two types of records.

(b) Auto-populating data. For all records required to be kept by licensees under this part, licensees and their customers may enter data manually or may have that data automatically populate. When automatically populating data, licensees must comply with the provisions of § 478.124(c)(2) of this part.

(c) Data integrity and audit trails. The electronic record-keeping system must:

(1) Retain any error correction as an entirely new entry, without deleting or modifying the original entry. Any correction entry must contain the date, time, reason for the correction, and name of the person who made the correction; and

(2) Automatically generate audit trails, which are comprehensive, user-authenticated, date- and time-stamped records of all actions performed within a system containing electronic data.

(d) Storing electronic records. Licensees must store their electronic records securely to prevent data loss and breaches for the same records retention period as paper records. See § 478.129 of this part.

(1) If a licensee has more than one license, they must make the records for each license readily identifiable and must not commingle them with records for any other license.

(2) Licensees may store electronic records on their business premises or remotely using a domestic host facility if the server is located within the United States or its territories, or if a host facility is used, that facility must have a business premises within the United States or its territories, and must be subject to U.S. legal process. If the records are stored remotely, licensees must provide ATF with the name, address, and phone number of the host facility within 30 calendar days of engaging or transferring service. If licensees change the host facility at which they store records, and the new host facility is incapable of storing prior records, the licensees must download and maintain a digital copy of the old records at their licensed premises and maintain it in accordance with these regulations.

(e) Data back-ups. Licensees must create a data back-up (*i.e.,* digital copy) to protect against their electronic records being lost, stolen, or corrupted. ATF does not require licensees to print the records as part of the back-up process. Licensees:

(1) May determine a back-up schedule for records other than Forms 4473, depending on their volume of data, but must complete:

(i) an incremental back-up (*i.e.,* a back-up of new or changed data) within 24 hours of any data entry or change; and

(ii) a full back-up of the entire system no less than once per month. See § 478.124(h) of this part for back-up requirements for Forms 4473.

(2) May choose the format of their data back-ups (*e.g.,* remote ''cloud'' data storage, download to USB drive), but must:

(i) at the end of each year, download that year's complete electronic records for each license to a physical storage medium (including, for example, an external hard drive or tapes);

(ii) label that medium with the license number and date range of records contained on that medium;

(iii) ensure the back-up files are:

(A) openable and readable on devices other than any proprietary or specially designed licensee system;

(B) complete, including any supplemental documents and all pages of documents with multiple pages (including instructions);

(C) in a format specified by ATF in current guidance at the time; and

(iv) retain the physical storage media with annual back-ups for the records retention period specified in § 478.129 of this part.

(3) Who have an exceptionally large volume of transactions, and who maintain a sophisticated, secure electronic record-keeping system employing redundant data storage mechanisms, may request from ATF a variance for the annual download requirement.

(f) Temporary unavailability of electronic record-keeping system.

(1) If the electronic record-keeping system is unavailable, licensees using such a system may instead use paper forms and keep paper records. The paper forms and records must:

(i) be kept in accordance with ATF regulations; and

(ii) be accompanied by a copy of the system audit log identifying the temporary disruption in service.

(2) If the licensee's electronic record-keeping system is unavailable for more than ten calendar days, the licensee must contact its local ATF office and follow directions from the industry operations area supervisor on continued record-keeping.

(3) If the electronic record-keeping system will not permit a licensee to properly complete a form, the licensee may complete a paper form. The licensee must note on the form the reason the form could not be completed electronically and must, if reasonably feasible, report the problem to the software developer or vendor.

(g) *ATF access and licensee responsibilities.*

(1) Nothing in this regulation changes a licensee's responsibility, within the required timeframe(s), to make records available for ATF compliance inspections and to respond to trace requests and other law enforcement inquiries.

(2) Any electronic record-keeping system must permit records to be downloaded and printed at the licensed business premises.

(3) Licensees must have at least one computer terminal available for use during the compliance inspection.

(h) *Discontinuing business operations.* If a licensee ends operations without a successor and surrenders the related valid federal firearms license(s), the licensee must:

(1) Conduct a full system back-up of all firearms records electronically generated and stored for each license. Those records must be downloaded to a physical storage medium (such as a hard drive or USB device) and labeled with the license number and records' date range;

(2) Extract from the full system back-up all required documents and provide them to the ATF National Tracing Center's (NTC) Out-of-Business Records Center (OOBRC) within 30 calendar days of the end of operations (*e.g.,* license, Forms 4473, Forms 6/6A, and acquisition and disposition records), in accordance with § 478.127 of this part;

(3) Provide the required records to the OOBRC on the physical storage medium in an electronic format suitable for

imaging (*e.g.,* .pdf, .tiff, .jpeg), with search functions disabled to permit NTC to convert these records into static image files not searchable by name; and

(4) Not submit electronic records in a non-commercial, proprietary file format.

(i) *Record-keeping in a single medium.* Nothing in this regulation should be construed to require federal firearms licensees to create, maintain, and store required records electronically, except that—

(1) If a licensee chooses to create, maintain, and store required records electronically, the licensee must generate and keep all such records in that medium, unless otherwise provided in paragraph (2).

(2) The requirement in paragraph (1) does not apply to paper records resulting from temporary system unavailability that are required by subsection (f).

(j) *Older records in paper or scanned form.*

(1) Licensees who have paper records completed prior to [EFFECTIVE DATE OF FINAL RULE], may elect to digitally scan these older records, including supplemental forms or documents that are part of a transaction. However, any such scans created after this date must comply with this section's requirements. Only after meeting and verifying these conditions may the licensee destroy the original paper records.

(2) A completed record is one in which the firearm transfer has occurred or a transaction in which the transfer was denied or cancelled, the licensee made a final entry and closed the transaction, or the transferee abandoned the transaction—and no firearm was transferred or delivered.

(3) Licensees who scanned older paper records before [EFFECTIVE DATE OF FINAL RULE] in accordance with previous ATF rulings may retain those records as scanned. Such licensees may elect to continue generating paper records for future transactions or may elect to generate electronic records going forward.

(i) If you elect to proceed with electronic record-keeping, records generated after the date above must comply with the requirements in this section for other electronic records.

(ii) If you elect to generate paper records after the date above, you may scan such records, but records scanned after the date above must comply with the requirements in this section for other electronic records. Only after meeting and verifying these conditions may you destroy the original paper records.

(k) *In accord with law and regulation.* This section does not extend to any records for which federal law or regulation expressly disallows electronic record-keeping.

Robert Cekada,

Director.

[FR Doc. 2026–09158 Filed 5–7–26; 8:45 am]

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DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Part 478

[Docket No. ATF–2026–0266; ATF 2025R–26P]

RIN 1140–AB05

Revising Non-Over-the-Counter Firearms Transaction Requirements

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: Federal law permits federal firearms licensees (''FFLs'') to transfer firearms to a person residing in the same state but who does not appear in person. These are ''non-over-the-counter'' (''NOTC'') sales. The Bureau of Alcohol, Tobacco, Firearms, and Explosives (''ATF'') proposes amending Department of Justice (''Department'') regulations on NOTC sales. These proposed changes would remove restrictions limiting this option to background check-exempt transfers. The proposed rule would permit FFLs to conduct NOTC transfers while complying with background check requirements and adds remote identity proofing and electronic notices to chief law enforcement officers. These changes would provide greater flexibility for individuals lawfully purchasing firearms.

DATES: Comments must be submitted in writing, and must be submitted on or before (or, if mailed, must be postmarked on or before) August 6, 2026. Commenters should be aware that the *https://www/regulations.gov* comment system will not accept comments after midnight Eastern Time on the last day of the comment period.

ADDRESSES: You may submit comments, identified by docket number ATF 1140–AB05, by either of the following methods—

- *Federal e-rulemaking portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* ATF Rulemaking Comments; Mail Stop 6N–518, Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave. NE, Washington, DC 20226; *ATTN: ATF 1140–AB05.*

Instructions: All submissions must include the agency name and number (RIN 1140–AB05) for this notice of proposed rulemaking (''NPRM'' or ''proposed rule''). ATF may post all properly completed comments it receives from either of the methods described above, without change, to the federal e-rulemaking portal, *https://www.regulations.gov.* This includes any personally identifying information (''PII'') or business proprietary information (''PROPIN'') submitted in the body of the comment or as part of a related attachment they want posted. Commenters who submit through the federal e-rulemaking portal and do not want any of their PII posted on the internet should omit it from the body of their comment and any uploaded attachments that they want posted. If online commenters wish to submit PII with their comment, they should place it in a separate attachment and mark it at the top with the marking ''CUI//PRVCY.'' Commenters who submit through mail should likewise omit their PII or PROPIN from the body of the comment and provide any such information on the cover sheet only, marking it at the top as ''CUI//PRVCY'' for PII, or as ''CUI//PROPIN'' for PROPIN. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at *https://www.regulations.gov.* Commenters must submit comments by using one of the methods described above, not by emailing the address set forth in the following paragraph.

FOR FURTHER INFORMATION CONTACT: Office of Regulatory Affairs, by email at *ORA@atf.gov,* by mail at Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave. NE, Washington, DC 20226, or by telephone at 202–648–7070 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Attorney General is responsible for enforcing the Gun Control Act of 1968 (''GCA''), as amended. This

responsibility includes the authority to promulgate regulations necessary to enforce the provisions of the GCA.[1] *See* 18 U.S.C. 926(a). Congress and the Attorney General have delegated the responsibility for administering and enforcing the GCA to the Director of ATF (''Director'') subject to the direction of the Attorney General and the Deputy Attorney General. *See* 28 U.S.C. 599A(b)(1), (c)(1); 28 CFR 0.130(a)(1)–(2); Treas. Order No. 221(2)(a), (d), 37 FR 11696–97 (June 10, 1972).[2] Accordingly, the Department and ATF have promulgated regulations to implement the GCA in 27 CFR part 478.

Since its enactment, the GCA has authorized non-over-the-counter (''NOTC'') sales[3] as long as certain conditions are met. The GCA at 18 U.S.C. 922(c)(1) provides that, ''[i]n any case not otherwise prohibited by this chapter,'' a licensed importer, manufacturer, or dealer may sell a firearm to a person who does not appear in person at the licensee's business premises (other than another licensed importer, manufacturer, or dealer) only if: (1) the transferee submits to the transferor a sworn statement in the following form:[4]

Subject to penalties provided by law, I swear that, in the case of any firearm other than a shotgun or a rifle, I am twenty-one years or more of age, or that, in the case of a shotgun or a rifle, I am eighteen years or more of age; that I am not prohibited by the provisions of chapter 44 of title 18, United States Code, from receiving a firearm in interstate or foreign commerce; and that my receipt of this firearm will not be in violation of any statute of the state and published ordinance applicable to the locality in which I reside. Further, the true title, name, and address of the principal law enforcement officer of the locality to which the firearm will be delivered are_____.

Signature_____ Date_____

(2) the FFL has mailed a copy of the sworn statement and a description of the firearm to the chief law enforcement officer (''CLEO'') of the transferee's place of residence by registered or certified mail, or by electronic notification, in a form prescribed by the Attorney General (18 U.S.C. 922(c)(2)); and (3) the FFL delays shipping or delivering the firearm to the transferee for at least seven days after the FFL receives a response affirming that the CLEO has accepted or refused delivery of the sworn statement/firearm description. 18 U.S.C. 922(c)(3). ATF has prescribed, in regulations at 27 CFR 478.96(b), that FFLs use a copy of ATF Form 5300.9, Firearms Transaction Record (''Form 4473'') to notify the CLEO.

The implementing regulation, 27 CFR 478.96, states that the statutory NOTC provisions are applicable if the firearm transaction is ''not subject to the provisions of § 478.102(a).'' 27 CFR 478.96(b). Section 478.102(a)[5] requires an FFL to verify the identity of an unlicensed transferee by examining a valid identification document[6] and to contact the National Instant Criminal Background Check System (''NICS'') for a background check prior to transferring a firearm. The statute at 18 U.S.C. 922(t)(3) and its implementing regulation at 27 CFR 478.102(d) allow exceptions (''NICS-exempt transfers'') to conducting a NICS background check if: (1) the transferee has a qualifying permit or license; (2) the transaction involves only transferring National Firearms Act (''NFA'') firearms as approved by the Director; or (3) the Director has certified that running a NICS background check is impracticable.

II. Proposed Rule

A. Eliminating the NICS-Exempt Transfer Requirement

ATF is proposing to amend its regulations at § 478.96 to include requirements for conducting NOTC transactions involving transfers subject to NICS background checks in addition to the existing provisions that set out requirements for NICS-exempt NOTC transactions. To this end, this rule proposes adding a new paragraph (c) that would cover NOTC transactions for transfers that require NICS background checks.

ATF has carefully reviewed the provisions in the GCA addressing NOTC transfers and the current regulations that govern those procedures as described above. Section 922(c), allowing NOTC transfers, has been in effect since the GCA was enacted in 1968 and, except for a 2024 amendment allowing electronic notifications under section 922(c)(2)(A), remains largely unchanged.[7] The regulations in 27 CFR 478.96 limit the option for NOTC transactions to only those persons who are not subject to § 478.102(a), meaning that the NOTC process is limited under regulation to only NICS-exempt transfers. However, 18 U.S.C. 922(c) does not contain any provisions limiting such NOTC transfers to only NICS-exempt transfers, nor has it ever contained any such provisions. NOTC transfers must be ''not otherwise prohibited by this chapter.'' ATF has concluded that the plain language of section 922(c) does not limit NOTC to NICS-exempt transfers. There is no general prohibition on NOTC transfers in the GCA, and they are limited only to the extent that the underlying transfer is ''otherwise prohibited.'' For example, transferring a firearm to an unlawful user of controlled substances in violation of 18 U.S.C. 922(d)(3) would be ''otherwise prohibited'' by the GCA and thus unlawful for both in-person, over-the-counter transfers and NOTC transfers. Additionally, a licensee must comply with any legal requirements to transfer a firearm in person. For example, a licensee may transfer a rifle or shotgun to a person who does not reside in the same state as the licensee's place of business if the transfer occurs in person, and selling, delivering, and receiving the firearm fully comply with

[1] Some GCA provisions still refer to the ''Secretary of the Treasury.'' However, the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, transferred the functions of ATF from the Department of the Treasury to the Department of Justice, under the general authority of the Attorney General. 26 U.S.C. 7801(a)(2); 28 U.S.C. 599A(c)(1). Thus, for ease of reference, this NPRM refers to the Attorney General where relevant.

[2] In Attorney General Order Number 6353–2025, the Attorney General delegated authority to the Director to issue regulations pertaining to matters within ATF's jurisdiction, including under the National Firearms Act, GCA, and Title XI of the Organized Crime Control Act. ATF's jurisdiction also includes those portions of sec. 38 of the Arms Export Control Act pertaining to the permanent import of defense articles and defense services and the Contraband Cigarette Trafficking Act.

[3] NOTC sales are sales in which the licensee sells a firearm to a person who does not appear in person at the licensee's business premises.

[4] The statement must contain blank spaces to attach a true copy of any permit or other information required pursuant to such state statute or published ordinance. 18 U.S.C. 922(c)(1).

[5] This section implements 18 U.S.C. 922(t) of the GCA.

[6] ATF incorporates the statutory definition of an ''identification document'' in its regulations, which requires the document to be made or issued by or under the authority of the United States or a state government or one of its political subdivisions, a foreign government or one of its political subdivisions, or an international governmental or quasi-governmental organization—if, when the document contains information concerning a particular individual, it is of a type intended or commonly accepted for the purpose of identifying individuals. 27 CFR 478.11, as defined in 18 U.S.C. 1028(d)(2), and incorporated by 18 U.S.C. 922(t)(1)(D). ATF's regulatory definition currently further specifies that the required information on the individual must include the individual's name, residence address, birth date, and photograph. 27 CFR 478.11. However, ATF is proposing to remove the requirement that it include residence address in another proposed rule, ''Revising Firearms Transaction Record, Form 4473,'' which proposes to change the term to ''photo identification document,'' to streamline the photo identification definition by separating out the residence requirement, and also proposes revisions to the requirements for Form 4473.

[7] *See* Public Law 118–159 (Dec. 23, 2024), 138 Stat. 1773, 2449 (amending section 922(c)(2) to include electronic notifications).

the legal conditions of sale in both such states.

In general, section 922(t) prohibits an FFL from transferring a firearm to an unlicensed person without running a NICS background check and verifying the transferee's identity by examining a valid identification document. While section 922(t) requires the FFL to verify the transferee's identity document, that subsection does not require that an FFL verify the identity document only when a transferee is physically present at the FFL's place of business. Moreover, since the Brady Act and its requirements were enacted in 1993,[8] there have been massive technological changes that make it possible for entities to verify both an identity document and a particular person's identity remotely. Other federal agencies have recognized these changes. U.S. Citizenship and Immigration Services, for example, allows employers to remotely verify I–9 documents establishing eligibility to work.[9]

Nor are there other provisions in section 922(t) suggesting that the Brady Act prohibited or limited NOTC transactions. A NICS check and identity verification is not required under section 922(t) if: (1) the transferee has a qualifying permit or license; (2) the transaction involves an approved transfer of only NFA firearms; or (3) the Director has certified that running a NICS background check is impracticable. While these three specific transaction types are exempted from the section 922(t) NICS check and verification requirements and are appropriate situations for utilizing section 922(c) NOTC procedures, ATF concludes that those are not the only transfers to which section 922(c) applies. Nothing in the statute prevents transfers that do require identity verification and a NICS background check from being included within the ambit of section 922(c) NOTC procedures.

For these reasons, ATF proposes to amend 27 CFR 478.96 by eliminating the NICS-exempt transfer restriction for NOTC transfers and expanding the provision to permit NOTC transfers subject to NICS background checks to unlicensed persons who are residents of the same state in which the FFL's business premises are located, when the FFL can verify the non-licensee's identification remotely.

[8] These provisions were part of the Brady Handgun Violence Prevention Act, Public Law 103–159, 107 Stat. 1536 (1993).

[9] Optional Alternative 1 to the Physical Document Examination Associated with Employment Eligibility Verification (Form I–9), 88 FR 47749 (July 25, 2023).

B. Verifying the Transferee's Identity Through Remote Identity Proofing and Authentication

As part of the new § 478.96 paragraph (c) discussed above, on NOTC transfers subject to NICS background checks, ATF proposes including criteria for FFLs who wish to engage in these sales to remotely verify transferee identity. Advances in technology have made remotely proving and authenticating identity more feasible, trustworthy, and secure. Verifying an applicant's identity remotely would still comply with 18 U.S.C. 922(t)(1)(D)'s requirement to verify identity for NOTC transfers, and would still ensure that identity information transmitted to NICS is valid and associated with the transferee.[10] Being able to remotely prove and authenticate a person's identity would therefore enable an FFL to verify a transferee's identity, as required, when they do not appear in person at the licensee's business premises. The verified identity information and other related information (such as residency or alien status documents), if any, can then be used to conduct a NICS check (see discussion below for details). The Department of Commerce, National Institute of Standards and Technology (''NIST''), provides government and other organizations with technical requirements and recommendations for establishing, maintaining, and authenticating identity for persons who access digital systems over a network in NIST Special Publication 800–63–4, *Digital Identity Guidelines* (''NIST SP 800–63–4'').[11]

[10] Remote identity ''proofing'' is the process of verifying the real-world identity of an ''applicant'' and creating a digital identity for enrollment as a ''subscriber'' in an identity service without a physical meeting between the applicant and the service provider. Temoshok, D., Abruzzi, C., Choong, Y–Y., Fenton, J.L., Galluzzo, R., LaSalle, C., Lefkovitz, N., Regenscheid, A., & Vachino, M. (2025). *Digital identity guidelines: identity proofing and enrollment.* Nat'l Inst. of Standards & Tech., Gaithersburg, MD, NIST Special Publication (SP) 800–63A–4 at p. 8. *https://doi.org/10.6028/NIST.SP.800-63A-4* [*https://perma.cc/8M5J-EXUR*] (''NIST SP 800–63A–4''). ''Authentication'' is the process of determining the validity of one or more authenticators used to claim an existing digital identity and establishes that a subject attempting to access a digital service is in control of the technologies used to authenticate. Temoshok, D., Fenton, J.L., Choong, Y–Y., Lefkovitz, N., Regenscheid, A., Galluzzo, R., & Richer, J.P. (2025). *Digital identity guidelines: authentication and authenticator management.* Nat'l Inst.of Standards & Tech., Gaithersburg, MD, NIST Special Publication (SP) 800–63B–4 at p. 1. *https://doi.org/10.6028/NIST.SP.800-63B-4* [*https://perma.cc/2LXN-Q3GS*] (''NIST SP 800–63B–4'').

[11] Temoshok, D., Proud-Madruga, D., Choong, Y–Y., Galluzzo, R., Gupta, S., LaSalle, C., Lefkovitz, N., & Regenscheid, A. (2025). *Digital identity guidelines.* Nat'l Inst. of Standards & Tech., Gaithersburg, MD, NIST Special Publication (SP) 800–63–4. *https://doi.org/10.6028/NIST.SP.800-63-4* [*https://perma.cc/LEF5-5BQU*].

Under the NIST guidelines for remote identity proofing, a person's identity is assured using one of three identity assurance levels (''IALs''), each of which builds on the requirements of lower IALs.[12] An IAL1 identity proofing process verifies that the claimed identity exists in the real world and provides some assurance that the applicant is appropriately associated with this real-world identity. IAL1 is performed using remote or onsite processes, with or without a credential service provider (''CSP'') representative (''proofing agent'' or ''trusted referee'').[13] IAL2 identity proofing increases assurance by requiring additional identity evidence and a more rigorous process for validating the evidence. IAL2 identity proofing is still performed using remote or onsite processes, with or without a proofing agent or trusted referee.[14] IAL3 identity proofing adds the requirement for a trained proofing agent to interact directly with the applicant, as part of an onsite attended identity proofing session, and to collect at least one biometric characteristic.[15]

Government agencies conducting identity proofing to manage access to federal digital resources are required to implement the NIST standards.[16] Several federal agencies, including the National Highway Traffic Safety Administration (''NHTSA''), the Small Business Administration, and the Internal Revenue Service (''IRS'') have implemented IAL2 remote identity proofing.[17] The IRS, for example, allows individual taxpayers to create an ID.me account to access IRS-held information requiring identity verification.[18] Taxpayers are presented with an option

[12] NIST SP 800–63A–4 at 2.

[13] *Id.*

[14] *Id.*

[15] *Id.*

[16] Executive Office of the President, Executive Memorandum M–19–17, *Enabling Mission Delivery through Improved Identity, Credential, and Access Management* (May 21, 2019).

[17] *See* 27 CFR 580.3 (NHSTA regulation requiring IAL2 for electronic signatures on odometer disclosure statements); *see also* Small Business Administration, Lender and Development Company Loan Programs, SOP 50 10, at Appendix 10 (June 1, 2025), *https://www.sba.gov/document/sop-50-10-lender-development-company-loan-programs* [*https://perma.cc/X5PD-5SDJ*]; Internal Revenue Service, Publication 1075, Tax Information Security Guidelines, Section 3.3.8 Public-Facing Systems, at 86 (Nov. 2021), *https://www.irs.gov/pub/irs-pdf/p1075.pdf* [*https://perma.cc/RJF7-5JA7*] (IAL2 required for access to federal tax information).

[18] Accessibility and Compatibility Features for Signing in and Creating an Account, Internal Revenue Service, *https://www.irs.gov/help/accessibility-and-compatibility-features-for-signing-in-and-creating-an-account* [*https://perma.cc/7HVA-M5FM*].

to verify their identity by either a self-service process or a ''video chat agent'' process with an ID.me trusted referee.[19] In addition to providing a picture of their identity document, taxpayers are required to take a ''selfie'' to verify they are the person pictured in the document.[20] If the self-service process does not work or experiences problems, the taxpayer can elect the ''video chat agent'' process, where they can provide alternative identity documentation and speak with an ID.me trusted referee.[21] Taxpayers may also choose to bypass the self-service process and proceed directly to the trusted referee.[22]

ATF believes that the IAL2 remote identity proofing level, with an authentication assurance level (''AAL'') of 2, is an acceptable security and assurance standard for an FFL remote identity verification process for NOTC transfers under the GCA. Providers can achieve IAL2 through different types of proofing (*e.g.,* remote unattended, remote attended, etc.) and can verify identity with or without using biometrics.[23]

Remote identity proofing at IAL2 begins with the CSP collecting attribute information (*e.g.,* name, physical address, birthdate, email address, phone number) from an applicant (the transferee), as well as identity evidence, such as a driver's license or passport, that the CSP can validate to confirm the photo identification document is authentic and to confirm that the identity data on the document is valid, current, and related to a live individual.[24] NIST categorizes identity evidence by strength. For example, ''fair'' evidence includes a student ID card or a corporate ID card; ''strong'' evidence includes a physical driver's license, a U.S. Uniformed Services Privileges and ID card, or a VA health ID card; ''superior'' evidence includes a U.S. passport or a personal identity verification (''PIV'') or common access card (''CAC'').[25] IAL2 identity proofing requires one piece of ''fair'' identity evidence and one piece of ''strong'' identity evidence, two pieces of ''strong'' evidence, or one piece of ''superior'' identity evidence.[26] Once the CSP validates the identity evidence, they verify (''bind'') it as belonging to the person who appears for the identity proofing using a non-biometric pathway (*e.g.,* live photographic comparison), a digital evidence pathway (*e.g.,* returning a confirmation code delivered to a validated digital address), or a biometric pathway (*e.g.,* comparing a facial image to a facial portrait on identity evidence via an automated comparison).[27]

When the organization requesting remote identity verification anticipates return visits by their applicants/participants (collectively hereafter, ''applicants''), successfully authenticating provides reasonable risk-based assurances that the person accessing the service again is the same one who accessed the service previously.[28] In such cases, the CSP enrolls applicants who are successfully identity-proofed as the CSP's subscribers, assigns them unique subscriber accounts, and registers one or more authenticators to that account.[29] Under the NIST guidelines, the robustness of the authentication process and binding between an authenticator and a specific individual is based on one of three AALs, each of which provides increasing confidence that the person attempting to claim the previously verified identity controls one or more authenticators bound to the person's account.[30] AAL1 provides basic confidence that the claimant controls an authenticator that is bound to the subscriber account. AAL1 requires only single-factor authentication using a wide range of available authentication technologies.[31] AAL2 provides high confidence that the claimant controls one or more authenticators bound to the subscriber account and requires proof that the claimant possesses and controls two distinct authentication factors.[32] Authentication at AAL3 provides very high confidence that the claimant controls one or more authenticators bound to the subscriber account and is based on proof that the claimant possesses a key, using a public-key cryptographic protocol.[33]

ATF believes that the AAL2 high confidence authentication level is reasonable for FFL remote identity verification processes at the IAL2 level for NOTC firearm transfers and NICS background checks. Section 922(t)(1)(D) requires that the transferor verify the identity of the transferee by examining a valid identification document as defined under 18 U.S.C. 1028(d).[34] The standards meeting an IAL2 verification level and AAL2 authentication level for NOTC transactions would more reliably verify a person's identity than the current procedures for over-the-counter sales, which rely solely on a visual inspection of customer-presented documents.

The GCA, at 18 U.S.C. 922(t)(1)(D), requires an FFL to verify the transferee's identity prior to every transfer that is subject to NICS requirements. As a result, the FFL must complete the remote identity proofing process prior to each NOTC transfer and may not rely on a previous CSP verification result. ATF is proposing that the requirement for an FFL to verify the identity of the transferee prior to each NOTC transfer would be met using the following processes. To initiate the transfer process, the transferee would continue to send the FFL a Form 4473, as already required by § 478.124. Currently, for over-the-counter transactions, the FFL examines the transferee's identification document,[35] compares the person and the photo on the document, and records the document's information.[36] FFLs would continue to perform these functions, but would do so with remote videoconferencing software. Once FFLs have done this and initially determined that the transfers are lawful under state and federal law, FFLs must ensure the purchasers verify their identity through a CSP that meets the NIST IAL2 standards, and, if the transferees are already a subscriber of the CSP, an authentication process that meets the NIST AAL2 standards. After the CSP verifies the transferee's identity, FFLs use the information they collected by examining and comparing the identification document during the videoconferencing session to initiate a

[19] *Id.*

[20] *Id.*

[21] *Id.*

[22] *Id.*

[23] NIST SP 800–63A–4 at 44.

[24] *Id.* at 45.

[25] *Id.* at Appendix A. Identity Evidence Examples by Strength.

[26] *Id.*

[27] *Id.* at 44.

[28] *Id.*

[29] NIST SP 800–63B–4 at 1.

[30] *Id.*

[31] *Id.* at 2.

[32] *Id.*

[33] *Id.*

[34] Examining the identification document(s) also allows the FFL to confirm the transferee's birth date and residence state to ensure they are complying with 18 U.S.C. 922(b)(1) (making it unlawful for an FFL to transfer a firearm or ammunition to a person less than 18 years old or a firearm other than a shotgun or rifle to a person less than 21 years old) and 18 U.S.C. 922(b)(3) (transfers to non-residents).

[35] *See* footnote 6, *supra.* As noted in footnote 6, ATF is proposing to change the term ''identification document'' to ''photo identification document'' via another proposed rulemaking.

[36] *Id.* As noted in footnote 6, ATF is proposing changes to Form 4473 and how FFLs handle these forms via another proposed rulemaking. One of those proposed changes is that the FFL would be able to attach a copy of the transferee's photo identification document to Form 4473 instead of recording the information. In that proposed context, if the FFL were to elect to use remote identity verification processes, the transferee could send a copy of the photo identification document with their Form 4473, and the FFL would compare the copy to the ID via videoconferencing, in addition to comparing the person and the photo on the ID.

NICS background check, as they currently do. Initiating the background check in this way would still meet the 18 U.S.C. 922(c) requirement that the transfer is not ''otherwise prohibited'' by federal law. These NOTC transfers would continue to be subject to the record-keeping and CLEO notification provisions of section 922(c) and 27 CFR 478.96, described in the background section and section II.B of this preamble. FFLs who wish to engage in NOTC transfers that require identity verification and a NICS check would be responsible for ensuring that any CSP they engage to supply remote identity proofing and authentication meets the proposed NIST standards and processes described in this rule.

This proposed rule does not intend to prescribe or limit the identity evidence a CSP may use to remotely prove and authenticate identity using the NIST IAL2 and AAL2 guidelines.

For the reasons discussed above, ATF proposes to add a new § 478.96(c) to outline the process for NOTC transfers and remote identity verification using the described criteria.

C. Corresponding Amendments to § 478.124

In addition to the amendments proposed above to § 478.96, ATF is proposing corresponding edits to § 478.124(c)(5),[37] to incorporate the new provisions proposed in § 478.96(c) on requirements for NOTC transfers subject to NICS background checks.

This proposed rule would add a new paragraph § 478.124(5)(c)(iii) requiring licensees, for NOTC transfers subject to a NICS check, to ensure transferees have included a true copy of their photo identification document with their Form 4473, ensure the form and identification document match, and then follow the procedures in § 478.96(c) as proposed in this rule for remotely verifying identity. In addition, ATF is proposing a minor edit to § 478.124(c)(5)(iv) (which would become (v) once the new (iii) paragraph is added) to add the phrase ''that are NICS exempt'' to the NOTC requirement in that paragraph for licensees to verify that transferees have included the relevant sworn statement or state permit/license, because those requirements apply to NICS-exempt NOTC transfers, but do not apply to NOTC transfers subject to a NICS check. And finally, ATF proposes to add a cross-reference to NOTC transactions subject to a NICS check to § 478.124(c)(5)(v) (which would become (vi) once the new (iii) is added). This paragraph requires licensees to record on Form 4473 the date they contact NICS for over-the-counter transactions subject to a NICS check, and that requirement would also pertain to NOTC transactions subject to a NICS check.

III. Statutory and Executive Order Reviews

A. Executive Orders 12866 and 13563

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.

Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of agencies quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting public flexibility.

This rule proposes to amend 27 CFR 478 to clarify the scope of 18 U.S.C. 922(c)(1) to allow NOTC firearm sales by FFLs to unlicensed persons who reside in the same state as the FFL. The rule would allow verification that is required by statute to be done by a remote identity proofing process that would provide the verification required by statute.

The Office of Management and Budget (''OMB'') has determined that this proposed rule is a ''significant regulatory action'' under section 3(f)(1) of Executive Order 12866 because it would have an annual effect on the economy of $100 million or more.

Because this proposed rulemaking would be a ''significant regulatory action'' under Executive Order 12866, ATF has set forth the impacts of this proposed rulemaking in OMB's A–4 accounting statement in Table 1. Table 1 also illustrates the range of future estimates in a low, primary, and high range as ATF's OMB Circular A–4 sensitivity analysis. ATF then provides its normal regulatory cost-benefit analysis.

TABLE 1—OMB CIRCULAR A–4 ACCOUNTING STATEMENT ($ MILLIONS) AND SENSITIVITY ANALYSIS

Category	Primary estimate	Minimum estimate	Maximum estimate	Units		
				Dollar year	Percent discount	Period covered (years)
Benefits (deregulatory savings)						
Annualized monetized benefits	$103.7	n/a	n/a	2025	7	10
	103.7	n/a	n/a	2025	3	10
Annualized quantified benefits	n/a	n/a	n/a	2025	7	10
	n/a	n/a	n/a	2025	3	10
Annualized non-monetized benefits	Allows greater choice for flexible yet secure transaction options for licensed firearms retailers and the general public, thereby deregulating by reducing restrictions and removing barriers.					
Costs						
Annualized monetized costs	n/a	n/a	n/a	2025	7	10
	n/a	n/a	n/a	2025	3	10
Annualized quantified costs	n/a	n/a	n/a	2025	7	10
	n/a	n/a	n/a	2025	3	10

[37] This would be § 478.124(c)(5) as it has been proposed for revision in the Revising Firearms Transaction Record, Form 4473, proposed rule cited in footnote 6, *supra.* That rule proposes a new organization for § 478.124(c) in which (c)(5) would have the heading ''Licensee verifications'' and would bring together the verification steps licensees must take for over-the-counter transfers and the existing NICS-exempt NOTC transfers. The § 478.124(c)(5) amendments proposed in this rule would incorporate into that section licensee steps for verifying NOTC transfers that involve NICS background checks as well.

TABLE 1—OMB CIRCULAR A–4 ACCOUNTING STATEMENT ($ MILLIONS) AND SENSITIVITY ANALYSIS—Continued

Category	Primary estimate	Minimum estimate	Maximum estimate	Units		
				Dollar year	Percent discount	Period covered (years)
Annualized non-monetized costs	Potential transaction fees from future service providers are estimated for illustrative purposes at $13.72 million per year, but since compliance costs are entirely voluntary, FFLs can choose how, or whether, to cover, pass along, or accommodate the transaction costs.					
Transfers						
Federal annualized monetized transfers	n/a n/a	n/a n/a	n/a n/a	2025 2025	7 3	10 10
	From: Federal Government			To: individuals		
Other annualized monetized transfers	n/a n/a	n/a n/a	n/a n/a	2025 2025	7 3	10 10
Effects						
State, local, and/or tribal governments	The rule will not impose an intergovernmental mandate, have significant or unique effects on small governments, or have federalism or tribal implications.					
Small businesses	For direct costs, this rule is deregulatory and provides only savings to individuals, not businesses, including small businesses. However, there may be potential impacts to small entities that may face greater competition from larger retailers in their state who also choose to offer remote sales.					
Wages	n/a					
Growth	n/a					
Distribution effects	n/a					
Alternatives						
No-change alternative: $0 cost and $0 benefits. This was rejected as more stringent without any incremental benefit.						
Proposed alternative: $0 cost; $103.7 million benefits plus qualitative benefits. This alternative was selected because the benefits exceed costs.						
Less-stringent alternative: $n/a cost and $n/a benefits. This alternative was rejected because any further reduction in regulations might pose too great a cost to public safety by allowing prohibited persons to acquire or otherwise inherit ownership of NFA weapons without a background check.						
Net benefits						
Annualized monetized net benefits	103.7 103.7			2025 2025	7 3	10 10

1. Need Statement

ATF proposes to amend 27 CFR 478.96 by eliminating the restrictions against NOTC transfers to unlicensed persons who must undergo a background check through the FBI's NICS and who are residents of the same state in which the FFL's business premises are located. The rule proposes to permit such NOTC transfers when the non-licensee's identification can be verified remotely. This proposed change would better account for technological developments since the Brady Act was enacted in 1994—when the requirement to conduct a background check before transferring a firearm began—which now enables FFLs to verify both an identity document and a particular person's identity remotely. Other federal agencies have recognized these changes. In addition, there are no provisions in the GCA at section 922(t) suggesting that the Brady Act intended to prohibit NOTC transactions. Certain transactions are exempt under section 922(t) from undergoing a NICS background check if: (1) the transferee has a qualifying permit; (2) the transaction involves only transferring NFA firearms as approved by the Director; or (3) the Director has certified that running a NICS background check is impracticable. While these specific transaction types are NICS-exempt under section 922(t) and justify applying the section 922(c) NOTC procedures, ATF believes that section 922(c) also applies to transfers requiring a NICS background check, as long as the FFL can sufficiently verify the transferee's identity for the purposes of NICS background checks and public safety concerns. Nothing in the statute prevents other transfers requiring verification of a transferee's identity and a NICS background check from being included within the ambit of section 922(c) NOTC procedures.

2. Benefits

Based on the proposed changes in this rule, the population that would be affected by the proposed rule would be persons who purchase firearms in transactions subject to NICS background-check requirements, and who wish to purchase their firearms remotely but from licensees with business premises located in the state in which the person resides. ATF would first have to estimate the population of gun buyers per year, and then estimate the proportion of that population who would choose to purchase remotely. Although ATF receives information from licensed firearm manufacturers (Type 07 FFLs) and destructive device manufacturers (Type 10 FFLs) on the number of firearms they manufacture each year, this data does not include information from which to determine the annual number of purchasers. With the limited exception of reports on certain multiple firearm sales, federal

law does not require any FFL to report sales volume, let alone annual sales volume.

Because the GCA does not require FFLs to report information regarding firearm sales, the proxy most often used to estimate annual U.S. firearm sales has been the volume of background checks conducted annually by NICS. Although NICS is not designed or intended to track annual U.S. firearm sales, the data that NICS publishes annually contains the best available data on the number of transactions conducted by FFLs that might involve transferring a firearm to a non-licensed individual or entity. Since not all NICS background checks involve a firearm transfer, it is necessary to distill those types of transactions from the published NICS data, by NICS purpose code, to estimate aggregate FFL firearm sales. A recent ATF report [38] uses this methodology to provide an estimated minimum sales volume (''EMSV'') of annual FFL sales, for 2017 through 2020.

EMSV is essentially the total number of NICS checks, adjusted slightly upward to account for instances in which more than one firearm was transferred pursuant to one NICS check, thereby coming a little closer to estimating the minimum number of firearm sales. ATF calculated the EMSV by multiplying the number of NICS checks conducted in the relevant period by the number of distinct NICS purpose codes associated with a given NICS transaction involving a firearm transfer to a new possessor. These NICS purpose codes are: 01—Sale of a Handgun, 02—Sale of a Long Gun, 03—Sale of an Other Weapon, 27—Private Sale of a Handgun, 28—Private Sale of a Long Gun, and 29—Private Sale of an Other Weapon. If a given NICS check has more than one code associated with it, that indicates that at least two firearms were transferred pursuant to that one NICS check. For example, a NICS transaction with purpose codes 01, 02, 28, and 29 attached to it would indicate that the transaction included a minimum of four firearm sales. The NICS data used to calculate EMSV does not include any PII about the firearm purchaser or possessor; it is limited to aggregate numerical and code data. As the term itself indicates, EMSV does not capture all firearm sales, but instead provides an estimate of the lowest number of firearms involved under each NICS check in which a transfer occurred. For example, EMSV does not capture the actual number of firearms transferred in a multiple firearm sales transaction because the number of firearms transferred in a multiple sale of the same type of firearm are not separately tallied by purpose code. In addition, EMSV does not account for firearms transferred from FFLs to customers utilizing a NICS alternate permit. In states in which a NICS alternate permit exempts a purchaser from a background check, this transaction does not involve a NICS check and is therefore not reflected in the EMSV.

Finally, the EMSV does not include sales between private individuals that are not facilitated by an FFL, but these would also not be within the scope of affected parties under the proposed rule because the proposed rule affects FFL sales only. Consequently, calculations using purpose codes provide a minimum baseline from which to estimate the number of purchased firearms. The firearms EMSV for 2017–2020 was 57,941,145.[39]

A more recent update published by ATF [40] has shown that 2020 was a high-water mark (likely due to the COVID–19 pandemic), as retail sales had increased to a high that year and then decreased 26 percent by 2023. Including the 2020 through 2023 averages brings the EMSV total to 91,609,719 [41] firearms transferred by FFLs to non-licensees over the seven-year period. Using a straight average over the seven-year time period, ATF calculated average number of firearms sold by FFLs to non-licensees at 13.09 million guns per year (91,609,719/7 = 13,087,103).

For the purposes of this rule, ATF assumes that each purchaser will, on average, purchase two firearms per year. This is a conservative estimate that aims to account for multiple firearms sales, which can reach higher or lower numbers in different states as collectors, security and law enforcement purchasers, and enthusiasts balance out occasional and one-time buyers. Assuming purchasers acquire an average of two firearms per year from an FFL, the 13.09 million firearms would indicate 6.55 million unique buyers per year.

This estimated number of total FFL firearm buyers would represent the highest possible number of persons who could be affected by this rule if all the FFLs from which they buy firearms chose to provide remote-purchase options and all the buyers chose to purchase all their firearms remotely. Although it is therefore unlikely that the affected population would be 100 percent of this group, the actual number of purchasers who might elect this voluntary service cannot be readily determined from existing data. As a result, ATF subject matter experts estimate, based on indications they have received from FFLs and firearms purchasers, that maybe half of the total population that currently purchases firearms from FFLs might choose in the future to purchase at least some of their firearms remotely.

Many factors could affect whether purchasers make use of remote services if FFLs choose to offer them. Convenience is certainly a factor for some firearms purchasers, such as repeat purchasers, persons more experienced in purchasing firearms, or purchasers looking for something rare or unusual that might be sold only by an FFL a good distance away. But convenience might not be the dispositive factor for other purchasers, such as new buyers, those who expect to make only one or very few transactions, or persons who prefer to handle or inspect firearms in person. As a result, ATF does not feel it can estimate a higher percentage of persons who might elect to offer or use such services, at least in the first few years after the rule is effective if finalized as proposed. Accordingly, if 50 percent of all purchasers opt to purchase firearms remotely, that would result in 3.28 million purchasers benefiting in some way from the rule. However, ATF is requesting public comments on this assumption and likely demand for online or remote sales.

The affected population of 3.28 million purchasers would benefit from time saved travelling to and from the FFL. For the sake of this analysis, ATF assumes that an FFL is approximately 30 minutes away from each buyer's home. As approximately 90 percent of NICS checks are routinely resolved within minutes of being initiated, that proportion travels to the FFL's business premises one time to accomplish the transfer, so they would save a single trip under this proposed rule, which would save an hour of time for both directions. The remaining 10 percent of purchasers normally makes two trips to the business premises—one to initiate the transfer and the second to acquire the firearm if the licensee receives a delayed proceed response from NICS—so this 10 percent would save two trips. The latter results in two hours saved in travel time

[38] ATF, *National Firearms Commerce and Trafficking Assessment (NFCTA): Firearms in Commerce—Volume One,* at 66 (May 2022), *https://www.atf.gov/media/15471/download* [*https://perma.cc/67JZ-PLNW*].

[39] *Id.*

[40] ATF, *National Firearms Commerce and Trafficking Assessment (NFCTA): Protecting America from Trafficked Firearms—Volume Four* (Jan. 2025), *https://www.atf.gov/firearms/docs/report/nfcta-volume-iv-part-i-firearm-commerce-updates-and-new-analysis/download* [*https://perma.cc/27WT-G9J2*].

[41] *Id.* at 15.

per purchaser (30 minutes each way * 2 for a round trip * 2 trips). Therefore, for 90 percent of 3.28 million purchasers, or 2.95 million, transportation costs saved would be one hour, while an estimated 328,000 purchasers would save two hours in travel time. Taken together, the burden hours saved would total 3.606 million hours saved in travel costs ((2.95m * 1) + (328,000 * 2)).

In addition to travel time, ATF estimates purchasers would save approximately 20 minutes at the FFL for processing and waiting time during each visit, resulting in an additional cost savings of 20 minutes for 90 percent of purchasers, and an estimated savings of 40 minutes for the remaining 10 percent. On the other hand, ATF estimates that purchasers would expend about 15 minutes one time to learn the new virtual identity verification system and comply with the built-in checks. ATF bases this estimate on the increasing prevalence of very similar processes and software already utilized by the federal government, such as by the IRS and *ID.me,* and state government, such as for motor vehicle licensing online accounts.

ATF therefore estimates that 90 percent of transferees (2.95 million persons) would have a net savings of 5 minutes or 0.083 hours, rounded (20 minutes in-store saved—15 minutes learning added) due to this proposed rule, which would total 244,850 hours (0.083 * 2.95 million transferees). In addition, 10 percent of transferees (328,000 persons) would have a net time savings of 25 minutes or 0.42 hours, rounded (40 minutes in store saved—15 minutes learning added), or a total of 137,760 hours.

This proposed rule would therefore save 382, 610 hours on time in a licensee's business premises, combined with the 3.606 million hours in travel time calculated above, resulting in a total of 3,988,610 hours saved per year.

To calculate the monetized value of these saved hours, ATF must apply a wage rate to the saved time. Since purchases are more than likely conducted in the buyer's personal capacity rather than as part of their primary business, ATF calculated a leisure wage to account for saved time's value. ATF then estimated a leisure wage rate based on methodology established by the Department of Health and Human Services (''HHS''), updated to account for the latest available data.[42] The HHS methodology is to first obtain the average U.S. median non-leisure weekly wage from the Bureau of Labor Statistics (''BLS''), and divide it by 40 hours to derive the median hourly non-leisure wage. Step two is to obtain the average U.S. real household income before taxes and after taxes from the Census Bureau, and divide the post-tax income by the pre-tax income to determine the net household income rate. Step three applies the net income rate to the median non-leisure hourly rate derived in step one, to calculate the hourly leisure wage. Table 2 shows the steps and data ATF used under this methodology to determine an updated leisure wage.

TABLE 2—CALCULATING LEISURE WAGE

Inputs for leisure wage rate	Numerical inputs	Source
1a. Median non-leisure weekly wage.	$1,214	News Release, Bureau of Labor and Statistics, *Usual Weekly Earnings for Wage and Salary Workers,* third quarter 2025, (Dec. 4, 2025), *https://www.bls.gov/news.release/archives/wkyeng_12042025.pdf* [*https://perma.cc/MD6E-TYDX*].
1b. Median non-leisure hourly wage	$30.35	$1,214 median weekly wage/40 hours a week = $30.35.
2a. Real household incomepre-tax	$83,730	U.S. Census Bureau, *Income in the United States: 2024,* (Sept. 9, 2025), *https://www.census.gov/library/publications/2025/demo/p60-286.html* [*https://perma.cc/RU47-LLBX*].
2b. Real household income post-tax	$72,330	U.S. Census Bureau, *Post-Tax Household Income Summary Measures by Selected Characteristics: 2023 and 2024, https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww2.census.gov%2Fprograms-surveys%2Fdemo%2Ftables%2Fp60%2F286%2FtableB1.xlsx&wdOrigin=BROWSELINK* [*https://perma.cc/M33M-EWY7*].
2c. Net household income rate	86 percent	$72,330 post-tax income/$83,730 pre-tax income = .86 net household income rate.
3a. Hourly leisure wage	$26.10	$30.35 hourly non-leisure wage * .86 net household income rate = $26.10 hourly leisure wage.
3b. Rounded hourly leisure wage	$26.00.	

Using the methodology outlined by HHS, the estimated leisure wage is $26. When multiplied by the 3,988,610 hours saved, the total estimated savings that would accrue from this proposed rule would be $103,703,860 ($103.7 million) per year, or a total of $1.04 billion (rounded) over ten years, assuming adoption estimates hold steady over that period.

Table 3 reflects the net impacts as a result of the proposed rule, which totals $1.04 billion in net savings over ten years, discounted to $884.62 million and $728.37 million at 3 percent and 7 percent, respectively. The annualized net benefits, or annualized quantitative savings for the proposed rule equal $103.7 million each year at both 3 percent and 7 percent.

TABLE 3—TEN-YEAR PROJECTED NET BENEFITS *

Year	Net total savings (undiscounted)	Discount rate 3%	Discount rate 7%
1	$103,703,860	$100,683,359	$96,919,495
2	103,703,860	97,750,834	90,578,968
3	103,703,860	94,903,723	84,653,241
4	103,703,860	92,139,536	79,115,178
5	103,703,860	89,455,861	73,939,419
6	103,703,860	86,850,350	69,102,261

[42] U.S. Department of Health and Human Services, *Valuing Time in U.S. Department of Health and Human Services Regulatory Impact Analyses: Conceptual Framework and Best Practices* (June 2017), *https://aspe.hhs.gov/sites/default/files/private/pdf/257746/VOT.pdf.*

TABLE 3—TEN-YEAR PROJECTED NET BENEFITS *—Continued

Year	Net total savings (undiscounted)	Discount rate 3%	Discount rate 7%
7	103,703,860	84,320,728	64,581,552
8	103,703,860	81,864,785	60,356,591
9	103,703,860	79,480,374	56,408,029
10	103,703,860	77,165,411	52,717,784
Total	1,037,038,600	884,614,961	728,372,518
Annualized	.....	103,703,860	103,703,860

* The ''Net total savings (undiscounted)'' column represents totals from the underlying costs. Consistent with guidance provided by OMB in Circular A–4, the ''3-percent discount rate'' and ''7-percent discount rate'' columns result from applying an economic formula to the number in each row of the ''Undiscounted'' column to show how these future costs over time would be valued today; they do not contain totals from other tables.

3. Costs

This rule could result in costs for FFLs that elect to offer customers remote firearm purchasing options.

ATF seeks public comment on the likely pricing structure and rates for a viable vendor offering identity verification services that meet NIST's IAL2 and AAL2 standards. ATF researched pricing options provided for verification services in existing industries, as possible parallels to costs FFLs might incur. The rates ATF found were on a per-transaction basis, and ranged from a few cents to up to $7 per verification. Many of those companies that provide simple pricing online (such as Veriff or Sumsub) are not verified by a third party (such as Kantara) as meeting the IAL2 and AAL2 standards, which would be required for any CSP FFLs could use. Firms offering services that are compliant with the proposed rule do not seem to provide online pricing details. As ATF does not know how many CSPs would enter this market and their pricing, nor does it have an accurate model for market demand and anticipated adoption, it therefore assumes a comparable $7 verification fee per transaction, which would likely be passed onto the consumer as a convenience charge, similar to the existing FFL transfer fee (charged when receiving and transferring a firearm from another FFL or individual seller on behalf of a buyer).

ATF also assumes an initial FFL adoption rate of 10–15 percent, according to the best professional judgement of ATF subject matter experts. This estimate is based on the fact that the remote transactions would still be limited to those within the same state under the proposed rule, and not offer much in the way of a broader pool of customers or geographic range beyond state lines. In addition, the industry's larger vendors might be more hesitant or conservative in adopting remote sales due to existing safety and liability-focused procedures they might have in place that favor in-person identity verification and firearm transactions and could take time to change. ATF invites public comment on industry adoption rates and costs.

While ATF understands that there are high- and low-volume dealers among FFLs, it is unclear which dealers might adopt remote sales because there are many factors that affect such decisions. ATF therefore assumed an equal distribution among business sizes within the estimated 15 percent that would adopt remote sales. Based on internal ATF information, as of December 23, 2025, there are 45,605 active dealer FFLs (Type 01 licenses), so assuming that 15 percent would adopt remote sales, this results in an estimated 6,840 FFLs electing to offer remote sales across the country.

Using the transaction volume above, of approximately 13.09 million retail purchases, and assuming an equal distribution among all FFLs so that 15 percent of FFLs would proportionally represent an identical 15 percent of all firearms purchased, the resulting estimated number of applicable retail purchases would total 1.96 million. This volume of remote purchases, at an estimated cost of $7 per transaction, would potentially cost the industry $13.72 million.

This estimated cost can only be presented as illustrative or contextual, as the proposed rule would only widen the permissible range of retail options available to FFLs; it would not remove any existing sales options or require FFLs to adopt remote sales. As a result, it would not cause direct costs that could be attributable to the proposed rule. The changes would be entirely voluntary, and as such would be pursued by FFLs only if remote sales offer an anticipated net positive revenue or other business benefit for FFLs. If the costs could be comfortably passed along to the consumer, or could otherwise be outweighed by an anticipated increase in sales volume, then the FFLs would likely adopt the system. If not, they would be entirely free to decline to do so.

4. Regulatory Alternatives

ATF considered three alternatives: continuing the status quo without changing the existing regulatory definition; applying lower standards; and revising the existing regulation.

Alternative 1: Continuing the status quo of maintaining the existing regulation.

This is also known as the ''no-action'' alternative. ATF considered this alternative but determined that the statute does not include such limitations, and with the advent of technology that enables remote identity verification that could mitigate security concerns and even improve validation over in-person ''by sight'' comparison, determined this option would hold FFLs back from expanding legitimate sales options and from adopting evolving technology as it develops.

Altnerative 2: Expand the pool of vendors allowed to operate identity verification for FFLs.

ATF also considered other approaches to expand the pool of eligible vendors allowed to operate identity verification for FFLs. The certification requirement is likely going to limit an FFL's choices and freeze out a lot of legitimate companies that do not want to pay the very limited number of firms that currently dominate the market for access. However, ATF feels the standards and steps proposed in this rule would be necessary to meet public safety considerations under the GCA, and thus did not select the option of reducing the required standards or removing the third-party certification requirement. ATF is expecting greater understanding of these dynamics during the public comment period.

Alternative 3: Rulemaking.

ATF determined that the rulemaking option was necessary to expand

consumer choice while ensuring an appropriate level of security to mitigate the risks inherent with remote or virtual firearm purchases. ATF anticipates that, as with other industries when new technology becomes available and they are permitted to use the technology, the CSP market would evolve and FFL remote sales options might expand, prices and logistical processes might decrease, and more FFLs and purchasers might find that remote sales better serve their needs.

B. Executive Order 14192

Executive Order 14192 (Unleashing Prosperity Through Deregulation) requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed or revised when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation that qualifies as an Executive Order 14192 regulatory action (defined in OMB Memorandum M–25–20 as a final significant regulatory action under section 3(f) of Executive Order 12866 that imposes total costs greater than zero). In furtherance of this requirement, section 3(c) of Executive Order 14192 requires that any new incremental costs associated with such new regulations must, to the extent permitted by law, also be offset by eliminating existing costs associated with at least ten prior regulations. However, this proposed rule would not be an Executive Order 14192 regulatory action. This rule as proposed would be a significant regulatory action as defined by Executive Order 12866 because it would have an impact on the economy of more than $100 million in a given year. However, because the economic impact would consist of $104 million in annual deregulatory savings, it would thus not impose costs greater than zero. The proposed rule would remove the existing restriction on FFLs that prohibits most NOTC sales and would save the public $1.04 billion over ten years in burdens arising from exclusively in-person sales, as well as qualitative benefits in terms of greater flexibility and options in how individuals purchase firearms. ATF therefore expects this rule, if finalized as proposed, to qualify as an Executive Order 14192 deregulatory action (defined in OMB Memorandum M–25–20 as a final action that imposes total costs less than zero).

C. Executive Order 14294

Executive Order 14294 (Fighting Overcriminalization in Federal Regulations) requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to each element of those offenses. This proposed rule would not create a criminal regulatory offense and is thus exempt from Executive Order 14294 requirements.

D. Executive Order 13132

This proposed rule would not have substantial direct effects on the states, the relationship between the federal government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132 (Federalism), the Director has determined that this proposed rule would not impose substantial direct compliance costs on state and local governments, preempt state law, or meaningfully implicate federalism. It thus does not warrant preparing a federalism summary impact statement.

E. Executive Order 12988

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform).

F. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, agencies are required to conduct a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements unless the agency head certifies, including a statement of the factual basis, that the proposed rule would not have a significant economic impact on a substantial number of small entities. Small entities include certain small businesses, small 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.

ATF performed an Initial Regulatory Flexibility Analysis of the potential impacts on small businesses and other entities that could occur due to this proposed rule, if finalized as proposed. Based on the information from this analysis, ATF found the following:

Based on ATF's Federal Firearms Licensing Center, as of December 23, 2025, there are 45,605 dealer FFLs (Type 01 licenses). The majority of these FFLs are likely to be small but would benefit from this proposed rule because it would allow all of them to potentially capitalize on a larger statewide market by allowing online sales, thereby conferring a benefit, and would impose no costs.

However, these mostly small sellers might be indirectly and negatively affected by this proposed rule due to potentially increased competition from the minority of larger retailers in their respective states. ATF is unable to assess a significant impact and requests public comment on the impact to small entities that sell firearms.

Initial Regulatory Flexibility Analysis (''IRFA'')

The RFA establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to ensure that such proposals are given serious consideration.'' Public Law 96–354, sec. 2(b), 94 Stat. 1164 (1980).

Under the RFA, the agency is required to consider whether the proposed rule would have a significant economic impact on a substantial number of small entities. Agencies must perform a review to determine whether the proposed rule would have such an impact. If the agency determines that it would, the agency must prepare an IRFA (or a regulatory flexibility analysis for a final rule) as described in the Act.

ATF determined that the rule affects a variety of large and small businesses (see item 3 below). Based on the requirements above, ATF prepared the following IRFA assessing the proposed rule's impact on small entities.

1. Describing the reasons why the agency is considering acting.

ATF proposes to amend 27 CFR 478.96 by eliminating the restrictions against NOTC transfers to unlicensed persons who must undergo a NICS background check and who are residents of the same state in which the FFL's business premises are located. The rule proposes to permit such NOTC transfers when the non-licensee's identification can be verified remotely. This proposed change would better account for technological developments since the Brady Act was enacted in 1994, which now enables FFLs to verify both an identity document and a particular person's identity remotely. ATF does not anticipate this rule creating significant economic cost for small entities, as this rule would allow voluntary compliance and potential

benefits for all regulated FFLs and have a deregulatory savings to consumers.

2. Succinctly stating the objectives of, and legal basis for, the proposed rule.

The objective of this proposed rule is to reduce regulatory restrictions on FFLs and the public arising from the current requirement to purchase most firearms in person. The proposed rule would expand opportunities for remote sales, and thereby also permit FFLs and purchasers to benefit from advances in technology.

3. Describing and, where feasible, estimating the number of small entities to which the proposed rule would apply.

Based on ATF's Federal Firearms Licensing Center, as of December 23, 2025, there are 45,605 dealer FFLs (Type 01 licenses) who could receive a benefit from this proposed rule due to increased opportunities to sell within their respective states. Businesses would have to weigh the potential market sales benefits against potential costs to determine whether they would want to offer remote sales. But those who would elect to do so would have individually determined that the benefits outweigh any costs they might incur. The majority of dealer FFLs are likely to be small entities, and because electing to offer remote sales is voluntary, any small entities that would choose to do so would potentially benefit from this proposed rule.

4. Describing the proposed rule's projected reporting, record-keeping, and other compliance requirements, including an estimate of the classes of small entities which would be subject to the requirement and the type of professional skills necessary to prepare the report or record.

While the rule would not require small businesses to incur costs, it could result in transaction costs if they choose to offer remote sales. But because remote sales are voluntary, they would make that cost-benefit analysis for themselves (and presumably decide the benefits outweigh any costs) before deciding to offer their customers remote sales. There would be no additional requirements or costs imposed by this proposed rule. This rule would reduce costs and burdens on the public. The primary risk of costs to small FFLs is not the voluntary compliance costs, since many can and likely will decline to offer the service and face the costs, or more likely pass the added costs on to the consumer as a surcharge. Small FFLs are exposed to risk primarily from the potential competition effects from larger retailers being able to remotely sell to the small FFL's regionally or community-based clientele, which could be an indirect outcome of the proposed rule. The ultimate market effects of the rule are not known, and ATF seeks public comment to better inform the estimated impacts.

5. Identifying, to the extent practicable, all relevant federal rules which might duplicate, overlap, or conflict with the proposed rule.

This proposed rule would not duplicate or conflict with other federal rules.

6. Describing any significant alternatives to the proposed rule which accomplishes the stated objectives of applicable statutes, and which minimizes any significant economic impact the proposed rule might have on small entities.

ATF estimates that the majority of the firearms industry is largely composed of small businesses. This proposed rule simply relaxes federal requirements and makes it easier for small business to sell firearms across their state without requiring customers to travel to the FFL in person. Should this proposed rule provide significant impacts to small businesses, it would alleviate significant hurdles rather than impose new hurdles. However, market dynamics in response to the proposed rule are yet unknown, despite the best estimates of ATF subject matter experts. The same benefits that might accrue to small entities might also accrue to larger retailers, which could potentially cause greater competition for small entities within their states as an indirect cost. Nevertheless, given the uncertainty involved with the net market effects, no other known alternatives would alleviate burdens on small businesses. ATF determined that the benefits to the proposed rule outweigh the potential impacts to small businesses that could perhaps be indirectly affected by this proposed rule.

G. Small Business Regulatory Enforcement Fairness Act of 1996

This proposed rule is not likely to have a significant economic impact on a substantial number of small entities under the Small Business Regulatory Enforcement Fairness Act of 1996, 15 U.S.C. 657 and 5 U.S.C. 601 note, as this rule does not impose any additional costs. While there could be costs to FFLs, including small businesses, from engaging in remote sales, they are not required to do so. This proposed rule removes a prohibition previously limiting options on all FFLs, including small entities, that might find that engaging in remote sales would provide more benefits than costs. If the remote transaction capability appeals to small entities, they would now have an option to pursue it, but no obligation to do so if it does not benefit them or appeal to them. As a voluntary, deregulatory rulemaking, the proposed rule cannot have a direct negative impact to small entities.

However, these mostly small sellers might be indirectly negatively affected by this proposed rule due to potentially increased competition from the larger retailers in their respective states. At the same time, small entities could also benefit from this proposed rule because it would allow them to potentially capitalize on a larger statewide market by allowing online sales. ATF is unable to assess a significant impact and requests public comment on the impact to small entities that sell firearms.

H. Unfunded Mandates Reform Act of 1995

This proposed rule does not include a federal mandate that might result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, ATF has determined that no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

I. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501–3521, agencies are required to submit to the OMB, for review and approval, any information collection requirements a rule creates or any impacts it has on existing information collections. An information collection includes any reporting, record-keeping, monitoring, posting, labeling, or other similar actions an agency requires of the public. *See* 5 CFR 1320.3(c). This rule has an existing OMB-approved information collection associated with it, OMB control number 1140–0020, Firearm Transaction Record, ATF Form 5300.9 (''Form 4473''). While ATF is proposing a technical amendment to 27 CFR 478.96 to update the information collection's OMB control number to reflect this current collection, this proposed rule would not impose any new reporting or record-keeping requirements covered under the PRA, nor would it impact the existing information collection. FFLs who currently sell firearms to non-licensees through over-the-counter transactions must use Form 4473 and retain it and any associated documents collected as part of the transaction. The FFLs who might choose to offer remote sales on the basis of the proposed rule, if finalized as proposed, would continue

to use Form 4473 and retain it and any associated documents collected as part of the transaction.

J. Congressional Review Act

Pursuant to the Congressional Review Act, 5 U.S.C. 801 *et seq.,* ATF anticipates that this proposed rule would meet the criteria in 5 U.S.C. 804(2) because it would result in an annual effect on the economy of $100 million or more. However, because the economic impact would consist of $236 million in annual deregulatory savings, it would thus not impose costs greater than zero. The proposed rule would remove the existing restriction on FFLs that prohibits most NOTC sales and would save the public $2.36 billion over ten years in burdens arising from exclusively in-person sales, as well as qualitative benefits in terms of greater flexibility and options in how they purchase firearms.

IV. Public Participation

A. Comments Sought

ATF requests comments on the proposed rule from all interested persons. ATF specifically requests comments on the clarity of this proposed rule and how it may be made easier to understand. In addition, ATF requests comments on the costs or benefits of the proposed rule and on the appropriate methodology and data for calculating those costs and benefits.

All comments must reference this document's RIN 1140–AB05 and, if handwritten, must be legible. If submitting by mail, you must also include your complete first and last name and contact information. If submitting a comment through the federal e-rulemaking portal, as described in section IV.C of this preamble, you should carefully review and follow the website's instructions on submitting comments. Whether you submit comments online or by mail, ATF will post them online. If submitting online as an individual, any information you provide in the online fields for city, state, zip code, and phone will not be publicly viewable when ATF publishes the comment on *https://www.regulations.gov.* However, if you include such personally identifying information (''PII'') in the body of your online comment, it may be posted and viewable online. Similarly, if you submit a written comment with PII in the body of the comment, it may be posted and viewable online. Therefore, all commenters should review section IV.B of this preamble, ''Confidentiality,'' regarding how to submit PII if you do not want it published online. ATF may not consider, or respond to, comments that do not meet these requirements or comments containing excessive profanity. ATF will retain comments containing excessive profanity as part of this rulemaking's administrative record, but will not publish such documents on *https://www.regulations.gov.* ATF will treat all comments as originals and will not acknowledge receipt of comments. In addition, if ATF cannot read your comment due to handwriting or technical difficulties and cannot contact you for clarification, ATF may not be able to consider your comment. ATF will carefully consider all comments, as appropriate, received on or before the closing date.

B. Confidentiality

ATF will make all comments meeting the requirements of this section, whether submitted electronically or on paper, and except as provided below, available for public viewing on the internet through the federal e-rulemaking portal, and subject to the Freedom of Information Act (5 U.S.C. 552). Commenters who submit by mail and who do not want their name or other PII posted on the internet should submit their comments with a separate cover sheet containing their PII. The separate cover sheet should be marked with ''CUI//PRVCY'' at the top to identify it as protected PII under the Privacy Act. Both the cover sheet and comment must reference this RIN 1140–AB05. For comments submitted by mail, information contained on the cover sheet will not appear when posted on the internet, but any PII that appears within the body of a comment will not be redacted by ATF and may appear on the internet. Similarly, commenters who submit through the federal e-rulemaking portal and who do not want any of their PII posted on the internet should omit such PII from the body of their comment and any uploaded attachments. However, PII entered into the online fields designated for name, email, and other contact information will not be posted or viewable online.

A commenter may submit to ATF information identified as proprietary or confidential business information by mail. To request that ATF handle this information as controlled unclassified information (''CUI''), the commenter must place any portion of a comment that is proprietary or confidential business information under law or regulation on pages separate from the balance of the comment, with each page prominently marked ''CUI//PROPIN'' at the top of the page.

ATF will not make proprietary or confidential business information submitted in compliance with these instructions available when disclosing the comments that it receives, but will disclose that the commenter provided proprietary or confidential business information that ATF is holding in a separate file to which the public does not have access. If ATF receives a request to examine or copy this information, it will treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). In addition, ATF will disclose such proprietary or confidential business information to the extent required by other legal process.

C. Submitting Comments

Submit comments using either of the two methods described below (but do not submit the same comment multiple times or by more than one method). Hand-delivered comments will not be accepted.

- *Federal e-rulemaking portal:* ATF recommends that you submit your comments to ATF via the federal e-rulemaking portal at *https://www.regulations.gov* and follow the instructions. Comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that is provided after you have successfully uploaded your comment.
- *Mail:* Send written comments to the address listed in the **ADDRESSES** section of this document. Written comments must appear in minimum 12-point font size, include the commenter's first and last name and full mailing address, and may be of any length. See also section IV.B. of this preamble, ''Confidentiality.''

D. Request for Hearing

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director within the 90-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing is necessary.

Disclosure

Copies of this proposed rule and the comments received in response to it are available through the federal e-rulemaking portal, at *https://www.regulations.gov* (search for RIN 1140–AB05).

Severability

Consistent with the Administrative Procedure Act, the issues raised in this

proposed rule may be finalized, or not, independently of each other, after consideration of comments received. ATF has determined that this proposed rule implements and is fully consistent with governing law. However, in the event this proposed rule is finalized, if any provision of that final rule, an amendment or revision made by that rule, or the application of such provision or amendment or revision to any person or circumstance, is held to be invalid or unenforceable by its terms, the remainder of that final rule, the amendments or revisions made by that rule, and application of the provisions of the rule to any person or circumstance shall not be affected and shall be construed so as to give them the maximum effect permitted by law.

List of Subjects in 27 CFR Part 478

Administrative practice and procedure, Arms and munitions, Exports, Freight, Imports, Intergovernmental relations, Law enforcement officers, Military personnel, Penalties, Reporting and recordkeeping requirements, Research, Seizures and forfeitures, Transportation.

For the reasons discussed in the preamble, ATF proposes to amend 27 CFR part 478 as follows:

PART 478—COMMERCE IN FIREARMS AND AMMUNITION

■ 1. The authority citation for 27 CFR part 478 is revised to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 921–931; 44 U.S.C. 3504(h).

■ 2. Amend § 478.96 by:
■ a. Revising the heading of paragraph (b) to read ''Non-over-the-counter (NOTC) transaction for NICS-exempt transfers)'';
■ b. Redesignating paragraphs (c) and (d) to (d) and (e), respectively;
■ c. Adding a new paragraph (c);
■ d. Amending newly designated paragraph (d) by, in the heading, adding the word ''all'' between the words ''for'' and ''NOTC''; in the introductory text, adding the words ''or initiates the NICS background check under paragraph (c)'' between the words ''of this section'' and the comma; in paragraph (d)(1), adding an ''s'' to the end of the word ''paragraph'', adding ''or (c)'' after ''(b)'', and adding ''and, for NICS-exempt transfers,'' between the comma and the words ''the sworn statement''; and in paragraph (d)(4), redesignating the paragraph reference ''(c)'' as ''(d)''; and
■ e. Amending newly designated paragraph (e)(2) by redesignating the paragraph reference ''(d)'' as ''(e)''.

New paragraph (c) reads as follows:

§ 478.96 Non-over-the-counter and out-of-state sales.

* * * * *

(c) *NOTC transactions for NICS background check transfers.* Licensed importers, manufacturers, or dealers may also transfer firearms to a non-licensee who is subject to the provisions of § 478.102(a) of this part and who does not appear in person at the licensee's business premises, if the non-licensee meets the following requirements:

(1) The non-licensee complies with all the requirements in paragraph (b)(1) of this section; and

(2) Submits with Form 4473 a true copy of a valid photo identification document as defined by § 478.11 of this part, residence verification if the photo identification document does not contain the transferee's current residence information (*see* § 478.124(g)), and any other applicable supporting documents prescribed in § 478.124(c).

(3) In such cases, licensees must, prior to every transfer, conduct a video conference with the transferee. During the conference, licensees must inspect the transferee's actual photo identification document and compare it with the transferee's appearance in conformance with § 478.124(c). Licensees must then ensure the transferee verifies their identity through a credential service provider (CSP) using a remote identity verification process.

(i) A ''remote identity verification process'' requires a CSP to validate the transferee's photo identification document and bind the document to the person who appears for remote identity proofing.

(ii) An independent third party must assess the CSP's remote identity proofing process as conforming with the National Institute of Standards and Technology (NIST) guidelines for Identity Assurance Level 2 (IAL2). The CSP's binding process must employ a live physical facial comparison by a CSP representative, or an automated biometrical facial comparison (*e.g.,* ''selfie'' verification), using a live capture of the transferee's facial image and liveness detection. An independent third party must assess the CSP's authentication process for digital identity claimants as conforming with the NIST guidelines for Authentication Assurance Level 2 (AAL2).

(iii) In addition, the licensee must comply with applicable requirements in §§ 478.124(c), (g), (h), and (i) of this part, including verifying the transferee's residence.

(4) If the CSP verifies the transferee's identity, the licensee must initiate a NICS background check prior to transferring the firearm, pursuant to § 478.102(a). The licensee must wait for the NICS background check response or the end of the applicable investigatory period, as required by § 478.102(c) before shipping or delivering the firearm.

(5) When conducting a NOTC transfer subject to a NICS check, the licensee must follow all procedures listed in paragraph (b)(2) of this section, except the requirement to document a NICS exemption under (b)(2)(i).

■ 3. Amend § 478.124(c)(5) by:

■ a. Redesignating paragraphs (iii) through (v) as paragraphs (iv) through (vi);

■ b. Adding a new paragraph (iii);

■ c. In newly designated paragraph (v), adding the phrase ''that are NICS exempt'' after the words ''For non-over-the-counter transfers''; and

■ d. In newly designated paragraph (vi), adding the phrase ''and non-over-the-counter transfers'' after the words ''For over-the-counter transfers''.

The new paragraph reads as follows:

§ 478.124 Firearms transaction record.

* * * * *

(c) * * *

* * * * *

(5) * * *

(iii) For non-over-the-counter transfers subject to a NICS check, ensure that the transferee has included a true copy of the transferee's photo identification document with Form 4473 and that the document's information matches the information the transferee provided on the form. Then follow the procedures for remote identity verification in § 478.96(c).

* * * * *

■ 4. Amend § 478.124(d)(1) by removing the citation ''§ 478.96(d)'' and adding in its place the citation ''§ 478.96(e)''.

■ 5. Amend § 478.124(i) by adding the words ''remote identity proofing verification'' between the semi-colon and the words ''and other required information''.

Robert Cekada,

Director.

[FR Doc. 2026–09157 Filed 5–7–26; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Part 478

[Docket No. ATF–2026–0068; ATF No. 2025R–03P]

RIN 1140–AA89

Interstate Transport and Temporary Export of National Firearms Act Firearms

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms, and Explosives (''ATF'') proposes amending Department of Justice (''Department'') regulations for transporting firearms registered under the National Firearms Act (''NFA'') in interstate or foreign commerce. ATF proposes to no longer require that persons transporting certain NFA firearms within the United States for short-term purposes (365 days or fewer) submit notice to ATF and await approval before transporting; and that persons transporting certain NFA firearms within the United States for long-term purposes (more than 365 days) or for permanent relocation would no longer have to await approval after submitting notice before transporting.

DATES: Comments must be submitted in writing, and must be submitted on or before (or, if mailed, must be postmarked on or before) August 6, 2026. Commenters should be aware that the federal e-rulemaking portal comment system will not accept comments after midnight Eastern Time on the last day of the comment period.

ADDRESSES: You may submit comments, identified by RIN 1140–AA89, by either of the following methods—

- *Federal e-rulemaking portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* ATF Rulemaking Comments; Mail Stop 6N–518, Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave. NE; Washington, DC 20226; *ATTN: RIN 1140–AA89.*

Instructions: All submissions must include the agency name and number (RIN 1140–AA89) for this notice of proposed rulemaking (''NPRM'' or ''proposed rule''). ATF may post all properly completed comments it receives from either of the methods described above, without change, to the federal e-rulemaking portal, *https://www.regulations.gov.* This includes any personally identifying information (''PII'') or business proprietary information (''PROPIN'') submitted in the body of the comment or as part of a related attachment they want posted. Commenters who submit through the federal e-rulemaking portal and do not want any of their PII posted on the internet should omit it from the body of their comment and any uploaded attachments that they want posted. If online commenters wish to submit PII with their comment, they should place it in a separate attachment and mark it at the top with the marking ''CUI//PRVCY.'' Commenters who submit through mail should likewise omit their PII or PROPIN from the body of the comment and provide any such information on the cover sheet only, marking it at the top as ''CUI//PRVCY'' for PII, or as ''CUI//PROPIN'' for PROPIN. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at *https://www.regulations.gov.* Commenters must submit comments by using one of the methods described above, not by emailing the address set forth in the following paragraph.

FOR FURTHER INFORMATION CONTACT: Office of Regulatory Affairs, by email at *ORA@atf.gov,* by mail at Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave. NE; Washington, DC 20226, or by telephone at 202–648–7070 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Attorney General is responsible for enforcing the Gun Control Act of 1968 (''GCA''), as amended. This responsibility includes the authority to promulgate regulations necessary to enforce the provisions of the GCA.[1] *See* 18 U.S.C. 926(a). Congress and the Attorney General have delegated the responsibility for administering and enforcing the GCA to the Director of ATF (''Director''), subject to the direction of the Attorney General and the Deputy Attorney General. *See* 28 U.S.C. 599A(b)(1), (c)(1); 28 CFR 0.130(a)(1)–(2); Treas. Order No. 221(2)(a), (d), 37 FR 11696–97 (June 10, 1972).[2] Accordingly, the Department and ATF have promulgated regulations to implement the GCA in 27 CFR part 478.

The GCA generally makes it unlawful for an individual to transport in interstate or foreign commerce any destructive device,[3] machine gun,[4] short-barreled shotgun,[5] or short-barreled rifle[6] (''affected NFA firearms'') if not specifically authorized to do so by the Attorney General, consistent with public safety and necessity. 18 U.S.C. 922(a)(4). Transportation in interstate commerce includes any transportation of a firearm across state lines, including transportation by individuals for personal use. *See United States* v. *Mullen,* 160 F. App'x 711, 713–14 (10th Cir. 2005) (''A firearm is deemed to have been in interstate commerce if it has been transported across state lines. Because interstate commerce is not limited to interstate trade, the fact that the crossing took place when the gun was taken by its owner [to another state] while on vacation did not render the stipulation [that the gun had been transported in interstate commerce] improvident.'' (internal citation omitted)).

ATF regulations at 27 CFR 478.28 implement 18 U.S.C. 922(a)(4) and state that the Director may authorize a person to transport in interstate or foreign commerce any affected NFA firearm if the Director finds the transportation is reasonably necessary and is consistent with public safety and applicable state and local law. Section 478.28(a) currently provides that a person who desires to transport in interstate or foreign commerce any such NFA firearm must submit a written request to do so. Individuals submit such requests on an

[1] Some GCA provisions still refer to the ''Secretary of the Treasury.'' However, the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, transferred the functions of ATF from the Department of the Treasury to the Department of Justice, under the general authority of the Attorney General. 26 U.S.C. 7801(a)(2); 28 U.S.C. 599A(c)(1). Thus, for ease of reference, this proposed rule refers to the Attorney General where relevant.

[2] In Attorney General Order Number 6353–2025, the Attorney General delegated authority to the Director to issue regulations pertaining to matters within ATF's jurisdiction, including under the National Firearms Act, GCA, and Title XI of the Organized Crime Control Act. ATF's jurisdiction also includes those portions of sec. 38 of the Arms Export Control Act pertaining to permanently importing defense articles and services and the Contraband Cigarette Trafficking Act.

[3] See 18 U.S.C. 921(a)(4) for the definition of ''destructive device.''

[4] See 26 U.S.C. 5845(b) for the definition of ''machinegun.''

[5] See 18 U.S.C. 921(a)(6) for the definition of ''short-barreled shotgun.''

[6] See 18 U.S.C. 921(a)(8) for the definition of ''short-barreled rifle.''

ATF Form 5320.20, Application to Transport Interstate or to Temporarily Export Certain NFA Firearms (''Form 20''). Additionally, under § 478.28(b), persons must wait for individual authorization from the Director before transporting the NFA firearm.

II. Proposed Rule

A. Transporting in Interstate Commerce

ATF is proposing to generally authorize individuals to transport in interstate commerce any of their affected NFA firearms if they have a lawful purpose for transporting the firearm, they are transporting it on a short-term basis (365 days or fewer), and the firearm is legal at the destination location, subject to the qualifications described below. The current individualized approval system for these purposes is unnecessary for any legitimate law enforcement purpose and has proven burdensome for both registrants and ATF.

The current requirement for a person transporting affected NFA firearms in interstate commerce to submit Form 20 and receive approval prior to transporting them was implemented to accomplish three purposes. First, the form satisfies the requirement in 18 U.S.C. 922(a)(4) that persons must receive approval from the Attorney General before transporting their firearms in interstate commerce. Second, it permits ATF to verify that the firearm is registered in the National Firearms Registration and Transfer Record (''NFRTR''). Third, it allows ATF to ensure that it is lawful for the person to transport the firearm into the destination state. However, none of the three is essential to effectively implement the statute as written.

The GCA does not specify how the Attorney General is to give approval. Although the statute uses the term ''specifically authorized,'' the Supreme Court has held that ''even if a statutory scheme requires individualized determinations . . . the decisionmaker has the authority to rely on rulemaking to resolve certain issues of general applicability unless Congress clearly expresses an intent to withhold that authority.'' *Lopez* v. *Davis,* 531 U.S. 230, 243 (2001) (quoting *Am. Hosp. Ass'n* v. *N.L.R.B.,* 499 U.S. 606, 612 (1991)). Nothing in the law suggests Congress intended to prohibit the Attorney General from providing authorization to persons on a categorical basis, provided they meet specific criteria. Thus, the current Form 20 authorization protocol is sufficient to satisfy section 922(a)(4) on an individual basis, but it is not necessary or required by the statute.

ATF also has no need to use Form 20 to verify that an individual has a lawfully registered NFA firearm. Were a question to arise as to whether a transported weapon was properly registered, ATF would be able to query the NFRTR using the firearm's description. An approved Form 20 may have some value to other law enforcement agencies to verify with the possessor that the firearm being transported is registered. But, that purpose can be achieved by other means, including by requiring that persons provide copies of their approved registration documents.

Perhaps the most valuable service provided by Form 20 is for ATF to check whether it is lawful to possess the NFA firearm in the destination state. But it is rare that individuals apply to transport affected NFA firearms into states in which the firearm is prohibited. From January 2020 to May 2025, ATF received approximately 96,865 Forms 20 to transport affected NFA firearms in interstate commerce, both temporarily (short-term and long-term) and permanently. Only 516 (0.5 percent) of these Form 20 applications were denied on the basis that the destination state's law prohibits a person from possessing that kind of firearm in that state. Individuals who intend to travel with their affected NFA firearms can, and do, look up and review state laws on the internet and other readily accessible sources—a fact that likely accounts for the very small number of individuals who apply to bring affected NFA firearms into a state in which the firearm is prohibited.

Most commonly, Form 20 has become an unnecessary regulatory hurdle. Of the 10,532 Forms 20 that were denied from January 2020 to May 2025, the most common reason ATF denied them was for a technical error—that the form was not properly completed—rather than a substantive problem with transporting the firearm as requested. Form 20 also creates unnecessary problems for those traveling with firearms for lawful purposes. ATF often receives requests to expedite Forms 20 due to individuals' imminent travel. However, it has frequently taken ATF longer to process such requests than the time until these persons wish to travel because, until September 30, 2025, Form 20 was not on ATF's eForms system. ATF therefore previously accepted Form 20 only in paper form or via email. Now, when ATF receives a Form 20 application, the average processing time is three days for an eForm, and nine days for a paper form. But that may still be a longer time than some persons might have prior to short-term travel. Further, until September 30, 2025, ATF had been returning Forms 20 only through the United States Postal Service to the registrant's address, to avoid any unlawful disclosure of personal identifying information or tax information. This process added time and created potential disruptions to travel plans, particularly for short-term travel. Now, if a person submits Form 20 via eForms, ATF notifies the person by email when the form is approved and the person can retrieve the approval directly from the system, so this aspect has been alleviated for some persons, but not all. For individuals seeking to bring affected NFA firearms across state lines on a regular basis—for example, for a trip to a shooting range in a neighboring state or travel between residences—the requirement to wait for ATF to approve the form and, if submitted by paper, for it to arrive in the mail before each trip, makes it difficult for individuals to transport and use their affected NFA firearms for lawful purposes.

Accordingly, because the current process adds waiting time, and transportation and planning uncertainty, for persons wishing to lawfully transport their affected NFA firearms outside the state in which they reside, provides little utility to ATF, and does little to alleviate risks to public safety, ATF is proposing to amend 27 CFR 478.28 as described below.

B. Short-Term Interstate Transportation (365 Days or Fewer)

ATF is proposing to specifically authorize persons transporting their affected NFA firearms they own to do so without submitting a request to ATF or waiting for ATF approval, so long as the period for which they are transporting their firearm out of state is for a short duration—365 days or fewer.

C. Long-Term Interstate Transportation (More Than 365 Days) or Permanent Moves

In the case of long-term or permanent moves out of the person's state (more than 365 days, regardless of intent to return), the person would have to submit notice to ATF on an individual basis at least 14 days prior to beginning transportation but would not be required to wait for approval from ATF before initiating the move. For long-term and permanent moves, ATF needs written notice to update the long-term/permanent location of the affected NFA firearm, but for the reasons discussed above, public safety is not meaningfully improved by requiring persons to wait for ATF approval before traveling. The 14-day lead time would allow ATF to

conduct an initial review, if not a final one, of most submissions, and the notice would therefore constitute automatic authorization to transport the firearm unless ATF rescinds it after review. Under this approach, ATF could update NFRTR registration information prior to the planned transportation date or, if rescinding the automatic authorization to transport the firearm, could notify individuals of any legal issues with their intended move. This process would help individuals avoid legal liability or unnecessary costs associated with transporting a firearm to a state where it is illegal. However, requesters would not be required to wait for a response from ATF prior to beginning the move, thus avoiding delays to their plans if a backlog or other issue were to cause a longer processing time. If ATF reviews a notice and rescinds authorization before the requester travels, the individual would not be able to transport the identified firearm; if ATF rescinds authorization after travel has begun, the person would have to stop transporting the firearm. In such cases, there may be remediation options that could be handled en route and enable the person to proceed, but in other cases, the person may have to return home with the firearm. If ATF rescinds authorization after travel has been completed into the destination state, the requester should immediately contact the ATF field division for guidance.

D. ''Pass-Through'' Interstate Transportation

ATF also proposes to clarify that persons transporting affected NFA firearms interstate (temporarily or permanently) are authorized to pass through a jurisdiction within the United States that prohibits the weapon/device they are transporting, provided they do so in compliance with 18 U.S.C. 926A (interstate transportation of firearms).

E. Common/Contract Carrier Interstate Transportation

In addition, the proposed rule clarifies that persons transporting their affected NFA firearms via common/contract carrier must provide the carrier with a copy of the person's NFRTR proof of registration for each firearm. Authorization under section 922(a)(4) and its implementing regulations does not relieve anyone from any requirements or prohibitions imposed by state or local law. The current proposed rule would retain and clarify that fact.

F. Temporary Transportation in Foreign Commerce

These proposed changes would not affect the pre-approval process for temporarily transporting firearms in foreign commerce. Most countries do not allow private individuals to possess affected NFA firearms. By contrast, most states do. The pre-approval process has value in ensuring that persons are exporting weapons lawfully, for proper purposes, and in accordance with the foreign country's laws. Additionally, the United States has strict export controls and Form 20 enables the government to verify compliance with those controls.

Generally, the NFA prohibits importing NFA firearms, with limited exceptions. One such regulatory exception under 27 CFR 479.111(c) provides that a person may return a firearm to the United States provided that person can demonstrate to Customs that the person had originally taken the firearm out of the United States. In the event an NFA firearm is temporarily exported, it can be reimported by the person who took the firearm outside the United States. Form 20 provides proof to Customs that an individual may bring the firearm back into the United States under § 479.111(c).

For the foregoing reasons, a person wishing to temporarily export (short-term and long-term) such firearms would continue to use Form 20 for this purpose as well. A person wishing to permanently export such firearms would continue to use ATF Form 5320.9, Application and Permit for Permanent Exportation of Firearms *(National Firearms Act)* (''Form 9'').

G. Technical Changes

ATF also proposes making minor technical changes to improve and streamline language, including topical sub-headings, shorter sentences, updated form numbers and names, and plain writing.

III. Statutory and Executive Order Review

A. Executive Orders 12866 and 13563

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.

Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of agencies quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting public flexibility.

This proposed rule would amend 27 CFR 478.28 to allow individuals to transport affected NFA firearms across state lines for short-term periods up to 365 days without the need to submit a written request and receive approval from the Director before doing so. It also proposes to allow individuals to transport, for long-term (more than 365 days) or permanent purposes, such firearms in interstate commerce with written notice to ATF, but without the current requirement to wait for ATF to approve an application before transporting the item. In addition, the rule proposes to authorize such individuals to ''pass through'' jurisdictions that do not permit such firearms, as long as the firearms are transported in accordance with statutory requirements. All three actions reduce burdens on the public without creating undue risks to public safety.

The Office of Management and Budget (''OMB'') has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866. Therefore, it did not review this rule. ATF provides the following analysis to comply with Executive Orders 12866 and 13563.

1. Need Statement

ATF believes that Form 20 has become an unnecessary regulatory hurdle. As discussed above, of Forms 20 that were previously denied, the most common reason was that the form was not properly completed, which should not bar a person from traveling with their own firearm. Eliminating the requirement for the form in common short-term situations removes this problem. Form 20 also creates unnecessary problems for those traveling with firearms for lawful purposes. Because the current process adds time and transportation/planning uncertainties for persons wishing to lawfully transport their affected NFA firearms outside the state in which they reside, it provides little utility to ATF and does little to alleviate risks to public safety. Therefore, ATF is proposing to amend 27 CFR 478.28 to address these problems.

2. Benefits

The benefits ATF expects to result from this proposed rule would be primarily qualitative in nature, but some paperwork-related time burdens can be monetarily quantified. For purposes of this analysis, owners of affected NFA firearms fall into three groups, two of which would be affected by this proposed rule. The first group (''Group 1'') consists of owners of affected NFA firearms planning short-term travel

across state lines. Group 1 would no longer incur inconvenient waiting times nor the time required to complete the application. The second group (''Group 2''), consisting of owners planning longer-term temporary travel or permanent domestic relocation with their affected NFA firearms, would not incur the expected wait time since they would no longer be required to wait for ATF approval before transporting their items under this proposed rule, though they would still be required to complete the form and notify ATF 14 days prior to traveling. Finally, the third group, consisting of both short-term and long-term temporary exporters taking their affected NFA firearms out of the country, would not be impacted by the proposed rule as they would still be required to submit the request and wait for ATF approval.

Reduced Time and Uncertainties Waiting for Approval

The existing process adds waiting time, and transportation and planning uncertainty, for persons in Group 1. Waiting and uncertainty generally do not give rise to quantifiable or monetized cost savings but do have qualitative impacts. The delay and processing time under the current system imposes qualitative burdens on owners who decide to travel with their affected NFA firearms and do not have time to wait for approval, or who would otherwise engage in more flexible travel planning but for the uncertain waiting period and outcome. Authorizing such persons to transport their firearms without first submitting a request to ATF or waiting for ATF approval would preclude the affected individuals from having to delay their travel or complete their travel without their affected NFA firearms.

In addition, the proposed rule would also reduce the same time burden and planning uncertainties for persons in Group 2. Although these persons would have to submit the notice 14 days before their planned travel date, these persons would be able to begin their travel as planned, without having to wait for ATF approval, and would thus also experience a time and qualitative benefit.[7]

Based on ATF data, the average processing time for a transportation request is approximately three days for electronic emailed forms and nine days for paper forms.[8] Based on data over the past five years, the average annual number of applications for temporarily transporting affected NFA firearms for short-term purposes is 6,770, with the annual approval rate averaging 90 percent, as shown in Table 1.

TABLE 1—ANNUAL FORM 20 APPLICATIONS FOR SHORT-TERM MOVES AND APPROVAL RATE

Year	Applications[9]	Approval rate (%)
2020	6,471	86
2021	5,584	89
2022	5,745	92
2023	7,878	93
2024	8,173	91
Average	6,770	90

ATF expects this qualitative benefit for persons transporting firearms short-term to be tempered by the fact that a majority of owners of affected NFA firearms who travel with them for exhibitions, shows, contests, and shooting events, tend to be prepared and make arrangements well in advance. This means such individuals generally are not delayed by this application processing time. Similar expectations would apply to persons intending long-term or permanent domestic transportation as part of a move or other change in the item's stored location. However, ATF still expects this proposed rule to ease burdens generally by minimizing paperwork up front (see next paragraph) and enabling more flexibility without jeopardizing public safety.

Reduced Time Completing Requests

ATF also believes the proposed rule will reduce the burden imposed by the current application form and submission process. The request currently takes approximately 45 minutes for an applicant to complete. Members of Group 1 would experience the benefit of eliminating this compliance burden altogether. In addition, the proposed rule would reduce the time burden for Group 2. While members of Group 2 would still submit a request under the proposed rule, the revised Form 20 for this purpose would take less time (15 minutes).

As shown above, under the reduced time and uncertainties portion of this analysis, the average annual request count for all requests to temporarily transport affected NFA firearms is 6,770, which ATF assumes would hold steady over the projection period. To quantify the number of applications both Groups 1 and 2 submit, ATF data shows that, of the total requests to temporarily transport, approximately 78 percent request to transport for under 365 days, while only 22 percent request to temporarily transport and relocate for more than 365 days in duration. Accordingly, of the multi-year average of 6,770, Group 1 (short-term temporary) would be 5,310 individuals, while Group 2 (long-term temporary) would constitute 1,460 individuals.

For purposes of this analysis, ATF estimates that the opportunity costs of completing a request to transport such firearms is based on the person's free time or ''leisure time,'' as ATF assumes that most, if not all, applicants would

[7] Although Group 2 would be able to begin their travel without waiting for ATF approval if not approved by the 14th day, persons in Group 2 would need to cease traveling if ATF ultimately denies the travel. There is some possibility that people might hesitate to embark on such travel as planned due to that prospect, but ATF thinks this would be de minimis as people would have already accounted for that possibility and because it is extremely rare that such requests are denied.

[8] ATF Current Processing Times, Average Processing Times for Applications Processed During November 2025, *https://www.atf.gov/resource-center/current-processing-times* [*https://perma.cc/27C7-JGG5*].

[9] ATF notes that the number of applications to temporarily (short-term or long-term) transport firearms in foreign commerce is small. In 2025, as of July, there were 10,063 Form 20 applications submitted and only 35 of them were for transportation in foreign commerce. Additionally, a survey of the most recent Form 20 submissions found that two of 100 applications were for foreign transportation.

not complete these requests during their work time. ATF relied on the Department of Health and Human Services' (''HHS'') methodology for calculating leisure wages,[10] and ATF used the Bureau of Labor Statistics' (''BLS'') median weekly income for full-time employees as the base from which to calculate the pre-tax hourly wage. ATF then used the proportion between Census publications on median household income and median household income after taxes to estimate the percent of state and federal taxes (14 percent). This percent was deducted from the hourly pre-tax wage to derive the post-tax hourly wage, which becomes the leisure wage under the HHS methodology. Table 2 outlines the leisure wage.

TABLE 2—LEISURE WAGE RATE FOR INDIVIDUALS

Inputs for leisure wage rate	Numerical inputs	Source
Median weekly wage	$1,214	News Release, BLS, *Usual Weekly Earnings for Wage and Salary Workers,* third quarter 2025 *https://perma.cc/PK8F-SSMK*.
Median hourly wage	$30.35	$1,214 median weekly wage/40 hours a week = $30.35.
Real median household income pre-tax.	$83,730	U.S. Census Bureau, *Median Household Income,* 2025 *https://perma.cc/RU47-LLBX*.
Real median household income post-tax.	$72,330	U.S. Census Bureau, *Median Household Income,* post-tax spreadsheet, 2025 *https://perma.cc/M33M-EWY7*.
State and federal taxation	86 percent	$72,330 post-tax income/$83,730 pre-tax income = .86 net household income rate.
Leisure wage	$26.10	$30.35 hourly non-leisure wage * .86 net household income rate = $26.10 hourly leisure wage.
Rounded leisure wage rate	$26.00	

Based in part on HHS's methodology for leisure time, ATF attributes a rounded value of $26 per hour, and a per-request cost of $19.50 for Group 1's time spent completing the required paperwork (45 minutes) before temporarily transporting affected NFA firearms short-term. ATF projects that there would also be similar cost savings for Group 2, due to technological changes enabling eForms and recent and ongoing revisions to the request process. Members in this group would only have their time burden reduced, not eliminated, since they would still be required to submit Form 20 and wait 14 days from when they submit it before being able to transport. Those changes would reduce the current time of 45 minutes to 15 minutes, thereby saving 30 minutes on each request. The cost savings from reducing the time by 30 minutes (.5 hours) is $13 per request ($26 hourly leisure wage * .5 hours).

Table 3 outlines the estimated costs that owners of affected NFA firearms would save per year—on requests to temporarily transport affected NFA firearms (short-term or long-term)—as a result of the proposed rule.

TABLE 3—COST OF REQUESTS TO TEMPORARILY TRANSPORT AFFECTED NFA FIREARMS

Cost item	Number of requests	Hourly burden	Hourly wage rate	Hourly cost	Average annual requests	Rounded cost
Completing request—Group 1	1	0.75	$26	$19.5	5,310	$103,545
Completing request—Group 2	1	0.5	26	13	1,460	18,980
Total						122,525

Overall, ATF estimates that the proposed rule would save persons in Group 1 and Group 2 approximately $122,525 annually, due to the reduced time they would spend completing and submitting requests, making the 10-year savings from this proposed rule approximately $1.23 million.

3. Costs

ATF does not expect the proposed rule to result in any quantifiable or monetized cost in the form of financial burdens to the affected population of affected NFA firearm owners or other groups. There are, however, potential qualitative costs.

For example, by no longer requiring that ATF first ensure the requested travel is compliant with state and local laws before approving interstate transportation, individuals themselves may need to ensure their proposed transportation is lawful, potentially adding both burden and risk to such travel as they might not understand state and local law, might not realize they should check it ahead of time, or might believe federal law supersedes state or local law. The same is true with respect to tribal law.

4. Regulatory alternatives

Alternatives 1 and 2. Retaining the Status Quo or Issuing Guidance

ATF considered continuing the status quo, requiring ATF approval before travelling with affected NFA firearms across State lines. This is also known as the no-action alternative and was rejected as it would continue to impose unnecessary burdens on the public without commensurate benefits. ATF also considered issuing guidance (a ruling or open letter) on the subject but determined that neither option was an appropriate long-term alternative because the regulatory requirements would remain in effect or would be in conflict with guidance. The current process of submitting a request and waiting for ATF approval is hampering individual travel plans, the impact of the proposed changes on public safety would be de minimis, and the current

[10] U.S. Dept of Health and Human Servs., *Valuing Time in the U.S. Department of Health and Human Services Regulatory Impact Analyses: Conceptual Framework and Best Practices* 40–41 (June 2017), *https://aspe.hhs.gov/sites/default/files/private/pdf/257746/VOT.pdf* (last visited April 22, 2026).

requirements are regulatory, so must be adjusted via rulemaking.

Alternative 3. Streamlining or Modernizing the Request Process

ATF also considered taking actions to streamline the process and make it more efficient, instead of pursuing rulemaking. ATF considered actions such as making the forms easier to file and receive (*e.g.,* by using eForms and making the forms less burdensome) and has already improved the current process's efficiency, as discussed under sections I and II of this preamble. And ATF continues to work on ways to further streamline and increase efficiency. However, some improvements can easily be affected by other bandwidth or capacity conditions that create downstream delays and inconveniences. For example, ATF's systems for processing applications are extremely old and, even with people working overtime to process such applications, there are times when so many are submitted that the system cannot continue processing at the usual pace. The number of users slows down the system, which can sometimes cause delays that impact how quickly a person receives a response from ATF. The proposed rule would instead offer members of the public the ability to bypass waiting for ATF approval if their circumstance necessitates it, but it would not prohibit using the existing process if they prefer.

B. Executive Order 14192

Executive Order 14192 (Unleashing Prosperity Through Deregulation) requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed or revised when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation that qualifies as an Executive Order 14192 regulatory action (defined in OMB Memorandum M–25–20 as a final significant regulatory action under section 3(f) of Executive Order 12866 that imposes total costs greater than zero). In furtherance of this requirement, section 3(c) of Executive Order 14192 requires that any new incremental costs associated with such new regulations must, to the extent permitted by law, also be offset by eliminating existing costs associated with at least ten prior regulations. However, this proposed rule would not be an Executive Order 14192 regulatory action because it is not a significant regulatory action as defined by Executive Order 12866 and it would not impose total costs greater than zero. This proposed rule would provide qualitative benefits and generate savings of more than $122,000 per year, or $1.23 million in ten years, by eliminating or changing the requirement to apply to transport a person's NFA firearms to ATF and await ATF's approval before traveling. ATF therefore expects this rule, if finalized as proposed, to qualify as an Executive Order 14192 deregulatory action (defined in OMB Memorandum M–25–20 as a final action that imposes total costs less than zero).

C. Executive Order 14294

Executive Order 14294 (Fighting Overcriminalization in Federal Regulations) requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to each element of those offenses. This proposed rule would not create a criminal regulatory offense and is thus exempt from Executive Order 14294 requirements.

D. Executive Order 13132

This proposed rule would not have substantial direct effects on the states, the relationship between the federal government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132 (Federalism), the Director has determined that this proposed rule would not impose substantial direct compliance costs on state and local governments, preempt state law, or meaningfully implicate federalism. It thus does not warrant preparing a federalism summary impact statement.

E. Executive Order 12988

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform).

F. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, agencies are required to conduct a regulatory flexibility analysis of any proposed rule subject to notice-and-comment rulemaking requirements unless the agency head certifies, including a statement of the factual basis, that the proposed rule would not have a significant economic impact on a substantial number of small entities. Small entities include certain small businesses, small not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Director certifies, after consideration, that this proposed rule would not have a significant economic impact on a substantial number of small entities. ATF estimates that this proposed rule would provide savings for NFA firearm owners, as well as qualitative benefits. Furthermore, this proposed rule is deregulatory and would not impose any additional costs.

G. Unfunded Mandates Reform Act of 1995

This proposed rule does not include a federal mandate that might result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it would not significantly or uniquely affect small governments. Therefore, ATF has determined that no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

H. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (''PRA''), 44 U.S.C. 3501–3521, agencies are required to submit to OMB, for review and approval, any information collection requirements a rule creates or any impacts it has on existing information collections. An information collection includes any reporting, record-keeping, monitoring, posting, labeling, or other similar actions an agency requires of the public. *See* 5 CFR 1320.3(c). This proposed rule would create the need to revise an existing information collection covered under the PRA. The title (which ATF is proposing to revise to clarify the new scope) and description of the information collection, a description of those who provide the information, and an estimate of the total annual burden under the proposed changes follow. The estimate reflects a reduction in the number of respondents requesting to temporarily transport affected NFA firearms across state lines (to remove all persons currently required to apply to transport firearms short-term) and a reduction in hourly burden from 45 minutes to 15 minutes (due to technological developments and a more streamlined process) to complete a request.

Title: Application to Transport Interstate or Temporarily Export Certain National Firearms Act (NFA) Firearms.

OMB control number: 1140–0010.

Summary of the information collection: This information collection requires that persons must submit ATF Form 5320.20, Application to Transport

Interstate or Temporarily Export Certain National Firearms Act (NFA) Firearms (''Form 20''), to ATF prior to transporting certain NFA firearms (destructive devices, machine guns, short-barreled shotguns, short-barreled rifles) in interstate commerce long-term (for more than 365 days) or permanently. An applicant must also submit Form 20 before temporarily exporting such firearms outside the country in foreign commerce.

Need for and proposed use of information: Tracking the location of certain types of firearms being moved long-term or permanently within the United States, or exported temporarily outside the United States, to comply with statutory requirements.

Description of the respondents: Persons who possess the designated kinds of NFA firearms.

Number of respondents: Currently in inventory: 20,000. If the proposals in this rule are finalized as proposed: 9,361.

Frequency of response: As needed.

Burden of response: Current: 45 minutes. Stemming from this rule: 15 minutes per response.

I. Congressional Review Act

This proposed rule would not be a major rule as defined by the Congressional Review Act, 5 U.S.C. 804.

IV. Public Participation

A. Comments Sought

ATF requests comments on the proposed rule from all interested persons. ATF specifically requests comments on the clarity of this proposed rule and how it may be made easier to understand. In addition, ATF requests comments on the costs or benefits of the proposed rule and on the appropriate methodology and data for calculating those costs and benefits.

All comments must reference this document's RIN 1140–AA89 and, if handwritten, must be legible. If submitting by mail, you must also include your complete first and last name and contact information. If submitting a comment through the federal e-rulemaking portal, as described in section IV.C. of this preamble, you should carefully review and follow the website's instructions on submitting comments. Whether you submit comments online or by mail, ATF will post them online. If submitting online as an individual, any information you provide in the online fields for city, state, zip code, and phone will not be publicly viewable when ATF publishes the comment on *https://www.regulations.gov.* However, if you include such personally identifying information (''PII'') in the body of your online comment, it may be posted and viewable online. Similarly, if you submit a written comment with PII in the body of the comment, it may be posted and viewable online. Therefore, all commenters should review section IV.B. of this preamble, ''Confidentiality,'' regarding how to submit PII if you do not want it published online. ATF may not consider, or respond to, comments that do not meet these requirements or comments containing excessive profanity. ATF will retain comments containing excessive profanity as part of this rulemaking's administrative record but will not publish such documents on *https://www.regulations.gov.* ATF will treat all comments as originals and will not acknowledge receipt of comments. In addition, if ATF cannot read your comment due to handwriting or technical difficulties and cannot contact you for clarification, ATF may not be able to consider your comment.

ATF will carefully consider all comments, as appropriate, received on or before the closing date.

B. Confidentiality

ATF will make all comments meeting the requirements of this section, whether submitted electronically or on paper, and except as provided below, available for public viewing on the internet through the federal e-rulemaking portal, and subject to the Freedom of Information Act (5 U.S.C. 552). Commenters who submit by mail and who do not want their name or other PII posted on the internet should submit their comments with a separate cover sheet containing their PII. The separate cover sheet should be marked with ''CUI//PRVCY'' at the top to identify it as protected PII under the Privacy Act. Both the cover sheet and comment must reference this RIN 1140–AA89. For comments submitted by mail, information contained on the cover sheet will not appear when posted on the internet, but any PII that appears within the body of a comment will not be redacted by ATF and may appear on the internet. Similarly, commenters who submit through the federal e-rulemaking portal and who do not want any of their PII posted on the internet should omit such PII from the body of their comment and any uploaded attachments. However, PII entered into the online fields designated for name, email, and other contact information will not be posted or viewable online.

A commenter may submit to ATF information identified as proprietary or confidential business information by mail. To request that ATF handle this information as controlled unclassified information (''CUI''), the commenter must place any portion of a comment that is proprietary or confidential business information under law or regulation on pages separate from the balance of the comment, with each page prominently marked ''CUI//PROPIN'' at the top of the page.

ATF will not make proprietary or confidential business information submitted in compliance with these instructions available when disclosing the comments that it receives but will disclose that the commenter provided proprietary or confidential business information that ATF is holding in a separate file to which the public does not have access. If ATF receives a request to examine or copy this information, it will treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). In addition, ATF will disclose such proprietary or confidential business information to the extent required by other legal process.

C. Submitting Comments

Submit comments using either of the two methods described below (but do not submit the same comment multiple times or by more than one method). Hand-delivered comments will not be accepted.

- *Federal e-rulemaking portal:* ATF recommends that you submit your comments to ATF via the federal e-rulemaking portal at *https://www.regulations.gov* and follow the instructions. Comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that is provided after you have successfully uploaded your comment.
- *Mail:* Send written comments to the address listed in the **ADDRESSES** section of this document. Written comments must appear in minimum 12-point font size, include the commenter's first and last name and full mailing address, and may be of any length. See also section IV.B of this preamble, ''Confidentiality.''

D. Request for Hearing

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director within the 90-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing is necessary.

Disclosure

Copies of this proposed rule and the comments received in response to it are available through the federal e-rulemaking portal at *https://www.regulations.gov* (search for RIN 1140–AA89).

Severability

Consistent with the Administrative Procedure Act, the issues raised in this proposed rule may be finalized, or not, independently of each other, after consideration of comments received. ATF has determined that this proposed rule implements and is fully consistent with governing law. However, in the event this proposed rule is finalized, if any provision of that final rule, an amendment or revision made by that rule, or the application of such provision or amendment or revision to any person or circumstance, is held to be invalid or unenforceable by its terms, the remainder of that final rule, the amendments or revisions made by that rule, and application of the provisions of the rule to any person or circumstance shall not be affected and shall be construed so as to give them the maximum effect permitted by law.

List of Subjects in 27 CFR Part 478

Administrative practice and procedure, Arms and munitions, Exports, Freight, Imports, Intergovernmental relations, Law enforcement officers, Military personnel, Penalties, Reporting and recordkeeping requirements, Research, Seizures and forfeitures, Transportation.

For the reasons discussed in the preamble, ATF proposes to amend 27 CFR part 478 as follows:

PART 478—COMMERCE IN FIREARMS AND AMMUNITION

■ 1. The authority citation for part 478 continues to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 847, 921–931; 44 U.S.C. 3504(h).

■ 2. Revise § 478.28, including its heading, to read as follows:

§ 478.28 Transporting destructive devices and certain firearms.

(a) *Transporting in interstate commerce.* The Director specifically authorizes individuals to transport in interstate commerce any machine gun (as defined in 26 U.S.C. 5845(b)), short-barreled rifle, short-barreled shotgun, or destructive device, provided the individual meets the following conditions:

(1) The firearm is properly registered to that individual in the National Firearms Registration and Transfer Record (NFRTR);

(2) The individual is going to a place where the individual may lawfully possess the firearm;

(3) The firearm is being transported for a lawful purpose; and

(4) The individual carries, in paper (original or copy) or electronic form, the firearm's NFA permit to prove it is registered to the individual in the NFRTR.

(b) *Short-term interstate transportation.* If the individual is transporting an NFA firearm as authorized under paragraph (a) of this section for short-term purposes (*i.e.,* 365 days or fewer), the Director authorizes such short-term transportation without notifying ATF.

(c) *Pass-through interstate transportation.* If, during the course of transporting a firearm as authorized under paragraph (a) of this section, the individual passes through a jurisdiction that prohibits the firearm, the Director authorizes such pass-through transportation, provided the individual is transporting the firearm in compliance with 18 U.S.C. 926A (interstate transportation of firearms).

(d) *Common/contract carrier interstate transportation.* If the individual transporting the firearm under paragraph (a) of this section uses a common/contract carrier, the individual must provide the common/contract carrier with a copy of the firearm's NFA permit to prove it is registered to the individual in the NFRTR. Providing this permit also satisfies the notice requirements of 18 U.S.C. 922(e).

(e) *Long-term or permanent interstate transportation.* If the individual is transporting the firearm under paragraph (a) of this section for purposes of a long-term (more than 365 days) or permanent move, the individual must notify ATF on a form designated by the Director fourteen days prior to the move and is authorized to initiate the move 14 days thereafter, except that:

(1) Such individuals may not initiate the move if, before they do so, the Director rescinds the authorization to transport the firearm because transporting or possessing the firearm would place them in violation of law; and

(2) If exigent circumstances preclude individuals from providing fourteen days' notice to ATF before initiating the move, they must:

(i) Submit the notice as soon as practicable, informing ATF that they have moved (or are about to move) the firearm; and

(ii) Comply with any directions provided by the Director that are necessary to ensure that possessing the firearm in the new location remains in compliance with law.

(3) If a person transports a firearm under paragraph (a) of this section for short-term purposes, which later materializes into a long-term or permanent move, then the person must provide notice under paragraph (f) within seven days of learning of the changed circumstances. The person must comply with any directions subsequently received from the Director to ensure that possessing the firearm remains in compliance with law.

(f) *Long-term/permanent move notice elements.* The notice identified in paragraph (e) of this section must include the following:

(1) Registered owner's identification information and a description of the firearm sufficient to locate it in the NFRTR;

(2) Whether the move involves transferring the title;

(3) Purpose for transporting the firearm;

(4) Approximate transportation start- and end-dates;

(5) Transportation mode (including, if by common/contract carrier, the name and address of such carrier);

(6) Current location of the firearm and the new place to which it will be transported and stored; and

(7) Evidence that transporting or possessing such firearm is not inconsistent with the laws at the destination.

(g) *Temporary transportation in foreign commerce.* An individual temporarily transporting a firearm described in paragraph (a) of this section in foreign commerce (*i.e.,* exporting or transporting out of the United States) must file the notice described in paragraphs (e) and (f) of this section. Individuals must not transport such firearms in foreign commerce until they have received approval from the Director. To permanently export NFA firearms, see 27 CFR 479 subpart H.

(h) *Relief from other requirements.* Authorization granted under this section does not carry or import relief from any other statutory or regulatory provision relating to firearms, including state or local laws that may restrict or prohibit the firearms enumerated in 18 U.S.C. 922(a)(4).

(i) *Transportation by federal firearms licensees.* This section may not be construed as requiring licensees to obtain authorization to transport machine guns, short-barreled rifles, short-barreled shotguns, and destructive

devices in interstate or foreign commerce, provided the licensee meets the following conditions:

(1) In the case of a licensed importer, manufacturer, or dealer, the licensee is qualified under the National Firearms Act and this part to engage in the business with respect to the firearms being transported (*see also* part 479 of this chapter); or

(2) In the case of a licensed collector, the firearm being transported is a curio or relic.

Robert Cekada,

Director.

[FR Doc. 2026–09161 Filed 5–7–26; 8:45 am]

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DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Parts 478 and 479

[Docket No. ATF–2026–0069; ATF No. 2025R–06P]

RIN 1140–AA93

Firearm Activities in Foreign Trade Zones, Customs-Bonded Warehouses

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms, and Explosives (''ATF'') proposes amending the definition of ''importation'' in the implementing regulations for the Gun Control Act (''GCA'') and the National Firearms Act (''NFA''). Specifically, the rule proposes to create an exclusion from the GCA and NFA's import requirements for items brought into a customs-bonded warehouse (''CBW'') (in addition to the existing exclusion for a foreign-trade zone (''FTZ'')). The proposed modification to the definition would also remove the condition that items may be brought into FTZs and CBWs only ''for storage.'' The proposed rule does not exempt merchandise from any applicable customs requirements.

DATES: Comments must be submitted in writing, and must be submitted on or before (or, if mailed, must be postmarked on or before) August 6, 2026. Commenters should be aware that the federal e-rulemaking portal comment system will not accept comments after midnight Eastern Time on the last day of the comment period.

ADDRESSES: You may submit comments, identified by RIN 1140–AA93, by either of the following methods—

- *Federal e-rulemaking portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* ATF Rulemaking Comments; Mail Stop 6N–518, Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave. NE; Washington, DC 20226; *ATTN: RIN 1140–AA93.*

Instructions: All submissions must include the agency name and number (RIN 1140–AA93) for this notice of proposed rulemaking (''NPRM'' or ''proposed rule''). ATF may post all properly completed comments it receives from either of the methods described above, without change, to the federal e-rulemaking portal, *https://www.regulations.gov.* This includes any personally identifying information (''PII'') or business proprietary information (''PROPIN'') submitted in the body of the comment or as part of a related attachment they want posted. Commenters who submit through the federal e-rulemaking portal and do not want any of their PII posted on the internet should omit it from the body of their comment and any uploaded attachments that they want posted. If online commenters wish to submit PII with their comment, they should place it in a separate attachment and mark it at the top with the marking ''CUI//PRVCY.'' Commenters who submit through mail should likewise omit their PII or PROPIN from the body of the comment and provide any such information on the cover sheet only, marking it at the top as ''CUI//PRVCY'' for PII, or as ''CUI//PROPIN'' for PROPIN. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at *https://www.regulations.gov.* Commenters must submit comments by using one of the methods described above, not by emailing the address set forth in the following paragraph.

FOR FURTHER INFORMATION CONTACT: Office of Regulatory Affairs, by email at *ORA@atf.gov,* by mail at Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave. NE; Washington, DC 20226, or by telephone at 202–648–7070 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Attorney General is responsible for enforcing the Gun Control Act (''GCA''), as amended, and the National Firearms Act (''NFA''), as amended.[1] This includes the authority to promulgate regulations necessary to enforce the provisions of the GCA and NFA. *See* 18 U.S.C. 926(a); 26 U.S.C. 7801(a)(2)(A)(ii), 7805(a). Congress and the Attorney General have delegated the responsibility for administering and enforcing the GCA and NFA to the Director of ATF (''Director''), subject to the direction of the Attorney General and the Deputy Attorney General. *See* 28 U.S.C. 599A(b)(1), (c)(1); 28 CFR 0.130(a)(1)–(2); Treas. Order No. 221(2)(a), (d), 37 FR 11696–97 (June 10, 1972).[2] Accordingly, the Department and ATF have promulgated regulations implementing both the GCA and the NFA in 27 CFR parts 478 and 479. In addition to enforcing and administering the GCA and the NFA, ATF is responsible for enforcing and administering the permanent import provisions of the Arms Export Control Act (''AECA''), 22 U.S.C. 2778. Each of these laws restricts the import of certain firearms, ammunition, barrels, or defense articles. The President has delegated to the Attorney General the authority to designate and control permanent import of defense articles and services appearing on the U.S. Munitions Import List (''USMIL''). *See* E.O. 13637, *Administration of Reformed Export Controls,* 78 FR 16129 (Mar. 8, 2013); 27 CFR 447.1.

The GCA, at 18 U.S.C. 922(*l*), makes it unlawful for any person to knowingly import or bring into the United States any firearm or ammunition except as permitted under section 925(d), which specifies the conditions under which the Attorney General must authorize importing those items into the United States. The NFA, at 26 U.S.C. 5844, also restricts importing certain types of firearms defined as NFA firearms, with

[1] Some NFA and GCA provisions still refer to the ''Secretary of the Treasury.'' However, the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, transferred the functions of ATF from the Department of the Treasury to the Department of Justice, under the general authority of the Attorney General. 26 U.S.C. 7801(a)(2); 28 U.S.C. 599A(c)(1). Thus, for ease of reference, this proposed rule refers to the Attorney General where relevant.

[2] In Attorney General Order Number 6353–2025, the Attorney General delegated authority to the Director to issue regulations pertaining to matters within ATF's jurisdiction, including under the NFA, GCA, and Title XI of the Organized Crime Control Act. ATF's jurisdiction also includes those portions of sec. 38 of the Arms Export Control Act pertaining to permanently importing defense articles and services and the Contraband Cigarette Trafficking Act.

similar limited exceptions. *See also* 27 CFR 479.111. Finally, the AECA, at 22 U.S.C. 2778, authorizes controls on importing defense articles appearing on the USMIL.

The term ''importation'' is not defined in either the GCA or NFA but is defined in the regulations that implement those statutes. The GCA regulations define ''importation'' as ''[t]he bringing of a firearm or ammunition into the United States,'' 27 CFR 478.11, while the NFA regulations define ''importation'' as ''[t]he bringing of a firearm within the limits of the United States or any territory under its control or jurisdiction, from a place outside thereof (whether such place be a foreign country or territory subject to the jurisdiction of the United States), with intent to unlade.'' 27 CFR 479.11. AECA regulations define ''importation'' as ''bringing into the United States from a foreign country any of the articles on the [USMIL],'' which includes many firearms and ammunition regulated under the GCA and NFA, as well as firearm parts. 27 CFR 447.11.

Both the GCA and the NFA regulations explicitly exclude from their definition of ''importation'' the bringing of a firearm into a foreign-trade zone (''FTZ''). FTZs are secure areas located in or near ports of entry and are established by the Foreign Trade Zone Board under the Foreign Trade Zone Act of 1934 (''FTZ Act''), as amended. 19 U.S.C. 81a–81u. FTZs are outside of the customs territory of the United States for purposes of paying duties but are not outside of the United States' legal jurisdiction generally. *See* 15 CFR 400.1(c). With respect to FTZs, the GCA's implementing regulations state that bringing a firearm ''from outside the United States *into a foreign-trade zone for storage* pending shipment to a foreign country or subsequent importation into this country, pursuant to this part, *shall not be deemed importation*.'' *See* 27 CFR 478.11 (emphases added). The NFA's implementing regulations similarly exclude FTZs from the definition of ''importation,'' providing that bringing an NFA firearm into an FTZ for storage pending shipment to a foreign country or subsequent importation into this country under Title 26 of the United States Code is not ''importation.'' *See* 27 CFR 479.11. As a result of these definitional exceptions, firearms and other regulated items (like barrels and ammunition) may be brought from outside the United States into FTZs for storage without regard to the GCA's and NFA's import restrictions.

However, the AECA regulations do not exempt from ''importation'' firearms that are admitted into FTZs for storage pending shipment to a foreign country or subsequent importation. *See* 27 CFR 447.11. Under the AECA regulations, firearms and firearm parts listed as defense articles on the USMIL are considered imported unless they are transactions subject to Department of State controls. Therefore, to comply with the AECA, a federal firearms licensee (''FFL'') must complete ATF Form 5330.3A, Application/Permit to Import Firearms, Ammunition, and Defense Articles (''Form 6, part I''), and obtain approval from ATF prior to bringing any firearms into FTZs. *See* 27 CFR 447.41. To withdraw firearms from an FTZ and permanently import them into the United States, an FFL must complete ATF Form 5330.3C, Releasing/Receiving Imported Firearms, Ammunition and Defense Articles (''Form 6A'') and receive approval from ATF. *See* 27 CFR 478.113.

Federal law also allows items to be brought into Customs Bonded Warehouses (''CBWs''), which are distinct from FTZs and are ''buildings or parts of buildings and other enclosures . . . for the storage of imported merchandise entered for warehousing, or taken possession of by the appropriate customs officers or under seizure, or for the manufacture of merchandise in bond, or for the repacking, sorting, or cleaning of imported merchandise.'' 19 U.S.C. 1555(a). CBWs are supervised and regulated by U.S. Customs and Border Protection (''CBP''). *Id.* However, because the current GCA and NFA regulations do *not* exempt items brought into CBWs from the definition of ''importation'' despite the functional similarities between FTZs and CBWs, firearms brought into a CBW are currently considered ''imported'' and must therefore qualify for an exception to the general import prohibitions of the GCA, 18 U.S.C. 925(d), and the NFA, 26 U.S.C. 5844.

II. Proposed Rule

A. Adding Customs-Bonded Warehouses to the Import Exceptions

ATF is proposing that items brought into CBWs be excepted from the GCA and NFA regulatory definitions of ''importation'' in the same way that items brought into FTZs are currently excepted.

Some firearms industry members have historically conducted firearms activities such as storage, manipulation, or destruction in CBWs rather than in FTZs. But, in October 2024, ATF issued an Open Letter to FFLs on ''Allowable Activities for Firearms Brought into Customs Bonded Warehouses and Foreign Trade Zones'' (''FTZ/CBW Open Letter''),[3] which clarified that 27 CFR 478.11 and 479.11 permit an importer to bring firearms and ammunition into only FTZs, but not CBWs, for storage pending importation into the United States. As a result, firearms brought into CBWs are currently subject to the import restrictions of the GCA and NFA. The FTZ/CBW Open Letter resulted in firearms industry members needing to transition these activities to FTZs. Some industry members were required to establish new FTZs with the FTZ Board. Although there are differences between CBWs and FTZ for purposes of customs law and regulations,[4] ATF finds that for purposes of GCA and NFA import restrictions that there is no statutory basis to treat CBWs differently from FTZs, and that forcing importers to transition from one to the other may needlessly impose additional costs on industry members. ATF believes it is in the public interest to alleviate this burden by allowing importers to choose whether to conduct these authorized activities in either an FTZ or a CBW based on, for example, the availability of such facilities near their place of business, or differences in applicable customs regulations that may impact business operations.

Accordingly, ATF specifically proposes to update its regulations under 27 CFR 478.11 and 479.11 to exclude

[3] ATF, *Open Letter to All Federal Firearms Licensees: Allowable Activities for Firearms Brought into Customs Bonded Warehouses and Foreign Trade Zones* (Oct. 31, 2024), *https://www.atf.gov/firearms/docs/open-letter/all-ffls-october-2024-open-letter-allowable-activities-firearms-brought/download* [*https://perma.cc/GF73-SEJU*].

[4] CBWs and FTZs are both CBP supervised areas that allow for the deferral of duties and taxes along with delay in decisions as to admissibility on imported merchandise. However, they differ significantly in their underlying statutory authorities, regulatory framework, operational flexibility, storage duration, and the types of goods and activities permitted, which can lead to inefficiencies and confusion if CBWs and FTZs are mistakenly treated as equivalent. Merchandise brought into a CBW is held in joint custody between the proprietor and CBP. The importer is responsible for duties on the warehoused goods, guaranteed by the terms and conditions of its basic importation bond. The CBW proprietor is responsible for safekeeping of the goods, guaranteed by the terms and conditions of its basic custodial bond. Merchandise admitted into an FTZ remains the sole responsibility of the zone operator, whose Foreign Trade Zone Operator bond guarantees safekeeping of the goods and payment of duties on any merchandise that cannot be accounted for. Prohibited merchandise may not be admitted into an FTZ but is not barred from entry and storage into a CBW. *See* Customs Border Protection, *Foreign-Trade Zones Frequently Asked Questions, https://www.help.cbp.gov/s/article/Article-1905?language=en_US* [*https://perma.cc/H6BQ-7B4Z*]; *What is a Customs-Bonded Warehouse, https://www.help.cbp.gov/s/article/Article1853?language=en_US* [*https://perma.cc/JE8P-YKMK*].

both FTZs and CBWs from the definition of ''importation.'' [5] This amendment would provide greater flexibility under ATF regulations to parties who conduct authorized activities in FTZs and CBWs. ATF believes that extending the FTZ exemption from GCA and NFA importation restrictions to items stored in CBWs does not create a public safety risk. A CBW is managed by both CBP and the warehouse proprietor, and CBP has a right of entry into CBWs. Importers and manufacturers should note, however, that federal customs law and regulations limit the types of activity that can be conducted in a CBW and FTZ, independent of the restrictions of the GCA, NFA, and AECA. *See, e.g.,* 19 U.S.C. 81c(a); 19 CFR 19.1(a). Under the proposed rule, the scope of the exemption for CBWs would be the same as the one for FTZs and would thus not impact any other aspect of the requirements under the GCA or NFA.

B. Removing the ''for storage'' Limitation on the FTZ Exception in the Definition of ''importation''

The current definitions of ''importation'' in the GCA and NFA regulations have caused considerable uncertainty among industry members as to what kinds of activities are permissible within FTZs (which, under this proposed rule, would also be permissible in CBWs). This uncertainty has imposed unnecessary costs on industry members and on ATF, and it has constrained the ability of the industry to take advantage of the economic opportunities provided in the customs code. The FTZ/CBW Open Letter noted that ''storage'' is not defined in the applicable law or regulation, but that ATF permits limited activities like repacking or sorting because they are ''incidental to the primary purpose of storage.'' However, ATF continues to receive questions about what activities are permitted under this interpretation. It can take ATF considerable time to respond to these questions to ensure adequate legal review and consistency in its responses. This incurs labor costs to the agency (costing taxpayers money), and response delays increase industry uncertainty.

By removing the requirement from the regulation that items be brought into FTZs (and, as proposed above, CBWs) only ''for storage,'' there will no longer be ambiguity in these definitions as to what is and is not permitted. ATF notes that CBP is responsible for determining what operations pertaining to firearms conducted in a CBW are permissible and the FTZ Board is responsible for determining what operations pertaining to firearms conducted in an FTZ are permissible. For example, manufacturing within CBWs is restricted by CBP regulations, which permit manufacturing to occur only in specified warehouses and solely for purposes of exporting from the United States if the articles are made in whole or in part of imported materials or of materials subject to internal-revenue tax. *See* 19 CFR 19.1(a)(6). Accordingly, although ATF will not preclude firearms from being brought into an FTZ or CBW for purposes other than storage, whether any operation other than storage is permitted is contingent upon a determination by the FTZ Board for FTZs or CBP for CBWs in accordance with applicable customs laws.

In addition to regulatory clarity, eliminating the storage limitation for firearms under ATF regulations will benefit industry members in the United States and the American economy generally. The storage limitation currently prohibits an importer from bringing firearms into an FTZ or CBW and performing manufacturing or manufacturing-type activities on them before selling the firearms overseas. To do so under the existing regulatory framework, an importer must go through the process of importing the firearms into the United States (if they are of the type that can be imported), paying the duties, performing the work on them, and re-exporting them. Additionally, because of the regulatory restriction, ATF has previously denied requests from importers who have sought permission to first bring nonsporting weapons (which generally cannot be imported under the GCA) into an FTZ or CBW in order to reconfigure or reassemble them into sporting configurations before bringing them into the United States, as permitted by applicable customs laws and regulations. Removing the storage restriction and allowing other permitted activities like these to occur within CBWs and FTZs, which are geographically located within the United States, would provide greater flexibility to businesses in terms of the types of activities they can do within these spaces on their firearms using American labor, which in turn would benefit the American economy.

ATF does not believe that removing the ''for storage'' limitation will negatively impact public safety or undermine the GCA and NFA. Regardless of whether firearms are manufactured outside the United States or manipulated in FTZs (or CBWs) before being imported, the firearms must qualify for import under the GCA (and NFA, if applicable), and the importer or manufacturer must be federally licensed and comply with marking and record-keeping requirements to ensure the firearms are traceable (and, if required under the NFA, tax-paid and registered).[6]

Additionally, other agencies regulate all activities pertaining to merchandise brought into FTZs or CBWs, which further alleviates any public safety concern. For example, manufacturing in CBWs is permitted in only specified warehouses and solely for purposes of exporting from the United States articles made in whole or in part of imported materials or of materials subject to internal-revenue tax. *See* 19 CFR 19.1(a)(6). In addition, only certain compliant merchandise can be transported in-bond, necessitating that the merchandise is properly moved from the port of arrival to an appropriate type of bonded warehouse at the port of entry. *See* 19 CFR 18.1.

Finally, clarity in the regulations furthers the Administration's priority of clearly delineating proscribed conduct so that ''unwitting individuals'' will not be subject to prosecution. *See* E.O. 14294, *Fighting Overcriminalization in Federal Regulations,* 90 FR 20363 (May 9, 2025). By removing the vague ''for storage'' restriction, the proposed amendment minimizes potential ambiguity in the regulatory language.

In addition, ATF is proposing technical edits to the two definitions for plain writing purposes, and to add ''firearm barrel'' to the definition under 27 CFR 478.11 among items that may be imported, so that it more faithfully aligns with the statute at 18 U.S.C. 925(d)(3).

III. Statutory and Executive Order Review

A. Executive Orders 12866 and 13563

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.

Executive Order 13563 (Improving Regulation and Regulatory Review)

[5] The new definitions for ''importation'' proposed herein are distinct from how this term is defined for customs law purposes. *See* 19 CFR 101.1.

[6] As noted above, however, to comply with the AECA, an FFL must complete an ATF Form 6, part I, and obtain approval from ATF prior to bringing any firearms into FTZs or CBWs. *See* 27 CFR 447.41. To subsequently withdraw firearms from an FTZ that can be permanently imported into the United States per the law and regulations, FFLs must complete a Form 6A and receive approval from ATF. *See* 27 CFR 478.113.

emphasizes the importance of agencies quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting public flexibility.

The Office of Management and Budget (''OMB'') has determined that, although this rule is not economically significant, this rule is a ''significant regulatory action'' under section 3(f)(1) of Executive Order 12866. OMB has therefore reviewed this rule. ATF provides the following analysis to comply with Executive Orders 12866 and 13563. In 2024, ATF published an open letter clarifying that ATF regulations only permitted firearms and other regulated items to be brought from outside the United States into FTZs for storage without regard to the GCA's and NFA's import restrictions and that such an exemption did not extend to CBWs. As a result, firearms brought into CBWs are currently subject to the import restrictions of the GCA and NFA. The FTZ/CBW Open Letter resulted in firearms industry members needing to transition these activities to FTZs. This proposed rule would amend 27 CFR 478.11 and 479.11 so that items brought into CBWs be excepted from the GCA and NFA regulatory definitions of ''importation'' in the same way that items brought into FTZs are currently excepted. This would allow FFL importers to use CBWs in lieu of FTZs.

Based on ATF's Federal Firearms Licensing Center, there are 1,666 FFL importers. Of these, an unknown subset may have been using CBWs instead of FTZs. ATF assumes for purposes of this analysis that this proposed rule would impact approximately 10 percent of all FFL importers (167 FFL importers).

While using FTZs may be more advantageous than CBWs, some FFL importers have not used FTZs. Enforcing the GCA and NFA import restrictions as applied to CBWs requires that non-compliant FFL importers transition their operating locations to a new location. For example, they may have to establish an FTZ, which may have a one-time application fee of $10,000 and require operating agreements, employee oversight, and annual servicing fees of $10,000.[7] Since these operating service agreements, security requirements, and employee oversight obligations may be customized to suit each particular location and or size and operation of any given FFL, ATF requests comments as to the incremental difference in operating costs between operating in an FTZ compared to a CBW.

Assuming that 10 percent of all FFL importers would move their operations to an FTZ absent this proposed rule, at minimum the proposed rule may save the industry a one-time initial application fee of $1.67 million if importers have the option to operate in a CBW.[8] This savings may be more or less, depending on the difference in operating costs between an FTZ and a CBW. Currently, based on anecdotal information from the industry, the process to move importers' operations from a CBW to an FTZ may be difficult and cost millions of dollars to continue operating while seeking a permanent location to an FTZ. To the extent that there are transition costs, ATF requests public comments from importers regarding the costs they may incur to an establish a CBW compared to an FTZ, such costs to apply, the estimated difference in security cost between a CBW and FTZ, the estimated cost to move goods and equipment from CBW to an FTZ, and any other differences in costs incurred when switching from a CBW to FTZ. In addition, ATF requests information on how this proposed rule may alter other business decision making and how industry may make use of the flexibilities granted. For example:

- What benefits or savings would a business realize by bringing firearms into a CBW rather than an FTZ?
- What additional activities, not presently performed on firearms, does a business anticipate performing in an FTZ or CBW if the ''for storage'' requirement is removed as proposed?
- Are there other incidental services that make it more advantageous to bring firearms into a CBW compared to an FTZ?

The benefit to this proposed rule is to allow FFL importers who have historically used CBWs instead of FTZs to continue to do so and not require them to transition their operations to an FTZ.

Alternative 1. Maintaining the Status Quo (No Action Alternative)

ATF considered various alternatives, including maintaining the status quo. Maintaining the status quo would require current non-compliant FFL importers to move their operations from a CBW to an FTZ. If, as discussed above, 10 percent of existing FFL importers are operating in a CBW and need to move their operations and transition to an FTZ, this would cost them a minimum of approximately $1.67 million and additional operating costs until these importers could finalize their change in locations. ATF has concluded that maintaining the status quo would provide less flexibility for importers and it has therefore rejected this alternative because it would appear to add more costs over time.

Alternative 2. Issuing Guidance

Another alternative ATF considered is reissuing guidance to extend the exemption from importation to CBWs. However, publishing this interpretation through guidance would not be consistent with the text of the current regulations, which provides an exemption for only FTZs but not CBWs; it would therefore be implausible to interpret the existing regulatory exemption as reaching CBWs. Thus, this alternative was rejected.

Alternative 3. Rulemaking (Proposed Alternative)

Finally, ATF considered the proposed alternative. ATF proposes to publish a regulation amending the definition of ''importation'' so that when items are brought into a CBW they are excepted from the GCA and NFA import restrictions in the same way that items brought into FTZs are currently excepted. This change would alleviate the burden on non-compliant FFL importers from having to move their operations to a new location, and may thus provide a one-time savings of $1.67 million and potential operating costs stemming from making the transition. Furthermore, ATF believes that there would be no additional safety risks by extending the FTZ exemption from GCA and NFA importation restrictions to items stored in CBWs.

B. Executive Order 14192

Executive Order 14192 (Unleashing Prosperity Through Deregulation) requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed or revised when the agency publicly proposes for notice-and-comment or otherwise promulgates a new regulation that qualifies as an Executive Order 14192 regulatory action (defined in OMB Memorandum M–25–20 as a final significant regulatory action under section 3(f) of Executive Order 12866 that imposes total costs greater than zero). In furtherance of this requirement, section 3(c) of Executive Order 14192 requires that any new incremental costs associated with such new regulations must, to the extent permitted by law, also be offset by eliminating existing costs associated with at least ten prior regulations. However, this proposed

[7] Greater Dayton Foreign Trade Zone, Inc., *How much does a Foreign Trade Zone Cost?, https://ftz100.flydayton.com/faq/how-much-does-a-foreign-trade-zone-cost/* [*https://perma.cc/KZ4M-9P63*].

[8] $1,670,000 = 167 FFL importers * $10,000 initial application fee.

rule would not be an Executive Order 14192 regulatory action. Although it would be a significant regulatory action as defined by Executive Order 12866, it would not impose total costs greater than zero. The proposed rule would allow importers more flexibility by including CBWs as a place where importers can bring firearms into the United States and by removing the restriction that such items brought into FTZs and CBWs can be brought in for storage purposes only, consistent with applicable customs rules and regulations, thereby creating a qualitative benefit. This rule also imposes no costs. ATF therefore expects this rule, if finalized as proposed, to qualify as an Executive Order 14192 deregulatory action (defined by OMB Memorandum M–25–20 as a final action that imposes total costs less than zero).

C. Executive Order 14294

Executive Order 14294 (Fighting Overcriminalization in Federal Regulations) requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to each element of those offenses. This proposed rule would not create a criminal regulatory offense and is thus exempt from Executive Order 14294 requirements.

D. Executive Order 13132

This proposed rule would not have substantial direct effects on the states, the relationship between the federal government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132 (Federalism), the Director has determined that this proposed rule would not impose substantial direct compliance costs on state and local governments, preempt state law, or meaningfully implicate federalism. It thus does not warrant a federalism summary impact statement.

E. Executive Order 12988

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform).

F. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–612, agencies are required to conduct a regulatory flexibility analysis of any proposed rule subject to notice-and-comment rulemaking requirements unless the agency head certifies, including a statement of the factual basis, that the proposed rule would not have a significant economic impact on a substantial number of small entities. Small entities include certain small businesses, small not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of fewer than 50,000.

ATF performed an initial regulatory flexibility analysis of the potential impacts on small businesses and other entities that could occur due to this proposed rule, if finalized as proposed.

Initial Regulatory Flexibility Analysis (''IRFA'')

The RFA establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to ensure that such proposals are given serious consideration.'' Public Law 96–354, sec. 2(b), 94 Stat. 1164 (1980).

Under the RFA, the agency is required to consider whether the proposed rule would have a significant economic impact on a substantial number of small entities. Agencies must perform a review to determine whether the proposed rule would have such an impact. If the agency determines that it would, the agency must prepare an IRFA (or a regulatory flexibility analysis for a final rule) as described in the Act. *See* 5 U.S.C. 603(b). ATF prepared the following IRFA assessing the proposed rule's impact on small entities.

1. Describing the reasons why the agency is considering taking action.

ATF is proposing this action to provide clarity and flexibility for importers by permitting them to treat firearms in CBWs the same way that they treat firearms in FTZs. ATF finds that FTZs and CBWs are functionally similar spaces for purposes of GCA and NFA import restrictions by which importers may bring items into the United States without immediate payment of duty, but the regulation granting exceptions to FTZs does not currently extend to CBWs. There has since been a disparity that creates complications and hurdles for importers, forcing some importers to relocate their operations between facilities and likely incurring substantial costs in the process. ATF does not anticipate this rule creating significant economic costs for small entities, as this rule would have a deregulatory savings that would be beneficial to FFL importers because they would be afforded the option to bring their items into either an FTZ or a CBW.

2. Succinctly stating the objectives of, and legal basis for, the proposed rule.

The objective of this proposed rule is to reduce the regulatory burden on importers and the public by treating FTZs and CBWs the same way in the regulatory definition of importing, and making it clearer for importer FFLs that they are not limited solely to storing firearms when bringing them into FTZs and CBWs, as consistent with applicable customs laws and regulations.

3. Describing and, where feasible, estimating the number of small entities to which the proposed rule would apply.

Based on information from the Federal Firearms Licensing Center, there are an estimated 1,666 Type 08 FFL firearms importers. For the purposes of defining small importers, these importers are small businesses under NAICS [9] 423910 Sporting and Recreational Goods and Supplies Merchant Wholesalers (which includes wholesalers/importers of sporting firearms and ammunition). Importers that fall under this NAICS would be considered small should they have a workforce of fewer than 100 employees.

While the majority of importers are anticipated to fall under NAICS 423910, there may be a subset that fall under NAICS 332994 Small Arms, Ordnance, and Ordnance Accessories Manufacturing. Importers that fall under this NAICS would be considered small should they have a workforce of fewer than 1,000 employees.

Assuming that Type 08 FFL importers track the size of FFLs more generally, the majority of these importers are likely to be small businesses, per the Small Business Administration's size standard, because the majority of FFLs are small businesses.

All Type 08 importers would benefit from this proposed rule because the rule would extend the existing exemptions that firearms importers have for GCA and NFA items in FTZs to such items they have in CBWs, thereby conferring a benefit, and would impose no costs.

[9] NAICS is the North American Industry Classification System, which is the standard used by federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

However, based on internal ATF information, there are approximately 21,499 domestic manufacturers of firearms (Type 07 FFL manufacturers) that may be indirectly and negatively affected by this proposed rule due to increased competition from importers potentially now being able to expand imports of foreign firearms. ATF is unable to assess a significant impact and requests public comment on the impact to small entities that manufacture and/or sell only domestic firearms.

4. Describing the proposed rule's projected reporting, record-keeping, and other compliance requirements, including an estimate of the classes of small entities which would be subject to the requirement and the type of professional skills necessary to prepare the report or record.

There are no additional requirements or direct costs imposed by this proposed rule to importers. This rule would mitigate costs and burdens on the public. Nor are there direct costs or compliance requirements for manufacturers, although, as noted above, importers may potentially increase foreign firearm imports, which then might increase competition for domestic firearm manufacturers.

5. *Identifying, to the extent practicable, all relevant federal rules which might duplicate, overlap, or conflict with the proposed rule.*

This proposed rule would not duplicate or conflict with other federal rules.

6. Describing any significant alternatives to the proposed rule which accomplishes the stated objectives of applicable statutes and which minimizes any significant economic impact the proposed rule might have on small entities.

As discussed above, assuming that Type 08 FFL importers track the size of FFLs more generally, the majority of these importers are likely to be small businesses, per the Small Business Administration's size standard. This proposed rule relaxes federal requirements and makes it so that small businesses may bring firearms into FTZs for purposes other than merely temporary storage, and into CBWs for the same expanded purposes, consistent with applicable customs laws and regulations. This proposal would increase small businesses' importing options and thus provides a benefit. To the extent that the rule significantly impacts small businesses, it would alleviate significant hurdles rather than impose new ones. ATF determined that the benefits to the proposed rule outweigh the potential impacts to domestic small businesses indirectly affected by this proposed rule.

ATF seeks input from the public on this proposed rule and whether there are other alternatives the public believes would accomplish the same goal that could operate within the statutory and regulatory framework.

G. Unfunded Mandates Reform Act of 1995

This proposed rule does not include a federal mandate that might result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it would not significantly or uniquely affect small governments. Therefore, ATF has determined that no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

H. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (''PRA''), 44 U.S.C. 3501–3521, agencies are required to submit to OMB, for review and approval, any information collection requirements a rule creates or any impacts it has on existing information collections. An information collection includes any reporting, record-keeping, monitoring, posting, labeling, or other similar actions an agency requires of the public. *See* 5 CFR 1320.3(c). This proposed rule involves two existing information collections under the PRA. These information collections, OMB control number 1140–0005, Application/Permit to Import Firearms, Ammunition, and Defense Articles, which includes ATF Form 5330.3A (''Form 6, part I''), and OMB control number 1140–0007, Releasing/Receiving Imported Firearms, Ammunition, and Defense Articles, which includes ATF Form 5330.3C (''Form 6A''), would be unchanged by this proposed rule.

IV. Public Participation

A. Comments Sought

ATF requests comments on the proposed rule from all interested persons. ATF specifically requests comments on the clarity of this proposed rule and how it may be made easier to understand. In addition, ATF requests comments on the costs or benefits of the proposed rule and on the appropriate methodology and data for calculating those costs and benefits.

All comments must reference this document's RIN 1140–AA93 and, if handwritten, must be legible. If submitting by mail, you must also include your complete first and last name and contact information. If submitting a comment through the federal e-rulemaking portal, as described in section IV.C of this preamble, you should carefully review and follow the website's instructions on submitting comments. Whether you submit comments online or by mail, ATF will post them online. If submitting online as an individual, any information you provide in the online fields for city, state, zip code, and phone will not be publicly viewable when ATF publishes the comment on *https://www.regulations.gov.* However, if you include such personally identifying information (''PII'') in the body of your online comment, it may be posted and viewable online. Similarly, if you submit a written comment with PII in the body of the comment, it may be posted and viewable online. Therefore, all commenters should review section IV.B of this preamble, ''Confidentiality,'' regarding how to submit PII if you do not want it published online. ATF may not consider, or respond to, comments that do not meet these requirements or comments containing excessive profanity. ATF will retain comments containing excessive profanity as part of this rulemaking's administrative record, but will not publish such documents on *https://www.regulations.gov.* ATF will treat all comments as originals and will not acknowledge receipt of comments. In addition, if ATF cannot read your comment due to handwriting or technical difficulties and cannot contact you for clarification, ATF may not be able to consider your comment.

ATF will carefully consider all comments, as appropriate, received on or before the closing date.

B. Confidentiality

ATF will make all parts of all comments meeting the requirements of this section, whether submitted electronically or on paper, and except as provided below, available for public viewing on the internet through the federal e-rulemaking portal, and subject to the Freedom of Information Act (5 U.S.C. 552). Commenters who submit by mail and who do not want their name or other PII posted on the internet should submit their comments with a separate cover sheet containing their PII. The separate cover sheet should be marked with ''CUI//PRVCY'' at the top to identify it as protected PII under the Privacy Act. Both the cover sheet and comment must reference this RIN 1140–AA93. For comments submitted by mail, information contained on the cover sheet will not appear when posted on the internet, but any PII that appears within the body of a comment will not

be redacted by ATF and may appear on the internet. Similarly, commenters who submit through the federal e-rulemaking portal and who do not want any of their PII posted on the internet should omit such PII from the body of their comment and any uploaded attachments. However, PII entered into the online fields designated for name, email, and other contact information will not be posted or viewable online.

A commenter may submit to ATF information identified as proprietary or confidential business information by mail. To request that ATF handle this information as controlled unclassified information (''CUI''), the commenter must place any portion of a comment that is proprietary or confidential business information under law or regulation on pages separate from the balance of the comment, with each page prominently marked ''CUI//PROPIN'' at the top of the page.

ATF will not make proprietary or confidential business information submitted in compliance with these instructions available when disclosing the comments that it receives, but will disclose that the commenter provided proprietary or confidential business information that ATF is holding in a separate file to which the public does not have access. If ATF receives a request to examine or copy this information, it will treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). In addition, ATF will disclose such proprietary or confidential business information to the extent required by other legal process.

C. Submitting Comments

Submit comments using either of the two methods described below (but do not submit the same comment multiple times or by more than one method). Hand-delivered comments will not be accepted.

- *Federal e-rulemaking portal:* ATF recommends that you submit your comments to ATF via the federal e-rulemaking portal at *https://www.regulations.gov* and follow the instructions. Comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that is provided after you have successfully uploaded your comment.
- *Mail:* Send written comments to the address listed in the **ADDRESSES** section of this document. Written comments must appear in minimum 12-point font size, include the commenter's first and last name and full mailing address, and may be of any length. See also section IV.B of this preamble, ''Confidentiality.''

D. Request for Hearing

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director within the 90-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing is necessary.

Disclosure

Copies of this proposed rule and the comments received in response to it are available through the federal e-rulemaking portal, at *https://www.regulations.gov* (search for RIN 1140–AA93).

List of Subjects

27 CFR Part 478

Administrative practice and procedure, Arms and munitions, Exports, Freight, Imports, Intergovernmental relations, Law enforcement officers, Military personnel, Penalties, Reporting and recordkeeping requirements, Research, Seizures and forfeitures, Transportation.

27 CFR Part 479

Administrative practice and procedure, Arms and munitions, Exports, Imports, Military personnel, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Taxes, Transportation.

For the reasons discussed in the preamble, ATF proposes to amend 27 CFR parts 478 and 479 as follows:

PART 478—COMMERCE IN FIREARMS AND AMMUNITION

■ 1. The authority citation for part 478 continues to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 847, 921–931; 44 U.S.C. 3504(h).

■ 2. Amend § 478.11 by revising the definition of ''Importation'', including its heading, to read as follows:

§ 478.11 Meaning of terms.

* * * * *

Importing (or importation). Bringing a firearm, firearm barrel, or ammunition into the United States or any possession thereof from a place outside the United States or any possession thereof, except that a firearm, firearm barrel, or ammunition brought into a foreign-trade zone or customs-bonded warehouse is not imported for purposes of this part until the item is removed from such a facility into the United States or any possession thereof.

* * * * *

PART 479—MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS

■ 3. The authority citation for part 479 continues to read as follows:

Authority: 26 U.S.C. 5801–5822; 26 U.S.C. 7801; 26 U.S.C. 7805.

■ 4. Amend § 479.11 by revising the definition of ''Importation'', including its heading, to read as follows:

§ 479.11 Meaning of terms.

* * * * *

Importing (or importation). Bringing a firearm into the United States from a place outside thereof, or into any territory under the United States' control or jurisdiction from a place outside thereof, with intent to unlade, except that a firearm brought into a foreign-trade zone or customs-bonded warehouse is not imported for purposes of this part until the firearm is removed from such a facility into the United States or any territory under its control or jurisdiction.

* * * * *

Robert Cekada,

Director.

[FR Doc. 2026–09162 Filed 5–7–26; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Part 479

[Docket No. ATF–2026–0336; ATF No. 2025R–13P]

RIN 1140–AB00

Joint Registration for Spouses Under the National Firearms Act

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms, and Explosives (''ATF'') proposes amending Department of Justice (''Department'') regulations to authorize spouses to file a joint application to make, transfer or receive, and register a firearm under the National Firearms Act (''NFA''). If the joint application is approved, both spouses would have a joint right to make or possess the firearm(s), and transferring the firearm(s) between the

registered spouses would not constitute a further transfer within the meaning of the NFA, thus not requiring a transfer application.

DATES: Comments must be submitted in writing, and must be submitted on or before (or, if mailed, must be postmarked on or before) July 7, 2026. Commenters should be aware that the federal e-rulemaking portal comment system will not accept comments after midnight Eastern Time on the last day of the comment period.

ADDRESSES: You may submit comments, identified by RIN 1140–AB00, by either of the following methods—

- *Federal e-rulemaking portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* ATF Rulemaking Comments; Mail Stop 6N–518, Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave. NE; Washington, DC 20226; *ATTN: RIN 1140–AB00.*

Instructions: All submissions must include the agency name and number (RIN 1140–AB00) for this notice of proposed rulemaking (''NPRM'' or ''proposed rule''). ATF may post all properly completed comments it receives from either of the methods described above, without change, to the federal e-rulemaking portal, *https://www.regulations.gov.* This includes any personally identifying information (''PII'') or business proprietary information (''PROPIN'') submitted in the body of the comment or as part of a related attachment they want posted. Commenters who submit through the federal e-rulemaking portal and do not want any of their PII posted on the internet should omit it from the body of their comment and any uploaded attachments that they want posted. If online commenters wish to submit PII with their comment, they should place it in a separate attachment and mark it at the top with the marking ''CUI//PRVCY.'' Commenters who submit through mail should likewise omit their PII or PROPIN from the body of the comment and provide any such information on the cover sheet only, marking it at the top as ''CUI//PRVCY'' for PII, or as ''CUI//PROPIN'' for PROPIN. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at *https://www.regulations.gov.* Commenters must submit comments by using one of the methods described above, not by emailing the address set forth in the following paragraph.

FOR FURTHER INFORMATION CONTACT: Office of Regulatory Affairs, by email at *ORA@atf.gov,* by mail at Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave. NE; Washington, DC 20226, or by telephone at 202–648–7070 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Attorney General is responsible for enforcing the National Firearms Act (''NFA''), as amended, 26 U.S.C. chapter 53.[1] Congress and the Attorney General have delegated the responsibility for administering and enforcing the NFA to the Director of ATF (''Director''), subject to the direction of the Attorney General and the Deputy Attorney General. *See* 28 U.S.C. 599A(b)(1), (c)(1); 28 CFR 0.130(a)(1)–(2); Treas. Order No. 221(2)(a), (d), 37 FR 11696–97 (June 10, 1972).[2] Accordingly, the Department and ATF have promulgated regulations to implement the NFA in 27 CFR part 479.

Firearms subject to NFA provisions include machine guns, a shotgun having a barrel or barrels of less than 18 inches in length, a rifle having a barrel or barrels of less than 16 inches in length, a weapon made from a rifle, a weapon made from a shotgun, silencers, destructive devices, and any other weapons as defined by the NFA. 26 U.S.C. 5845(a). Section 5841 requires the Attorney General to maintain the National Firearms Registration and Transfer Record (''NFRTR''), a central registry of NFA firearms in the United States that are not possessed by or under the control of the United States. Section 5841 also requires that all NFA firearms must be registered by their maker, manufacturer, or importer.

The NFA also sets requirements for making and transferring firearms. Under section 5822, makers must apply to the Attorney General, and the Attorney General must approve making NFA firearms, before they may be made. Section 5822 also requires makers to identify themselves in the application in such manner as the Attorney General may by regulations prescribe. Section 5812 contains the same requirements for transferring NFA firearms, except that transferors must identify the transferees in the application in such manner as the Attorney General may by regulations prescribe.

Pursuant to 27 CFR 479.62, one of ATF's regulations implementing the NFA, ATF has prescribed that no person may make an NFA firearm unless the person has filed with the Director a completed application on ATF Form 5320.1, Application to Make and Register NFA Firearm (''Form 1''), in duplicate, executed under the penalties of perjury, and has received the Director's approval to make the firearm. This approval also registers the firearm to the applicant in the NFRTR. If the applicant is a partnership, company (including a limited liability company), association, trust, or corporation (''entity''), but is not a licensed manufacturer, importer, or dealer qualified under this part, the entity must complete Form 1 with information about the entity instead of an individual, and each ''responsible person'' of the entity must complete ATF Form 5320.23, NFA Responsible Person Questionnaire (''Form 23''), which requests the same information as Form 1 requires for individual makers.

Similarly, pursuant to § 479.84, no person may transfer an NFA firearm unless the parties to the transfer have submitted an application on ATF Form 5320.4, Application to Transfer and Register NFA Firearm (Tax-Paid) (''Form 4''), in duplicate, executed under the penalties of perjury, and have received the Director's approval to transfer the firearm to the applying transferee.[3] As with applications to make firearms, this approval also registers the firearm to that transferee. Form 4 requires that the parties identify the transferee by name and address and, if the transferee is a person not qualified as a manufacturer, importer, or dealer under this part, the transferee must be further identified in the manner prescribed in § 479.85. In

[1] Some NFA provisions still refer to the ''Secretary of the Treasury.'' However, the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, transferred the functions of ATF from the Department of the Treasury to the Department of Justice, under the general authority of the Attorney General. 26 U.S.C. 7801(a)(2); 28 U.S.C. 599A(c)(1). Thus, for ease of reference, this NPRM refers to the Attorney General where relevant.

[2] In Attorney General Order Number 6353–2025, the Attorney General delegated authority to the Director to issue regulations pertaining to matters within ATF's jurisdiction, including under the NFA, Gun Control Act, and Title XI of the Organized Crime Control Act. ATF's jurisdiction also includes the Arms Export Control Act and the Contraband Cigarette Trafficking Act.

[3] In some cases, the transfer qualifies as tax-exempt, such as transfers as part of an estate. *See* § 479.90a. In those cases, the same requirements apply, but the transferor would submit ATF Form 5320.5, Application to Transfer and Register NFA Firearm (Tax-Exempt) (''Form 5'') instead of Form 4. For easier reading, ATF discusses the transfer aspects of this rule with references only to Form 4, rather than both, because tax-exempt transfers in this context are a small proportion.

addition, § 479.84 requires that if the transferee is an entity but is not a licensed manufacturer, importer, or dealer qualified under this part, the entity must complete Form 4 with information about the entity instead of an individual, and each responsible person of the entity must complete Form 23, which requests the same information as Form 4 requires for individual transferees.

Individuals who qualify as responsible persons for a trust may lawfully possess NFA firearms registered to the trust. Likewise, trust applications created by spouses allow each spouse—if named in the trust and qualified as a responsible person to the trust like any other person who is a party to a trust—to lawfully and independently possess the NFA firearm registered to the trust. The trust documents received by ATF that involve spouses are generally substitutes for jointly registering NFA firearms rather than primarily for estate planning or other trust purposes.

ATF has received inquiries from the public and from members of the firearms industry requesting that ATF permit spouses to jointly make, transfer or receive, and register NFA firearms. A number of spouses have formed trusts to permit them to jointly possess firearms. However, forming a trust, and subsequently registering NFA firearms to the trust as the maker or transferee, can be time-consuming and costly. As a part of the application process, the trust (also an ''entity'') must identify each person who is part of the trust, and ATF must determine the trust's legal sufficiency and the legal authority of each person in the trust—including whether they may qualify as ''responsible persons''—before ATF may initiate a background check. *See* 27 CFR 479.85 and 479.63; *see also* 81 FR 2658 (Jan. 15, 2016). ATF reviews the trust as a legal instrument. Reviewing the trust as a legal instrument and scrutinizing the trust's responsible persons often requires additional time before ATF can approve the trust's application to make or transfer firearms. For example, current processing times for paper Form 4 applications are 59 days for trust applications and 49 days for individual applications, a difference of 10 days; likewise, electronic Form 4 applications take 11 days for trust applications and 7 days for individual applications, a difference of 4 days.[4]

[4] *See* ATF, *Current Processing Times* (last updated Jan. 27, 2026), *https://www.atf.gov/resource-center/current-processing-times* [*https://perma.cc/27C7-JGG5*]. ATF updates processing times routinely, most often on a weekly basis.

II. Proposed Rule

A. Proposed Regulatory Amendments

ATF has determined that it is unnecessarily burdensome for spouses who desire to jointly register an NFA firearm to have to create a trust to do so. The current process also imposes administrative burdens on ATF, which must review each trust's legal instruments and determine whether they meet statutory requirements. ATF's processing times for applications involving trusts are thus longer than for applications by individuals. Permitting spouses to jointly register NFA firearms would relieve applicants and ATF of unnecessary burdens caused by the current roundabout process, which ATF has determined provides little public safety benefit.

Permitting spouses to jointly register firearms would also alleviate legal hurdles after the death of NFA registrants who have registered firearms in their name only. After spouses die as sole NFA firearm registrants, surviving spouses can end up possessing a firearm not registered to them in the NFRTR and may fail to transfer that property during probate. When this occurs, the NFA firearm cannot subsequently be transferred because the current possessor is not the registered owner. Allowing spouses to jointly register firearms would alleviate this problem. It would also allow spouses to obtain a federal registration status that aligns with marital property ownership in some locations. NFA firearms registered to one spouse may be joint marital property under some state laws, even though ATF currently allows only one spouse to register the firearm.

ATF agrees with the general public and industry members that allowing spouses to jointly make, transfer or receive, and register NFA firearms would reduce burdens while still complying with the NFA's requirements. These firearms would remain registered in the NFRTR, and both spouse applicants would undergo background checks, thereby ensuring the same level of public safety currently afforded by registering individuals or parties under a trust. Section 5841 of the NFA provides that the NFRTR must include the ''identification and address of person entitled to possession of the firearm.'' There is nothing under this provision that precludes spouses from being jointly registered or from each being able to possess the firearm. Amending the regulations to allow spouses to jointly make, transfer or receive, and register NFA firearms would be consistent with 26 U.S.C. 5811–5812, 5821–5822, and 5841 by still requiring all makers, transferors, and transferees to submit applications, receive Attorney General approval, pay tax (if applicable), and register their NFA firearms.

However, ATF also believes that it is reasonable to limit joint individual registration to spouses. Allowing non-marital joint registration could result in pretextual joint registrations that attempt to circumvent the NFA's transfer provisions and the Gun Control Act's interstate transfer restrictions, *e.g.,* 18 U.S.C. 922(a)(3), both of which require approval by the Attorney General. Such attempts are unlikely within a marriage, since both parties typically live in the same household and may legitimately share property. ATF's concern with regard to administering the NFA is the person's right to possess the property, and more specifically in this context, documentation of their right to own property jointly with another person. Marriages document a legal relationship between two persons and are generally verifiable through official documents, such as marriage licenses, divorce decrees, etc. (or equivalents), from beginning to dissolution. Unlike other relationships, marriages by themselves also establish property rights to joint or marital property under relevant state laws; other familial relationships do not establish property rights or a binding relationship merely due to the persons being in the same family. Property rights in those cases are usually established by an estate plan, a trust, or a partnership—which both document and establish a relationship between the parties and establish property rights. They are all alternative means to register NFA firearms. Married couples can also make use of these mechanisms, but because the marriage itself establishes the relationship and property rights, ATF believes that is unnecessary.

Based on these considerations, this proposed rule responds to the inquiries by proposing to amend the regulations in 27 CFR 479.62, 479.63, 479.84, 479.85, and 479.101 so that spouses would be able to jointly make, transfer or receive, and register NFA firearms without needing to create a trust. This rule also proposes amending §§ 479.62 and 479.84 by adding new paragraphs to explain that applicants who are spouses filing jointly would need to provide documents demonstrating a legal marriage, which can include a marriage certificate or proof of a legal marriage otherwise recognized under state law. Where no marriage certificate is available, applicants would be able to submit some other evidence of marriage (*e.g.,* affidavits, joint tax returns). If

spouses filing jointly falsely attest to marriage, they would be subject to charges for making a false statement on an NFA form.[5]

ATF is considering whether to include common-law marriages in the seven states that permit them or grandfathered common-law marriages in the seven states that permit common-law marriages that occurred before a certain date. However, ATF is not in a position to assess whether a particular couple meets the specific state's requirements to constitute a common-law marriage. ATF would therefore propose accepting common-law marriages for joint registration that can be reliably verified, such as by a state document acknowledging that couple's common-law marriage. To this end, ATF welcomes comments on how a common-law marriage could be reliably verified as a part of the NFA application process. ATF also seeks public comment on all aspects of this proposal to accommodate allowing spouses to jointly register NFA firearms.

ATF also notes that other non-conflicting changes to §§ 479.63(a) and 479.85(a), and a new § 479.27 are being proposed in a separate notice of proposed rulemaking to address submitting photographs and fingerprints with NFA applications. Concurrent revisions to Forms 1, 4, 5, and 23 will accompany this and the other rules in any final stages.

B. Processes for Spouses Filing Jointly

If finalized as proposed, ATF would also revise the forms discussed below to incorporate joint registration for spouses. The following explains how the process would work and how the forms would operate or be revised in conjunction with this rule.

1. Making and Registering NFA Firearms as Spouses Filing Jointly

Spouses who wish to jointly make and register an NFA firearm would submit Form 1 by selecting the type of application in box 2 as ''other legal entity'' and noting on the form that the firearm is being jointly registered. The instructions on the form would clarify that ''other legal entity'' includes joint spouses. Joint spouses making a destructive device would check box ''a'' under item 1, application type, and remit $200 (machine guns and destructive devices are subject to a $200 tax). Joint spouses making other types of NFA firearms would check box ''b'' under item 1, ''$0 making tax for other types of NFA firearms,'' and remit $0. This is because, as of January 1, 2026, Congress reduced the tax paid for all NFA firearms except machine guns and destructive devices to $0[6] (which is not the same as tax-exempt; tax-exempt status is reserved for certain specifically designated transfers, like ''by law'' transfers, discussed below). Each spouse would then complete Form 23 to submit their individual information following the form's instructions, as outlined above, and submit their two Forms 23 with their Form 1 application.

2. Transferring and Registering NFA Firearms as, or to, Spouses Filing Jointly

Spouses who wish to acquire and register a firearm together, and individuals who currently have a firearm registered to themselves and wish to add their spouse, would follow the same registration process. Spouses who want to jointly transfer or receive, and register, NFA firearms would use Form 4. They would select the type of transfer in box 2b as ''other legal entity'' and note on the form that the transfer is being jointly registered. The instructions on the form would clarify that ''other legal entity'' includes joint spouses. Each spouse would then complete Form 23, to submit their individual information following the form's instructions. Spouses registering their firearms jointly must complete a Form 4 for each registered firearm that they transfer or receive and register jointly, but they may submit copies of their original Forms 23 to include with each successive Form 4 if their information has not changed in the interim.

Although Form 4 is for tax-paid transfers and registration, if the NFA firearm involved is not a machine gun or destructive device, the spouses would not have to pay taxes to transfer from a trust or individual registration to joint registration, or to transfer and register a new firearm jointly, because of the recent change to $0-tax rates. Therefore, when transferring these $0-tax firearms to joint-spouse registration, persons would check the ''$0 for any other type of NFA firearm'' box under item 1, Transfer type, on Form 4. However, because machine guns and destructive devices are still subject to a $200 NFA tax, persons transferring a machine gun or destructive device to joint-spouse registration would check the ''$200 for machine gun or destructive device'' box under item 1 instead.

3. Transferring Jointly Registered Firearms Upon Divorce or Separation

Should a married couple divorce or separate after jointly registering a firearm, they would have the same options that already exist for dealing with this joint property as for other similar property. In the case of a divorce or separation, a court decree or order that transfers the firearm to a specific party would be a transfer ''by operation of law,'' and would be handled in the same way as other transfers by law (such as through estate probate), which are tax-exempt and accomplished via Form 5.

The spouses may also voluntarily agree to transfer the firearm to one spouse individually because both are registrants. As of January 1, 2026, such voluntary transfers have a $0 tax (unless the firearm is a machine gun or destructive device). The spouses would request this transfer via Form 4, and check the $0-tax box under item 1, transfer type. If the spouses are transferring or registering a machine gun or destructive device, they are still subject to a $200 tax under the NFA. In that case, the spouses would check the $200 tax box under item 1, transfer type, on Form 4.

4. Spouse Becomes Prohibited From Possessing Firearms

In the event a jointly registered spouse becomes prohibited from possessing firearms under federal, state, or local law, the prohibited spouse does not legally need to change the registration status, but the prohibited spouse may not possess (physically or constructively) the firearm. *See Henderson* v. *United States,* 575 U.S. 622, 624 (2015).

III. Statutory and Executive Order Review

A. Executive Orders 12866 and 13563

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.

Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of agencies quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting public flexibility.

This proposed rule would amend 27 CFR 479 to reduce burdens on spouses who wish to jointly register to make, transfer or receive, and register NFA firearms so they would be able to do so without needing to create a trust.

[5] *See, e.g.,* 18 U.S.C. 922(a)(6); 18 U.S.C. 924(a)(2); 18 U.S.C. 1001, which make it a felony to provide false information on a firearms application or to the government in general.

[6] One Big Beautiful Bill Act, Public Law 119–21, 139 Stat. 72 (2025).

The Office of Management and Budget (''OMB'') has determined that this proposed rule would be a ''significant'' rule under Executive Order 12866. Therefore, OMB has reviewed this rule. ATF provides the following analysis to comply with Executive Orders 12866 and 13563.

1. Need Statement

ATF has determined that it can reduce the regulatory burden for spouses who both desire to jointly register an NFA firearm without having to create a trust to do so. Furthermore, ATF has determined that permitting spouses to jointly register an NFA firearm without having to do so through a trust would pose no additional risk to public safety. Allowing spouses to jointly register firearms would also alleviate legal hurdles after the death of NFA registrants who have registered firearms in their name only. After spouses die as sole NFA firearm registrants, surviving spouses can end up possessing a firearm not registered to them in the NFRTR and fail to transfer that property during probate. This scenario may result in circumstances where an NFA firearm cannot subsequently be transferred because the current possessor is not the registrant.

2. Savings

Allowing joint-spouse registrations would eliminate the need to create a legal trust, which would provide annual savings to spouses who currently are unable to register NFA firearms jointly. Spouses would also be able to transfer their firearms from a trust to a joint registration with a $0 tax (except transfers of machine guns and destructive devices, which would still incur a $200 tax). Although many spouses who jointly own firearms under a trust might not have a need to transfer to joint registration instead, some might, and many individual owners who wanted to register jointly with their spouse but did not create a trust for that purpose are likely to transfer from individual registration to joint registration. These combined factors would likely create an incentive for spouses who have wanted to register firearms jointly with their spouse to do so during the first year, if this rule is finalized as proposed. No longer having to expend funds to create and possibly maintain a legal trust to effectuate joint ownership would constitute savings for the portion of the public who want to jointly register but would have had to create a trust to do so before this proposed rule, if finalized. While ATF calculated only savings from no longer having to create a trust in this analysis, ATF requests comments from the public as to whether there are any costs for maintaining trusts established to jointly own NFA firearms that would also constitute savings arising from this rule.

ATF does not have direct data on the number of NFA trusts transferees have created for the purposes of married couples jointly registered. As a result, using historical data on the annual number of NFA trust applications submitted to ATF from 2016 to 2025, ATF searched for applications in which the owners were a man and a woman with the same last name, as an estimated proxy for applications involving married couples. Based on these search parameters, ATF estimates that 4.4 percent of trust applications meet these factors and, while not a complete set of joint-registration trusts, it represents the best proxy. Table 1 provides the historical number of trust applications from years 2016 through 2025 and the estimated subset of trust applications that might consist of married couples.

TABLE 1—HISTORICAL NUMBER OF NFA TRUST APPLICATIONS, ESTIMATED SUBSET OF TRUSTS FOR MARRIED COUPLES, AND ESTIMATED PORTIONS OF THAT SUBSET BY FIREARM TYPE

Year	Total number of trust applications	Estimated total NFA married couple trusts	Estimated machine gun/ DD married trusts	Estimated number to switch to joint registration *
2016	33,080	1,456	20	1,436
2017	57,428	2,527	35	2,492
2018	77,803	3,423	48	3,375
2019	91,269	4,016	56	3,960
2020	140,060	6,163	86	6,077
2021	197,392	8,685	122	8,563
2022	266,839	11,741	165	11,576
2023	304,489	13,398	188	13,210
2024	320,509	14,102	198	13,904
2025	300,940	13,241	186	13,055

* Estimated number to switch also represents trusts involving all other NFA firearms.

ATF then input these historical application numbers into forecasting software to project the likely future trend in number of NFA trusts that spouses who wish to jointly register would generate over the next 10 years, if the current growth trend were to continue in the absence of this proposed rule's changes. Table 2 provides the projected numbers for the next 10 years.

TABLE 2—PROJECTED NUMBER OF NEW NFA JOINT-SPOUSE APPLICATIONS

(Not switching from a trust or single ownership)

Year	Number of new joint-spouse applications
1	12,550
2	11,856
3	11,162
4	10,468
5	9,774
6	9,080

TABLE 2—PROJECTED NUMBER OF NEW NFA JOINT-SPOUSE APPLICATIONS—Continued

(Not switching from a trust or single ownership)

Year	Number of new joint-spouse applications
7	8,386
8	7,692
9	6,998
10	6,304

Based on an internet search, fees to create a trust for NFA firearms could range from $59.95 to $300, but a small number of dealers also offer free trusts as a purchase incentive, so ATF included $0 in the cost range as well, resulting in an average (rounded) cost of $119 per trust.[7] For illustrative purposes, ATF used one hour as the average time it might take to generate an NFA trust for spouses, since the time could vary widely depending on unrelated factors. Once the trust is formed, a trustee would also need to have the legal documents notarized. Based on an internet search, it costs an average of $9 to have documents notarized.[8] Again, for illustrative purposes, ATF used 15 minutes (0.25 hours) as the hourly burden to notarize legal documents, based on the best available estimate from anecdotal experience. Fees such as fingerprinting and photographing are not included in this estimate because fingerprints and photographs are required for both persons regardless of whether they file jointly, as individuals, or as parties to a trust.

Spouses jointly making, transferring or receiving, and registering NFA firearms would likely be doing so in their leisure time; therefore, ATF estimated a leisure wage rate based on methodology from Health and Human Services (''HHS''), updated to account for the latest available data.[9] The HHS methodology is to first obtain the average U.S. median non-leisure weekly wage from the Bureau of Labor Statistics (''BLS''), and divide it by 40 hours to derive the median hourly non-leisure wage. Step two is to obtain the average U.S. real household income before taxes and after taxes from the Census Bureau, and divide the post-tax income by the pre-tax income to determine the net household income rate. Step three applies the net income rate to the median non-leisure hourly rate derived in step one, to calculate the hourly leisure wage. Table 3 shows the steps and data used under this methodology to determine the leisure wage.

TABLE 3—CALCULATING LEISURE WAGE

Inputs for leisure wage rate	Numerical inputs	Source
1a. Median non-leisure weekly wage	$1,214	News Release, Bureau of Labor and Statistics, *Usual Weekly Earnings for Wage and Salary Workers,* third quarter 2025, (Dec. 4, 2025), *https://www.bls.gov/news.release/archives/wkyeng_12042025.pdf* [*https://perma.cc/MD6E-TYDX?type=image*].
1b. Median non-leisure hourly wage	$30.35	$1,214 median weekly wage/40 hours a week = $30.35.
2a. Real household income pre-tax	$83,730	U.S. Census Bureau, *Income in the United States: 2024,* (Sept. 9, 2025), *https://www.census.gov/library/publications/2025/demo/p60-286.html* [*https://perma.cc/RU47-LLBX*].
2b. Real household income post-tax	$72,330	U.S. Census Bureau, *Post-Tax Household Income Summary Measures by Selected Characteristics: 2023 and 2024,https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww2.census.gov%2Fprograms-surveys%2Fdemo%2Ftables%2Fp60%2F286%2FtableB1.xlsx&wdOrigin=BROWSELINK* [*https://perma.cc/M33M-EWY7*].
2c. Net household income rate	86 percent	$72,330 post-tax income/$83,730 pre-tax income = .86 net household income rate.
3a. Hourly leisure wage	$26.10	$30.35 hourly non-leisure wage * .86 net household income rate = $26.10 hourly leisure wage.
3b. Rounded hourly leisure wage	$26.00	

Based on the methodology outlined by HHS, the estimated leisure wage is $26, which is used to calculate the hourly savings.

Based on the fees, costs, and time used in this example for creating a trust and notarizing the legal documents, ATF estimates for purposes of this analysis that the per-couple savings from this proposed rule could be $185 per application. Table 4 illustrates the savings that would accrue from removing the need to create an NFA trust to jointly register an NFA firearm using this analysis.

TABLE 4—SAVINGS FROM REMOVING NEED TO CREATE A TRUST TO JOINTLY REGISTER NFA FIREARMS

Regulatory action	Item cost	Hourly leisure wage value	Subtotal
Cost to create trust	$119	$26	$145
Notary	9	7	16
Per-trust total cost (savings)			161

Based on the savings generated per couple, or per trust, ATF estimated the annual savings that would flow from this proposed rule over the next 10 years. Table 5 provides the annual estimated savings from no longer

[7] *See, e.g.,* Silencer Central, *How To Set Up An NFA Trust* (June 18, 2024), *https://www.silencercentral.com/blog/how-nfa-trusts-work/* [*https://perma.cc/H7ME-P24X*]; National Gun Trusts, *National Firearms Act NFA Gun Trust, https://www.nationalguntrusts.com/products/buy-nfa-gun-trust* [*https://perma.cc/CU93-852E*]; Gun Trusts Guru, *50-State ATF 41F Compliant NFA Gun Trusts, https://www.guntrustguru.com/* [*https://perma.cc/YT4D-LD3L*]; Texas Gun Trust, *https://www.texas-gun-trust.com/* [*https://perma.cc/39UQ-XG7C*]; Silencer Shop, *Single Shot NFA Gun Trust, https://www.silencershop.com/single-shot-nfa-gun-trust.html* [*https://perma.cc/QH7U-NSH4*].

[8] National Notary Association, *2026 Notary Fees By State* (last updated Jan. 14, 2026), *https://www.nationalnotary.org/knowledge-center/about-notaries/notary-fees-by-state* [*https://perma.cc/MZ22-AEXF*].

[9] Jennifer R. Baxter, et al., *Valuing Time in U.S. Department of Health and Human Services Regulatory Impact Analyses: Conceptual Framework and Best Practices* (June 2017), *https://aspe.hhs.gov/sites/default/files/private/pdf/257746/VOT.pdf.*

creating a trust to jointly register as spouses to make, transfer or receive, and register an NFA firearm.

TABLE 5—ANNUAL SAVINGS FROM NO LONGER FILING AS A TRUST

Year	Future married registrants that would not have to create a trust	Savings
1	12,550	$2,020,602
2	11,856	1,908,863
3	11,162	1,797,125
4	10,468	1,685,386
5	9,774	1,573,648
6	9,080	1,461,909
7	8,386	1,350,171
8	7,692	1,238,432
9	6,998	1,126,693
10	6,304	1,014,955
Total	.....	14,162,828

ATF estimates that this proposed rule could save married couples who wish to jointly register $14.2 million over 10 years in trust-creation savings they would otherwise incur.

TABLE 6—TEN-YEAR SAVINGS UNDISCOUNTED AND DISCOUNTED

Year	Undiscounted	3% Discount rate	7% Discount rate
1	$2,020,602	$1,904,611	$1,764,872
2	1,908,863	1,746,880	1,558,201
3	1,797,125	1,596,722	1,371,018
4	1,685,386	1,453,829	1,201,657
5	1,573,648	1,317,905	1,048,588
6	1,461,909	1,188,666	910,403
7	1,350,171	1,065,837	785,812
8	1,238,432	949,155	673,625
9	1,126,693	838,366	572,754
10	1,014,955	755,222	515,952
Total	14,162,828	12,061,971	9,886,930
Annualized	.....	1,414,031	1,407,676

In total, this proposed rule would provide a 10-year undiscounted cost savings of $14.2 million or an annualized net cost savings of $1.4 million at 3 percent and $1.4 million at 7 percent.

3. Costs

Spouses who are currently individually registered, or have created a trust, for NFA firearms but wanted to jointly register their existing NFA firearms, would now have the option to switch their firearms from trusts to joint registrations (using Form 4) if this rule is finalized as proposed. Or there may be a subset of sole NFA owners who would choose to switch their sole ownership to a joint ownership and would thus transfer their NFA firearm (using Form 4) to include their spouse.

All persons transferring an NFA firearm are already required to submit a Form 4 to both transfer and register the firearm. Married couples filing jointly would constitute an 'entity' in terms of the categories on the form. As a result, they would file one Form 4 and then each spouse would complete and attach a Form 23 with their individual information for the purposes of a background check, just as occurs with other entities. Spouses would be considered responsible persons for the married couple entity. These requirements already exist for all transfers and are thus sunk costs. Married couples who choose to transfer a firearm as joint registrants would be no different and would incur no additional costs beyond those already required to complete these forms and supporting documentation.

Other than for machine guns and destructive devices, since January 1, 2026, applicants making, transferring, and registering their NFA firearms no longer pay the $200 NFA making or transferring tax. As a result, other than married couples who want to jointly own machine guns or destructive devices, switching to joint registrations would include only a $0 making or transferring tax, which ATF believes would encourage an increase in such transfers if this proposed rule is finalized. However, either way, the transfer tax is also already an existing tax for transfers established by statute and incorporated in the regulations for all transfers that do not fall into one of the tax-exempt statuses established by statute, which would not apply here. Any such tax is therefore also a sunk cost and a married couple who chooses to transfer a firearm as joint registrants would occur no additional tax fees beyond those already required with any transfer.

As a result, this rule would generate no costs for registering jointly beyond those already required for all transfers.

5. Regulatory Alternatives

Alternative 1. Maintaining the status quo. This would require spouses to continue creating trusts to jointly register NFA firearms. There are $0 costs and $0 incremental benefits to maintaining the status quo. However, under these circumstances, for example, if a surviving spouse was not registered under a trust covering the firearm, and the firearm consequently was not transferred as part of an estate during probate, the surviving spouse would thereafter be unable to legally transfer the NFA firearm—because the surviving spouse would not be the registered owner—and the spouse also would not legally be able to retain the firearm for the same reason. This kind of situation would continue under the status quo alternative. This alternative was rejected because the proposed rule provides high net benefits with only minimal application costs per couple, while also alleviating the hassles and complexities of creating and maintaining trusts for dual-registration purposes and situations like the one described above.

Alternative 2. Rulemaking (proposed alternative). This proposed alternative would rescind the need for spouses to register as a trust to have joint ownership of an NFA firearm. This rule would provide deregulatory savings to married couples wishing to purchase such firearms and facilitate the purchase without having to file and register as a trust. This alternative was accepted due to the savings this rule would provide for the public and the lack of negative impact on public safety. Spouses who are jointly registered through a trust, or who would do so in the future without this rule, would receive the same joint registration benefits pursuant to this rule without the cost and hassle of creating a trust and going through the trust approval process at ATF. Other married couples that wanted to register jointly but chose to register the firearm to one spouse instead of going through the trust process, or such couples who would do so in future without this rule, would instead be able to jointly register. In addition, the proposed rule has an annualized benefit of $1.4 million at 3 percent and 7 percent. This alternative was selected because the benefits, both monetized and qualitative, exceed costs.

Alternative 3. Guidance instead of rulemaking. This alternative was rejected because the regulations currently say the opposite of what is being proposed and any guidance would then conflict with the regulations. This would create confusion and the proposed joint registration would not have the same force and effect as the regulation, thereby resulting in unreliable registrations for spouses under the guidance, if it should be litigated or other similar situations. While guidance would theoretically allow for the same benefits as the proposed rulemaking, these issues would nullify them.

B. Executive Order 14192

Executive Order 14192 (Unleashing Prosperity through Deregulation) requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed or revised when the agency publicly proposes for notice-and-comment or otherwise promulgates a new regulation that qualifies as an Executive Order 14192 regulatory action (defined in OMB Memorandum M–25–20 as a final significant regulatory action under section 3(f) of Executive Order 12866 that imposes total costs greater than zero). In furtherance of this requirement, section 3(c) of Executive Order 14192 requires that any new incremental costs associated with such new regulations must, to the extent permitted by law, also be offset by eliminating existing costs associated with at least ten prior regulations. However, this proposed rule would not be an Executive Order 14192 regulatory action. This rule as proposed would not be a significant regulatory action as defined by Executive Order 12866 and it would not impose total costs greater than zero. This proposed rule would remove the previously existing regulatory requirements that caused spouses who wished to register jointly to create trusts and save the public costs and burdens of complying with them. ATF therefore expects this proposed rule, if finalized as proposed, to qualify as an Executive Order 14192 deregulatory action (defined in OMB Memorandum M–25–20 as a final action that imposes total costs less than zero).

C. Executive Order 14294

Executive Order 14294 (Fighting Overcriminalization in Federal Regulations) requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to each element of those offenses. This proposed rule would not create a criminal regulatory offense and is thus exempt from Executive Order 14294 requirements.

D. Executive Order 13132

This proposed rule would not have substantial direct effects on the states, the relationship between the federal government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132 (Federalism), the Director has determined that this proposed rule would not impose substantial direct compliance costs on state and local governments, preempt state law, or meaningfully implicate federalism. It thus does not warrant preparing a federalism summary impact statement.

E. Executive Order 12988

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform).

F. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–612, agencies are required to conduct a regulatory flexibility analysis of any proposed rule subject to notice-and-comment rulemaking requirements unless the agency head certifies, including a statement of the factual basis, that the proposed rule would not have a significant economic impact on a substantial number of small entities. Small entities include certain small businesses, small 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.

ATF performed an initial regulatory flexibility analysis (''IRFA'') of the impacts on small businesses and other entities that would occur due to this proposed rule, if finalized as proposed. Based on the information from this analysis, ATF found—

- *Direct costs and savings:* there are no direct costs or savings to small businesses or entities. Direct costs and savings from this proposed rule would apply only to individuals.
- *Indirect costs:* an unknown number of small businesses deal in NFA trusts, including firearms dealers and law firms that provide other types of goods or services, as well as businesses for which gun trusts are their only service. This proposed rule would indirectly cause an unknown reduction in revenue for these small businesses because it would cause some individuals (married couples) to no longer need an NFA gun trust (other persons might still need NFA gun trusts, such as siblings who wish to jointly

own an NFA firearm). ATF has no data source from which to determine how many NFA gun trusts involve married couples versus other parties, or what portion of such businesses' revenue stems from creating gun trusts, so cannot ascertain the impact to these businesses or how many might be impacted. However, it is possible that a small portion of these affected businesses whose only line of business is NFA gun trusts could go out of business altogether due to this proposed rule if married couples constitute the bulk of their clients.

Initial Regulatory Flexibility Analysis (IRFA)

The RFA establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to ensure that such proposals are given serious consideration.'' Public Law 96–354, sec. 2(b), 94 Stat. 1164 (1980).

Under the RFA, the agency is required to consider whether the proposed rule would have a significant economic impact on a substantial number of small entities. Agencies must perform a review to determine whether the proposed rule would have such an impact. If the agency determines that it would, the agency must prepare an IRFA (or a regulatory flexibility analysis, for a final rule) as described in the RFA.

ATF determined that the rule affects a variety of large and small businesses (see item 3 below). Based on the requirements above, ATF prepared the following IRFA assessing the proposed rule's impact on small entities.

1. Reasons Why the Agency Is Considering Acting

This proposed rule would reduce burdens and costs to individuals because it would allow spouses to jointly register firearms, and would alleviate legal hurdles after a registered owner spouse dies and reduce the need for spouses to create legal trusts instead (which cost money and time). ATF also does not anticipate this rule creating significant economic cost for small entities, as this rule directly affects individuals not businesses.

2. Objectives of, and Legal Basis for, the Proposed Rule

The objective of this proposed rulemaking is to reduce the regulatory burden of NFA firearms ownership on the public. Federal law does not prohibit persons from jointly owning an NFA firearm if both persons have undergone the requisite background checks, complied with the statutory and regulatory requirements, and are not prohibited persons. Therefore, ATF would permit spouses to jointly register NFA firearms as proposed in this rule. ATF also believes that it is reasonable to limit joint registration to spouses. Allowing non-marital joint registration could result in pretextual joint registrations that attempt to circumvent the NFA's transfer provisions and the Gun Control Act's interstate transfer restrictions, *e.g.,* 18 U.S.C. 922(a)(3), both of which require approval by the Attorney General. Such attempts are unlikely within a marriage, since both parties typically live in the same household and legitimately share property.

3. Describing and, Where Feasible, Estimating the Number of Small Entities to Which the Proposed Rule Would Apply

It is possible that there may be indirect costs to another industry—businesses that create trusts, some of which could be small businesses. These include firearms dealers and law firms that provide other types of goods or services, as well as businesses for which gun trusts are their only service. Because not all law firms and dealers provide trust services, let alone NFA gun trust services, and some that do offer such services do not advertise their services or have an internet presence, there are an unknown number of businesses that create trusts specifically for NFA firearms.

ATF found five businesses that advertise on the internet as providing services specifically to create NFA gun trusts.[10] Using the online operational information provided by these five businesses, ATF determined that three of them advertise services only for NFA gun trusts; they have no other business goods or services.[11] To the extent that these and other small businesses provide only NFA gun trust services, they may be adversely impacted by this rule, and possibly go out of business altogether if their client base consists heavily of married couples. Other businesses, such as the other two that ATF identified that specifically advertise NFA gun trust services,[12] also offer other goods and services—such as retail firearms sales, other kinds of trusts, or other law services. This proposed rulemaking would have an unknown indirect effect on their revenue, but because married couples make up only part of the population that seek to create gun trusts,[13] and these small businesses have other revenue sources in addition to NFA gun trusts, ATF expects the impact to them would be smaller. ATF has no information on the size of these businesses and is treating them, for purposes of this analysis, as if they are small entities.

Two of the businesses that offer NFA trust services advertise that their only services are to facilitate NFA firearms trust applications.

4. Proposed Rule's Projected Reporting, Record-Keeping, and Other Compliance Requirements, Including an Estimate of the Classes of Small Entities Which Would Be Subject to the Requirement and the Type of Professional Skills Necessary To Prepare the Report or Record

The proposed rule imposes no additional reporting, record-keeping, or other compliance requirements or costs. This rule would rescind costs to and requirements on the public.

5. Relevant Federal Rules Which Might Duplicate, Overlap, or Conflict With the Proposed Rule

This proposed rule would not duplicate or conflict with other federal rules.

6. Significant Alternatives to the Proposed Rule Which Accomplish the Stated Objectives of Applicable Statutes, and Which Minimize Any Significant Economic Impact the Proposed Rule Might Have on Small Entities

ATF considered the alternative of maintaining the status quo with respect to joint ownership of NFA weapons. Maintaining the status quo would alleviate the indirect costs to companies that facilitate NFA trust applications. However, ATF determined that the direct, economic benefits to the public would significantly outweigh the indirect costs to a few businesses incurred from the proposed rule.

[10] *See* footnote 7, *supra.*

[11] *See* footnote 7, National Gun Trusts, Gun Trusts Guru, and Texas Gun Trust, *supra.*

[12] See footnote 7, Silencer Central and Silencer Shop, *supra.*

[13] For example, friends, relatives such as siblings or parent and child, investors in a specific firearm, etc., also may seek to create NFA gun trusts, and this rule would not affect them or their interest in creating a trust.

G. Small Business Regulatory Enforcement Fairness Act of 1996

This proposed rule may have a significant, indirect economic impact on five entities that provide NFA-specific trust services. Assuming these five businesses represent the entire industry providing such services and would all be impacted, if they are small entities, then a substantial number of small entities under the Small Business Regulatory Enforcement Fairness Act of 1996, 15 U.S.C. 657 and 5 U.S.C. 601 note, might be indirectly impacted by this proposed rule because it may indirectly reduce their revenue-generating activities. Because this proposed rulemaking does not impose additional compliance activities (it reduces compliance activities), ATF does not anticipate imposing any enforcement activities against any small entity affected by this proposed rulemaking.

H. Unfunded Mandates Reform Act of 1995

This proposed rule does not include a federal mandate that might result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it would not significantly or uniquely affect small governments. Therefore, ATF determined that no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

I. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (''PRA''), 44 U.S.C. 3501–3521, agencies are required to submit to OMB, for review and approval, any information collection requirements a rule creates or any impacts it has on existing information collections. An information collection includes any reporting, record-keeping, monitoring, posting, labeling, or other similar actions an agency requires of the public. *See* 5 CFR 1320.3(c). This proposed rule would create the need to revise four existing information collections covered under the PRA. The involved information collections are OMB 1140–0011: Application to Make and Register NFA Firearm, which includes ATF Form 5320.1 (''Form 1''); OMB 1140–0014: Application to Transfer and Register NFA Firearm (Tax-Paid), which includes ATF Form 5320.4 (''Form 4''); OMB 1140–0015: Application to Transfer and Register NFA Firearm (Tax-Exempt), which includes ATF Form 5320.5 (''Form 5''); and OMB 1140–0107: NFA Responsible Person Questionnaire, which includes ATF Form 5320.23 (''Form 23''). This rule would require the forms for all four of these information collections to be slightly modified to allow joint application by spouses, as described in section II of this preamble.

This proposed rule might also generate a one-time increase in the number of respondents submitting Forms 4 and 23 during the first year, if the rule is finalized as proposed, because persons with registered firearms who want to jointly register them with their spouse might submit transfer applications that year on Forms 4 to register them jointly, and the spouses would need to submit Forms 23 with Forms 4. How many might do so is too speculative to estimate.

Form 5 would also likely experience a small increase in the number of respondents in later years, due to possible transfers due to court orders during divorce, but that amount is too speculative to estimate.

Impacted Information Collection Request (''ICR'') 1

Title: Application to Make and Register NFA Firearm.

OMB control number: 1140–0011.

Form number: ATF Form 5320.1 (''Form 1'').

Summary of the information collection: Any person other than a qualified manufacturer who wishes to make and register an NFA firearm must submit a written application to ATF on a form prescribed by ATF. 26 U.S.C. 5822. They must also identify the firearm they are making and themselves as the maker. Finally, individuals must include their fingerprints and a photograph with the application. In § 479.62, ATF prescribed ATF Form 5320.1 (''Form 1''), Application to Make and Register NFA Firearm, for these required purposes.

Need for information and proposed use: ATF's NFA Division uses the information on this form to determine whether the applicant may legally make and register the firearm under federal, state, tribal, and local law. Section 5822 provides that ATF cannot approve an application if making or possessing the firearm would place the person making the firearm in violation of law. The form asks individual applicants to respond, under penalties of perjury, to questions to determine whether they are prohibited by federal law from possessing firearms. For a trust or legal entity, which cannot answer these questions on Form 1 because it is not an individual, each responsible person for that trust or legal entity instead provides this information when they submit Form 5320.23, NFA Responsible Person Questionnaire (covered by OMB control number 1140–0107).

Description of the respondents affected by this ICR: Individuals or households.

Number of respondents: 148,975 annually.

Frequency of response: Once, as needed.

Response time estimate: 12 minutes (overall reduction from 30 minutes, due to conversion to eForm and other technological changes).

Burden of response: 29,795 hours total for all respondents.

Impacted ICR 2

Title: Application to Transfer and Register NFA Firearm (Tax-Paid).

OMB control number: 1140–0014.

Form number: ATF Form 5320.4 (''Form 4'').

Summary of the information collection: Persons with an NFA firearm must apply to ATF for approval to transfer and register the firearm as required by the NFA. 26 U.S.C. 5812. ATF Form 5320.4 (''Form 4''), the prescribed means for submitting this application, facilitates and records the firearms transfer and also serves as proof of registration once approved.

Need for information and proposed use: ATF's NFA Division uses the information on this form to determine whether the applicant may legally transfer and register the firearm under federal, state, tribal, and local law. The form also identifies the transferor, transferee, and firearm(s). 26 U.S.C. 5812 provides that ATF cannot approve an application if receiving or possessing the firearm would place the person receiving the firearm in violation of law. The form asks individual transferees to respond, under penalties of perjury, to questions to determine whether they are prohibited by federal law from possessing firearms. For a trust or legal entity, which cannot answer these questions on Form 4 because it is not an individual, each responsible person for that trust or legal entity instead provides this information when they submit Form 5320.23, NFA Responsible Person Questionnaire (covered by OMB control number 1140–0107).

Description of the respondents affected by this ICR: Individuals or households.

Number of respondents: 546,424 annually.

Frequency of response: Once.

Response time estimate: 12 minutes per (overall reduction from 30 minutes, due to conversion to eForm and other technological changes).

Burden of response: 109,285 hours total for all respondents.

Impacted ICR 3

Title: Application to Transfer and Register NFA Firearm (Tax-Exempt).

OMB control number: 1140–0015.

Form number: ATF Form 5320.5 (''Form 5'').

Summary of the information collection: Persons with an NFA firearm must apply to ATF for approval to transfer and register the firearm as required by the NFA. 26 U.S.C. 5812. ATF Form 5320.5 (''Form 5''), the prescribed means for submitting this application if the transfer is tax-exempt, facilitates and records the firearms transfer and also serves as proof of registration once approved. Applicants also use the form to claim an exemption from paying the otherwise-required transfer tax and provide the information necessary to support their claim.

Need for information and proposed use: ATF's NFA Division uses the information on this form to determine whether the applicant may legally transfer and register the firearm under federal, state, tribal, and local law, and to determine whether the transfer qualifies for tax-exempt status. The form also identifies the transferor, transferee, and firearm(s). 26 U.S.C. 5812 provides that ATF cannot approve an application if receiving or possessing the firearm would place the person receiving the firearm in violation of law. The form asks individual transferees to respond, under penalties of perjury, to questions to determine whether they are prohibited by federal law from possessing firearms. For a trust or legal entity, which cannot answer these questions on Form 5 because it is not an individual, each responsible person for that trust or legal entity instead provides this information when they submit Form 5320.23, NFA Responsible Person Questionnaire (covered by OMB control number 1140–0107). ATF also uses Form 5 to effect a transfer resulting from operation of law, for example, a firearm in an estate being transferred to a beneficiary, or a firearm being transferred as a result of bankruptcy. Persons may also use Form 5 to facilitate temporarily conveying a firearm for repair, and its subsequent return.

Description of the respondents affected by this ICR: federal government, state, local, or tribal governments, individuals under certain circumstances.

Number of respondents: 17,322 annually.

Frequency of response: once.

Response time estimate: 12 minutes (overall reduction from 30 minutes, due to conversion to eForm and other technological changes).

Burden of response: 3,464 hours total for all respondents.

Impacted ICR 4

Title: NFA Responsible Person Questionnaire.

OMB control number: 1140–0107.

Form number: ATF Form 5320.23 (''Form 23'').

Summary of the information collection: When a trust or other legal entity (including corporations, etc.) must submit Form 1 as the maker, or is identified as the transferee on Form 4 or ATF Form 5320.5 (''Form 5''), Application to Transfer and Register NFA Firearm (Tax-Exempt), it is not able to submit individually identifying information for purposes of a background check. When one of these forms is filled out by an entity other than an individual, the entity provides the information on Forms 1, 4, or 5. In such cases, each responsible person for that entity must provide the same information that is requested for an individual on Form 4, or 5, but does so on a separate form. This is to ensure that each responsible person for the entity is legally permitted to make, transfer, or receive an NFA firearm. As a result, ATF Form 5320.23 (''Form 23'') is required for any responsible person (as defined in 27 CFR 479.11) who is part of such trust or other legal entity.

Need for information and proposed use: ATF's NFA Division uses the information on this form to determine whether the applicant may legally make, possess, or receive the firearm under federal, state, tribal, and local law. Sections 5812 and 5822 provide that ATF cannot approve an application if making or possessing the firearm would place the person in violation of law. The form asks the responsible person to respond, under penalties of perjury, to questions to determine whether they are prohibited by federal law from possessing firearms.

Description of the respondents affected by this ICR: Entity responsible persons.

Number of respondents: 749,242 annually.

Frequency of response: once.

Response time estimate: 12 minutes (overall reduction from 30 minutes, due to conversion to eForm and other technological changes).

Burden of response: 149,848 hours total for all respondents.

IV. Public Participation

A. Comments Sought

ATF requests comments on the proposed rule from all interested persons. ATF specifically requests comments on the clarity of this proposed rule and how it may be made easier to understand. In addition, ATF requests comments on the costs or benefits of the proposed rule and on the appropriate methodology and data for calculating those costs and benefits.

All comments must reference this document's RIN 1140–AB00 and, if handwritten, must be legible. If submitting by mail, you must also include your complete first and last name and contact information. If submitting a comment through the federal e-rulemaking portal, as described in section IV.C of this preamble, you should carefully review and follow the website's instructions on submitting comments. Whether you submit comments online or by mail, ATF will post them online. If submitting online as an individual, any information you provide in the online fields for city, state, zip code, and phone will not be publicly viewable when ATF publishes the comment on *https://www.regulations.gov.* However, if you include such personally identifying information (''PII'') in the body of your online comment, it may be posted and viewable online. Similarly, if you submit a written comment with PII in the body of the comment, it may be posted and viewable online. Therefore, all commenters should review section IV.B of this preamble, ''Confidentiality,'' regarding how to submit PII if you do not want it published online. ATF may not consider, or respond to, comments that do not meet these requirements or comments containing excessive profanity. ATF will retain comments containing excessive profanity as part of this rulemaking's administrative record, but will not publish such documents on *https://www.regulations.gov.* ATF will treat all comments as originals and will not acknowledge receipt of comments. In addition, if ATF cannot read your comment due to handwriting or technical difficulties and cannot contact you for clarification, ATF may not be able to consider your comment.

ATF will carefully consider all comments, as appropriate, received on or before the closing date.

B. Confidentiality

ATF will make all comments meeting the requirements of this section, whether submitted electronically or on paper, and except as provided below, available for public viewing on the internet through the federal e-rulemaking portal, and subject to the Freedom of Information Act (5 U.S.C. 552). Commenters who submit by mail and who do not want their name or other PII posted on the internet should

submit their comments with a separate cover sheet containing their PII. The separate cover sheet should be marked with ''CUI//PRVCY'' at the top to identify it as protected PII under the Privacy Act. Both the cover sheet and comment must reference this RIN 1140–AB00. For comments submitted by mail, information contained on the cover sheet will not appear when posted on the internet but any PII that appears within the body of a comment will not be redacted by ATF and may appear on the internet. Similarly, commenters who submit through the federal e-rulemaking portal and who do not want any of their PII posted on the internet should omit such PII from the body of their comment and any uploaded attachments. However, PII entered into the online fields designated for name, email, and other contact information will not be posted or viewable online.

A commenter may submit to ATF information identified as proprietary or confidential business information by mail. To request that ATF handle this information as controlled unclassified information (''CUI''), the commenter must place any portion of a comment that is proprietary or confidential business information under law or regulation on pages separate from the balance of the comment, with each page prominently marked ''CUI//PROPIN'' at the top of the page.

ATF will not make proprietary or confidential business information submitted in compliance with these instructions available when disclosing the comments that it receives, but will disclose that the commenter provided proprietary or confidential business information that ATF is holding in a separate file to which the public does not have access. If ATF receives a request to examine or copy this information, it will treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). In addition, ATF will disclose such proprietary or confidential business information to the extent required by other legal process.

C. Submitting Comments

Submit comments using either of the two methods described below (but do not submit the same comment multiple times or by more than one method). Hand-delivered comments will not be accepted.

• *Federal e-rulemaking portal:* ATF recommends that you submit your comments to ATF via the federal e-rulemaking portal at *https://www.regulations.gov* and follow the instructions. Comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that is provided after you have successfully uploaded your comment.

• *Mail:* Send written comments to the address listed in the **ADDRESSES** section of this document. Written comments must appear in minimum 12-point font size, include the commenter's first and last name and full mailing address, and may be of any length. See also section IV.B of this preamble, ''Confidentiality.''

Disclosure

Copies of this proposed rule and the comments received in response to it are available through the federal e-rulemaking portal, at *https://www.regulations.gov* (search for RIN 1140–AB00).

List of Subjects in 27 CFR Part 479

Administrative practice and procedure, Arms and munitions, Exports, Imports, Military personnel, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Taxes, Transportation.

For the reasons discussed in the preamble, ATF proposes to amend 27 CFR part 479 as follows:

PART 479—MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS

■ 1. The authority citation for 27 CFR part 479 continues to read as follows:

Authority: 26 U.S.C. 5801–5812; 26 U.S.C. 7801; 26 U.S.C. 7805.

■ 2. Amend § 479.62 by:

■ a. In paragraph (a), removing the words ''ATF Form 1 (5320.1), Application to Make and Register a Firearm'' and adding in their place the words ''ATF Form 5320.1 (''Form 1''), Application to Make and Register NFA Firearm''; and

■ b. Revising the introductory text of paragraph (b) and paragraphs (b)(1), (b)(2), and (b)(6), adding a paragraph heading to paragraphs (b)(3)–(5), and adding a new paragraph (b)(7), to read as follows:

§ 479.62 Application to make

* * * * *

(b) *Preparing ATF Form 5320.1 (''Form 1'').* The applicant must provide all the information called for on Form 1, including:

(1) *Application type, i.e., tax-paid or tax-exempt.* If making the firearm is subject to the $200 tax, the applicant must submit payment in that amount with the application in accordance with the instructions on the form;

(2) *Applicant's identity.* If an individual, the applicant must provide the applicant's name, address, and birthdate, and also comply with the identification requirements prescribed in § 479.63(a). If other than an individual, the applicant entity (including a married couple filing jointly) must enter the entity's name (or ''spouses filing jointly,'' if a married couple), address, and employer identification number, if any, as well as the full name and address of each responsible person or spouse filing jointly. Each responsible person or spouse filing jointly must also comply with the identification requirements prescribed in § 479.63(b);

(3) *Firearm description.* * * *

(4) *License number.* * * *

(5) *Tax stamp.* * * *

(6) *Nonimmigrant alien documents.* If any applicant (including, if other than an individual, a spouse filing jointly, or any responsible person) is an alien admitted under a nonimmigrant visa, applicable documents demonstrating that the nonimmigrant alien falls within an exception to 18 U.S.C. 922(g)(5)(B) under 18 U.S.C. 922(y)(2), or has obtained a waiver of that provision under 18 U.S.C. 922(y)(3).

(7) *Joint registration documents.* If the applicants are spouses filing jointly (a married couple), they must submit with the application documents demonstrating a legal marriage, including a marriage certificate, license, or proof of a marriage otherwise recognized under state law. In the event a marriage certificate, license, or equivalent is not available, applicants can submit other evidence of marriage (such as affidavits, joint tax returns).

* * * * *

■ 3. Amend § 479.63 by:

■ a. Revising the section heading, the introductory text of paragraph (a), and the introductory text of paragraph (b);

■ b. In paragraph (b)(1), adding ''(or by ''spouses filing jointly'' and address, if a married couple)'' between the words ''place of business'' and the comma, and adding the words ''or a married couple filing jointly'' between the words ''in the case of a trust'' and the comma in two places;

■ c. In paragraph (b)(2)(i), removing the word ''Documentation'' and adding in its place the word ''Documents'', and adding the words ''marriage certificates, licenses, or other proof of marriage recognized under state law,'' before the words ''partnership agreements'';

■ d. In paragraph (b)(2)(ii), adding the words ''or spouse filing jointly'' after the

words ''responsible person'', adding the words ''or spouse's'' after the words ''responsible person's'', and adding ''(if applicable)'' after the word ''position''; and

■ e. In paragraphs (b)(2)(iii) and (iv), by adding the words ''or spouse filing jointly'' after the words ''responsible person'' wherever they appear.

The revisions read as follows:

§ 479.63 Applicant identity.

(a) Each individual applicant must:

* * * * *

(b) If the applicant is not an individual, and is not a licensed manufacturer, importer, or dealer qualified under this part, but is a partnership, company (including a limited liability company (LLC)), association, trust, corporation, or married couple filing jointly, the applicant must:

* * * * *

■ 4. Amend § 479.84, by:

■ a. In paragraph (b)(9), adding the words ''or spouse filing jointly'' after the words ''responsible person''; and

■ b. Revising paragraphs (a), (b) introductory text, (b)(2), and (b)(5) and adding paragraph (b)(10) to read as follows:

§ 479.84 Application to transfer.

(a) *General.* Except as otherwise provided in this subpart, no person may transfer a firearm in the United States unless the transferor submits an application, ATF Form 5320.4 (''Form 4''), Application to Transfer and Register NFA Firearm (Tax-Paid), to the Director in duplicate, executed under the penalties of perjury, to transfer the firearm and register it to the transferee, and the Director has approved the application. If the transferee is not a licensed manufacturer, importer, or dealer qualified under this part, but is a partnership, company (including a limited liability company (LLC)), association, trust, corporation, or a married couple filing jointly, the transferee must furnish all information required on Form 4 for each of the transferee's responsible persons or spouses filing jointly.

(b) *ATF Form 5320.4 (''Form 4'').* The transferor and transferee must provide all the information called for on Form 4, including:

* * * * *

(2) The transferor's identity by name and address and, if the transferor is not an individual, the title or legal status (such as spouse or owner) of the person executing the application in relation to the transferor;

* * * * *

(5) The transferee's identity by name and address and, if the transferee is not qualified as a licensed manufacturer, importer, or dealer under this part, additional identity information in the manner prescribed in § 479.85;

* * * * *

(10) If the applicants are spouses filing jointly (a married couple), they must submit applicable documents demonstrating a legal marriage with the application, including a marriage certificate, license, or proof of a marriage otherwise recognized under state law. In the event a marriage certificate is not available, applicants can submit other evidence of marriage (such as affidavits, joint tax returns).

* * * * *

■ 6. Amend § 479.85 by:

■ a. Revising the section heading, paragraph (a) introductory text, and paragraph (b) introductory text;

■ b. In paragraph (b)(1), adding ''(or last name(s) and primary address of the married couple filing jointly)'' between the words ''place of business'' and the comma, and adding the words ''or a married couple filing jointly'' between the words ''in the case of a trust'' and the comma;

■ c. In paragraph (b)(2)(i), removing the word ''Documentation'' and adding in its place the word ''Documents'', and adding the words ''marriage certificates, licenses, or other proof of marriage recognized under state law,'' before the words ''partnership agreements'';

■ d. In paragraph (b)(2)(ii), adding the words ''or spouse filing jointly'' after the words ''responsible person'', adding the words ''or spouse's'' after the words ''responsible person's'', and adding ''(if applicable)'' after the word ''position''; and

■ e. In paragraphs (b)(2)(iii) and (iv), adding the words ''or spouse filing jointly'' after the words ''responsible person'' wherever they appear.

The revisions read as follows:

§ 479.85 Transferee identity.

(a) Each individual transferee must:

* * * * *

(b) If the transferee is not an individual, and is not a licensed manufacturer, importer, or dealer qualified under this part, but is a partnership, company (including a limited liability company (LLC)), association, trust, corporation, or a married couple filing jointly, the transferee must:

* * * * *

■ 7. Amend § 479.101 by:

■ a. Revising the section heading; and

■ b. Adding paragraph (g).

The revision and addition read as follows:

§ 479.101 Registering firearms.

* * * * *

(g) A firearm may be registered jointly to spouses. The marriage must be recognized under state law, and each spouse must meet the requirements of this part, including retaining proof of registration.

Robert Cekada,

Director.

[FR Doc. 2026–09154 Filed 5–7–26; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

30 CFR parts 550, 556, and 590

[Docket No. BOEM–2025–0042]

RIN 1010–AE26

Risk Management and Financial Assurance for OCS Lease and Grant Obligations; Extension of Public Comment Period

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of proposed rulemaking; extension of public comment period.

SUMMARY: The Bureau of Ocean Energy Management (BOEM) is extending the public comment period on our notice of proposed rulemaking (NPRM) titled ''Risk Management and Financial Assurance for OCS Lease and Grant Obligations'' by seven days. Comments previously submitted need not be resubmitted and will be fully considered.

DATES: The comment period for the proposed rule ''Risk Management and Financial Assurance for OCS Lease and Grant Obligations,'' which was published on March 9, 2026, at 91 FR 11212, is extended by 7 days. Online comments submitted at *https://www.regulations.gov* must be uploaded by 11:59 p.m. eastern daylight time on May 15, 2026. Hardcopy comments submitted by a parcel delivery service must be received by BOEM or postmarked on or before May 15, 2026.

ADDRESSES: The publicly available documents relevant to this action are available for public inspection electronically at *https://www.regulations.gov* in Docket No. BOEM–2025–0042.

Submitting Comments. You may send comments regarding the substance of this proposed rule, identified by Docket No. BOEM–2025–0042 or regulation identifier number (RIN) 1010–AE26, using any of the following methods:

• *Federal e-rulemaking portal: https://www.regulations.gov*. Search for and submit comments on Docket No. BOEM–2025–0042.

• *U.S. Postal Service or other parcel delivery service:* Send comments on the proposed rule to the Department of the Interior, Bureau of Ocean Energy Management, Office of Regulatory Affairs, Attention: Karen Thundiyil, Office Director, Office of Regulatory Affairs, BOEM, 1849 C Street NW, Washington, DC 20240.

Instructions: All comments submitted regarding this proposed rule should reference Docket No. BOEM–2025–0042 or RIN 1010–AE26. All comments received by BOEM will be reviewed and may be posted to *https://www.regulations.gov,* including any personal information provided with the submission. For further instructions on protecting personally identifiable information, see ''Public Availability of Comments'' under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Karen Thundiyil, Office Director, Office of Regulatory Affairs, BOEM, 1849 C Street NW, Washington, DC 20240, at email address *regulatory.affairs@boem.gov,* or at telephone number (202) 742–0970.

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 for contacting the contacts listed in this section. These services are available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: On March 9, 2026, BOEM published the proposed rule ''Risk Management and Financial Assurance for OCS Lease and Grant Obligations.'' 91 FR 11212. The major proposed amendments include returning to the previous BOEM practice of considering the financial strength of jointly liable predecessor lessees, revising the credit rating threshold for determining whether oil, gas, and sulfur lessees, right-of-use and easement grant holders, and pipeline right-of-way grant holders on the OCS are required to provide supplemental financial assurance above the required general financial assurance amount to ensure compliance with their Outer Continental Shelf Lands Act obligations, revising the decommissioning estimate used to determine the amount of supplemental financial assurance required, and revising the appeals bond provision related to the Interior Board of Land Appeals appeal procedures. With this notice, we are extending the public comment period on the NPRM by seven days.

Public Availability of Comments

You may submit your comments and materials by one of the methods listed in the **ADDRESSES** section of this notice. Before including your name, return address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment—including your personally identifiable information—may be made publicly available. In order for BOEM to withhold from disclosure your personally identifiable information, you must identify, in a cover letter, any information contained in the submittal of your comments that, if released, would constitute a clearly unwarranted invasion of your personal privacy. You must also briefly describe in such cover letter any possible harmful consequences of the disclosure of information, such as embarrassment, injury, or other harm. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so. Even if BOEM withholds your information in the context of this rulemaking, your submission is subject to the Freedom of Information Act (FOIA) and any relevant court orders. If your submission is requested under the FOIA or such court order, your information will only be withheld if a determination is made that one of the FOIA's exemptions to disclosure applies or if such court order is challenged. Such a determination will be made in accordance with the Department's FOIA regulations and applicable law.

Jennafer L. Foreman,

Chief of Staff, BOEM, Exercising the Delegated Authority of the BOEM Director.

[FR Doc. 2026–09208 Filed 5–7–26; 8:45 am]

BILLING CODE 4340–98–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

[Docket No. VA–2024–VHA–0031]

RIN 2900–AS25

Updates to Waiver of Charges for Copayments

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Department of Veterans Affairs (VA) is withdrawing a document published in the **Federal Register** on December 17, 2024, that requested public comment on VA's proposal to revise its medical regulations to allow VA to initiate a waiver request for debt accumulated from health care copayments on behalf of veterans in certain circumstances and to remove the requirement that veterans submit VA Form 5655 when seeking a waiver of copayment debt. VA is withdrawing the proposed rule because VA has determined the proposed regulation is no longer necessary.

DATES: The proposed rule published at 89 FR 102031 on December 17, 2024, is withdrawn as of May 8, 2026.

ADDRESSES: The docket for this withdrawn proposed rule is available at *www.regulations.gov/docket/VA-2024-VHA-0031.*

FOR FURTHER INFORMATION CONTACT: Kevin Johnson, Director, Revenue Operations, Office of Finance, Veterans Health Administration, (562) 480–2890.

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on December 17, 2024, VA proposed to revise its medical regulations to allow VA to initiate a waiver request for debt accumulated from health care copayments on behalf of veterans in certain circumstances and to remove the requirement that veterans submit VA Form 5655 when seeking a waiver of copayment debt.

On November 20, 2025, VA announced it would relieve veterans of more than $272 million in potential medical bills that accrued when certain copayment claims processing and collections stopped in early 2023, including the copayments giving rise to this rulemaking.[1] Therefore, VA is withdrawing the proposed rule because it is no longer necessary.

Signing Authority

Douglas A. Collins, Secretary of Veterans Affairs, approved this

[1] *https://news.va.gov/press-room/va-provides-veterans-relief-from-biden-era-backlogged-medical-bills/* (last accessed December 3, 2025).

document on April 20, 2026, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Gabriela DeCuir,

Alternate Federal Register Liaison Officer, Department of Veterans Affairs.

[FR Doc. 2026–09144 Filed 5–7–26; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2025–0305; FRL–13350–01–R4]

Air Plan Approval; NC; Removal of the State's Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of North Carolina, through the North Carolina Division of Air Quality (NCDAQ), on October 1, 2024. The revision seeks to remove North Carolina's vehicle inspection and maintenance (I/M) program from North Carolina's SIP which covers 19 counties. EPA is proposing to approve this change as it will not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the Clean Air Act (CAA or Act).

DATES: Comments must be received on or before June 8, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2025–0305 at *regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Weston Freund, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8773. Mr. Freund can also be reached via electronic mail at *freund.weston@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What is being proposed?

North Carolina submitted a SIP revision on October 1, 2024, seeking to remove its SIP-approved I/M program, which covers the following counties: Alamance, Buncombe, Cabarrus, Cumberland, Davidson, Durham, Forsyth, Franklin, Gaston, Guilford, Iredell, Johnston, Lincoln, Mecklenburg, New Hanover, Randolph, Rowan, Union, and Wake. The SIP-approved I/M program consists of the following rules under 15A NCAC 02D, Section .1000 Motor Vehicle Emission Control Standards: Rule .1001, *Purpose;* Rule .1002, *Applicability;* Rule .1003, *Definitions;* and Rule .1005, *On-Board Diagnostic Standards.* NCDAQ submitted this SIP revision in response to North Carolina Session Law (S.L.) 2023–134 (House Bill 259), which amended North Carolina General Statute (NCGS) section 143–215.107A(c).[1]

Sections 182(b)(4) and 187(a)(4) of the CAA require the implementation of an I/M program in certain areas classified as Moderate nonattainment or higher for the ozone or carbon monoxide (CO) National Ambient Air Quality Standards (NAAQS). In addition to the counties that were required to implement I/M in North Carolina by the CAA, North Carolina opted to expand the I/M program to comply with a rule entitled ''Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone'' (also referred to as the NO_X SIP Call).[2] The I/M program was expanded in 2002 to include 39 total counties, including those covered in this proposed action, to provide North Carolina with emissions credits to meet its NO_X SIP Call obligations. *See* 67 FR 66056 (October 30, 2002). The NO_X SIP Call, issued by EPA in 1998, required some states, including North Carolina, to meet statewide NO_X emission requirements during the ozone season (May 1 through September 30 control period) to reduce the amount of ground level ozone that is transported across the eastern United States. *See* 84 FR 8422 (March 8, 2019). All counties in North Carolina are currently designated as attainment for all NAAQS.

As a part of the State's October 1, 2024, submittal, North Carolina included a CAA section 110(l) non-interference demonstration. Under section 110(l) of the CAA, EPA cannot approve a SIP revision if it would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined by section 171 of the CAA), or any other applicable requirement of the CAA. Section III, below, provides EPA's analysis of the non-interference demonstration.

EPA is proposing to find that removal of North Carolina's I/M program from the SIP for the remaining 19 counties would not interfere with North Carolina's obligations under the NO_X SIP Call. This proposed finding is based on several federal rules and SIP-approved State provisions promulgated and implemented after EPA's 2002 approval of North Carolina's NO_X SIP Call submission. These federal rules and SIP provisions have created significant NO_X emission reductions in North Carolina such that the credits gained by the 19 counties' participation in the I/M program are no longer needed for North Carolina to meet its NO_X SIP Call Statewide NO_X emissions budget. North Carolina has provided an analysis which supports this proposed finding and is discussed in Sections II.B and III.A of this notice of proposed rulemaking (NPRM).

North Carolina's SIP revision also evaluates the impact that the removal of the I/M program would have on the

[1] Section 12.7(b) of S.L. 2023–134 amended NCGS section 143–215.107A(c) to remove 18 of the 19 counties from North Carolina's I/M program, and Section 12.7(a) amended NCGS section 20–183.2(b) to change the vehicle model year coverage for Mecklenburg County which is the only county that would be retained in the state-level program. Section 12.7(d) of S.L. 2023–134 requires that Sections 12.7(a) and (b) become effective on the first day of a month that is 60 days after the Secretary of the Division of Environmental Quality certifies to the Revisor of Statutes that EPA has approved an amendment to the North Carolina SIP submitted as required by Section 12.7(c) (*i.e.,* the October 1, 2024 SIP revision) and applies to motor vehicles inspected, or due to be inspected, on or after that date.

[2] *See* 63 FR 57356 (October 27, 1998).

State's ability to attain and maintain the NAAQS. The SIP revision contains a technical demonstration with revised emissions calculations showing that removing the I/M program from the SIP would not interfere with attainment or maintenance of any NAAQS or any other applicable requirement of the CAA. As discussed more fully in Section III of this NPRM, EPA is proposing to find that North Carolina's emissions calculations demonstrate that removing the I/M program from the SIP would not interfere with the State's ability to attain or maintain any NAAQS.

II. Background

A. History of North Carolina's I/M Program

North Carolina's I/M program began in 1982 in Mecklenburg County utilizing a ''tailpipe'' emissions test. In 1984, Wake County was first added to the program for CO NAAQS violations. From 1986 through 1991 the program expanded to include Cabarrus, Davidson, Durham, Forsyth, Gaston, Guilford, and Union Counties, to address violations of the ozone and/or CO NAAQS. The I/M program was also implemented in Orange County although it was not designated as nonattainment for the ozone or CO NAAQS.

In 1999, the North Carolina General Assembly passed legislation (Session law 1999–328) to expand the coverage area for the I/M program to gain additional emission reduction credits for its NO_X SIP call obligations as well as to achieve the 1997 8-hour ozone NAAQS in the State. This legislation expanded the I/M program to add 38 counties between July 1, 2003, and July 1, 2006, for a total of 48 counties.[3] The I/M program in the expanded coverage area used on-board diagnostic (OBD) system checks rather than tailpipe testing.

On August 7, 2002, North Carolina submitted a SIP revision to amend the I/M regulations included in the SIP at that time to, among other things, expand the counties subject to the I/M program as discussed above, and to require OBD testing in the subject counties for all light duty gasoline vehicles with a model year (MY) of 1996 and newer. Additionally, the SIP revision proposed to terminate the tailpipe testing program on January 1, 2006, for the nine counties subject to continued tailpipe testing with a MY 1995 and older vehicles. EPA approved this SIP revision on October 30, 2002. *See* 67 FR 66056.

On January 31, 2008, May 24, 2010, October 11, 2013, and February 11, 2014, North Carolina submitted SIP revisions to change the I/M program to exempt the three newest MY vehicles with less than 70,000 miles among other changes. EPA approved these SIP revisions on February 5, 2015. *See* 80 FR 6455.

On November 17, 2017, North Carolina submitted a SIP revision to remove 26 counties from the I/M program. EPA approved this SIP revision on September 25, 2018. *See* 83 FR 48383.

On July 25, 2018, North Carolina submitted a SIP revision to revise the MY coverage for the then remaining 22 counties subject to the I/M program. EPA approved this SIP revision on September 11, 2019. *See* 84 FR 47889.

On December 14, 2020, North Carolina submitted a SIP revision to remove three additional counties from the I/M program (Lee, Onslow, and Rockingham Counties). EPA approved this SIP revision on August 11, 2022. *See* 87 FR 49524.

The remaining 19 counties in North Carolina's SIP-approved I/M program are Alamance, Buncombe, Cabarrus, Cumberland, Davidson, Durham, Franklin, Forsyth, Gaston, Guilford, Johnston, Iredell, Lincoln, Mecklenburg, New Hanover, Randolph, Rowan, Union, and Wake.

B. NO_X SIP Call

On August 7, 2002, North Carolina submitted a SIP revision to EPA as a component of its response to the NO_X SIP Call requirements. The NO_X SIP Call required some states to meet statewide NO_X emission requirements during the ozone season to reduce the amount of ground level ozone transported across the eastern United States. *See* 84 FR 8422 (March 8, 2019). As noted above, North Carolina's SIP revision expanded the I/M program from 10 counties to 48, pursuant to North Carolina Session Law 1999–328, Section 3.1(d), and incorporated the OBD test procedure.

The addition of 38 counties to the I/M program pursuant to Section 3.1(d) of the 1999 Session Law and the new OBD testing procedure were included in the SIP to support the establishment of emission credits for North Carolina's NO_X budget and trading program. *See* 67 FR 66056 (October 30, 2002). EPA approved the I/M rule revision and North Carolina's use of the I/M program credits for the NO_X SIP Call budget and trading program. *See* 67 FR 66056 (October 30, 2002).

After the NO_X SIP Call, several federal rules, as well as North Carolina SIP provisions, have created significant NO_X emission reductions in North Carolina, including ozone season reductions. Consequently, the State asserts that any emissions reduction credits derived from the 19 counties' participation in the expanded I/M program are no longer needed for North Carolina to meet its Statewide NO_X emissions budget obligations under the NO_X SIP Call.

Other large reductions in NO_X emissions over time have occurred from federal rules such as the Tier 2 vehicle and fuel standards;[4] nonroad spark ignition engines and recreational engine standards; heavy-duty gasoline and diesel highway vehicle standards;[5] and large nonroad diesel engine standards.[6] These mobile source measures, coupled with fleet turnover (*i.e.,* the replacement over time of older vehicles that predate the standards with newer vehicles that meet the standards), have resulted in, and continue to result in, large reductions in NO_X emissions over time.

In 2002, North Carolina also enacted and subsequently implemented its Clean Smokestacks Act (CSA), which created system-wide annual emissions caps on actual emissions of NO_X and sulfur dioxide (SO_2) from coal-fired power plants within the State, the first of which became effective in 2007. The CSA required certain coal-fired power plants in North Carolina to significantly reduce annual NO_X emissions by 189,000 tons (or 77 percent) by 2009 (using a 1998 baseline year). This represented about a one-third reduction of the NO_X emissions from all sources in North Carolina. *See* 76 FR 36468 (June 11, 2011). The CSA's requirement to meet annual emissions caps and disallow the purchase of NO_X credits to meet the caps led to a reduction of NO_X emissions beyond the requirements of the NO_X SIP Call even though the CSA did not limit emissions only during the ozone season. EPA approved the CSA emissions caps into North Carolina's SIP

[3] The 38 counties added during this time period were Alamance, Buncombe, Brunswick, Burke, Caldwell, Carteret, Catawba, Chatham, Cleveland, Craven, Cumberland, Edgecombe, Franklin, Granville, Harnett, Haywood, Henderson, Iredell, Lee, Lenoir, Lincoln, Johnston, Moore, Nash, New Hanover, Onslow, Pitt, Randolph, Robertson, Rockingham, Rowan, Rutherford, Stanly, Stokes, Surry, Wayne, Wilkes, and Wilson.

[4] The Tier 2 standards, begun in 2004, continue to significantly reduce NO_X emissions, and EPA expects that these standards will reduce NO_X emissions from vehicles by approximately 74 percent by 2030 (or nearly 3 million tons annually by 2030). *See* 80 FR 44873 (July 28, 2015) (citing EPA, Regulatory Announcement, EPA 420–F–99–051 (December 1999).

[5] Also begun in 2004, implementation of this rule is expected to achieve a 95 percent reduction in NO_X emissions from diesel trucks and buses by 2030. *See* 80 FR 44873 (July 28, 2015).

[6] EPA estimated that compliance with this rule will cut NO_X emissions from non-road diesel engines by up to 90 percent nationwide. *See* 80 FR 44873 (July 28, 2015).

on September 26, 2011. *See* 76 FR 59250.

North Carolina also has other SIP-approved provisions that have helped significantly reduce NO_X emissions in North Carolina. Most of these rules are contained in 15A North Carolina Administrative Code (NCAC) Subchapter 02D, Section .1400, *Nitrogen Oxides.* These rules contain NO_X SIP Call requirements and work in conjunction with the CSA to reduce NO_X emissions in the State. Together, implementation of the federal rules discussed above and SIP-approved State provisions have created significant NO_X emissions reductions since North Carolina's NO_X SIP Call emissions budget was approved into the SIP in 2002. These federal rules and SIP-approved State provisions have significantly reduced ozone season NO_X emissions, from Electric Generating Units (EGUs) in particular, resulting in overall emissions levels well below the original NO_X SIP Call budget. North Carolina asserts in its October 1, 2024, SIP revision that the State can adequately implement the NO_X SIP Call with the modeled increases in NO_X emissions resulting from removal of the I/M program and that the resulting NO_X emissions do not approach the applicable NO_X budget in the State. See Section III.A of this NPRM for additional discussion.

C. I/M in the North Carolina Portion of the Charlotte-Rock Hill, NC-SC 2008 Maintenance Area

The North Carolina portion of the Charlotte-Rock Hill, NC–SC Area (bi-state Charlotte Area) for the 2008 Ozone NAAQS contains Cabarrus, Gaston, Iredell, Lincoln, Mecklenburg, Rowan, and Union Counties. The I/M program is currently identified as a permanent and enforceable measure in the maintenance plan for the North Carolina portion of the Charlotte-Rock Hill, NC-SC Area for the 2008 8-hour ozone NAAQS. On February 28, 2025, North Carolina submitted a separate SIP revision containing the second 10-year maintenance plan to maintain the 2008 8-hour ozone NAAQS in the bi-state Charlotte Area. In that submittal, North Carolina seeks to move the vehicle I/M program to the contingency measures section.[7] EPA intends to finalize action on the second 10-year maintenance plan for the North Carolina portion of the 2008 8-Hour ozone maintenance area when it finalizes action on the I/M SIP revision.

III. EPA's Analysis of North Carolina's Submittal

A. North Carolina's NO_X SIP Call Non-Interference Analysis

North Carolina's October 1, 2024, SIP revision includes a non-interference demonstration to support the removal of the I/M program, as required by section 110(l) of the CAA. EPA evaluates section 110(l) non-interference demonstrations on a case-by-case basis considering the circumstances of each SIP revision. Removal of the I/M program would remove reliance on the I/M reduction credits gained from the 19 counties' participation in the I/M program in meeting the State's NO_X emissions budget. North Carolina has demonstrated that it no longer needs these reduction credits to meet its obligation under the NO_X SIP Call.

As noted above, the federal and SIP-approved provisions that have been implemented since the I/M program was initially added to the SIP have resulted in adequate emission reductions such that the State remains far below the NO_X SIP Call budget. Specifically, Table 1 compares the EGU NO_X SIP Call budget to actual emissions in 2007, 2021, 2022, and 2023.

TABLE 1—COMPARISON OF OZONE SEASON NO_X SIP CALL BUDGET TO ACTUAL EMISSIONS FOR EGUS

	2007	2021	2022	2023
NO_X SIP Call Budget (tons) *	31,451	31,451	31,451	31,451
Actual Emissions (tons)	24,177	12,291	11,525	11,957
Below Budget (tons)	7,274	19,160	19,926	19,494
Below Budget (percent)	23%	61%	63%	62%

* From EPA's notice of proposed rulemaking for North Carolina's NO_X SIP Call submission. *See* 67 FR 42519 (June 24, 2002).

Further, the State provided mobile source modeling results showing that NO_X emissions will remain below the NO_X SIP Call budgets after removal of the I/M program from the remaining 19 counties. Specifically, NCDAQ utilized EPA's MOVES4.0.1 to model mobile source emissions increases. Table 2 shows the impact of the estimated ozone season NO_X emissions changes due to removal of the I/M program. EGU emissions in 2023 were 11,957 tons, which is 19,494 tons below the NO_X SIP Call budget for EGUs. The proposed removal of the I/M program would increase NO_X mobile emissions by 1,190 tons across all 48 counties, collectively. NCDAQ estimates an increase of 240 tons of NO_X in removing I/M from the 19 counties covered by the SIP-approved I/M program. As noted above, EPA previously approved removal of the other counties from the SIP-approved program and revised MY coverage for certain counties. Including the 2023 NO_X EGU emissions of 11,957 tons, the removal of the remaining 19 counties in the I/M program would increase NO_X emissions by 240 tons per ozone season. This would still leave a margin of 18,304 tons of NO_X between the projected emissions and the NO_X budget.

TABLE 2—IMPACT OF NO_X EMISSIONS INCREASES DUE TO REMOVAL OF THE I/M PROGRAM ON NO_X SIP CALL I/M CREDITS

I/M emissions increases from I/M program removal	Impact in tons/ozone season
Removal of 26 counties from program (previous action)	611
Revised MY coverage for 22 counties (previous action)	311
Removal of three counties (previous action)	28

[7] CAA section 175A(d) requires that a maintenance plan include such contingency measures, as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of an area, including the implementation of all measures with respect to control of the air pollutant concerned that were contained in the SIP prior to redesignation.

TABLE 2—IMPACT OF NO_X EMISSIONS INCREASES DUE TO REMOVAL OF THE I/M PROGRAM ON NO_X SIP CALL I/M CREDITS—Continued

I/M emissions increases from I/M program removal	Impact in tons/ozone season
Removal of 19 counties (this proposed action)*	240
Total NO_X Emission Increase	1,190

*This NPRM only proposes to remove the I/M program from the remaining 19 counties.

Therefore, EPA is proposing to find that removing the I/M program from the SIP would not interfere with the State's obligations under the NO_X SIP Call to meet its Statewide NO_X emissions budget. After the NO_X SIP Call, the promulgation and implementation of several federal rules and SIP-approved State provisions, particularly those impacting EGUs, have created significant NO_X emissions reductions in the State that are more than sufficient to meet its Statewide NO_X emissions budget even with the projected increase in NO_X emissions from the removal of the I/M program from the SIP.

B. North Carolina's NAAQS Non-Interference Analysis

North Carolina's non-interference demonstration includes an analysis of how the removal of the I/M program will affect each relevant NAAQS. The degree of analysis focused on any particular NAAQS in a non-interference demonstration varies depending on the nature of the emissions associated with the proposed SIP revision.

There are six NAAQS established to protect human health and the environment. These NAAQS are CO, lead (Pb), nitrogen dioxide (NO_2), ozone, particulate matter (PM)—including $PM_{2.5}$ (fine PM) and PM_{10} (coarse PM), and SO_2. This demonstration addresses all NAAQS with a focus on ozone (through its precursors NO_X and volatile organic compounds (VOCs)) and CO, the criteria pollutants targeted by I/M programs. The demonstration also focuses on $PM_{2.5}$ as VOCs and NO_X emissions are precursors that react in the atmosphere to form secondary fine PM. I/M programs are not designed to address Pb and SO_2[8] emissions, and NO_2 is captured generally through the same measures that target NO_X impacts. Therefore, this section focuses on NO_2, ozone, CO, and $PM_{2.5}$. As previously mentioned, North Carolina is designated as attainment for all NAAQS.

EPA reviews the ozone monitoring network annually that North Carolina, Mecklenburg County Air Quality (MCAQ), Forsyth County Office of Environmental Assistance and Protection (FCEAP), and Asheville-Buncombe Air Quality Agency (ABAQA) operate and maintain in accordance with 40 CFR part 58. North Carolina and the local agencies submit an annual ambient air monitoring network plan as required by 40 CFR 58.10. EPA reviews the network plan to ensure that it meets the air monitoring network design requirements in 40 CFR part 58 and approves the plan if it meets the minimum requirements. The network plan includes the ozone monitoring network and the monitoring networks for PM, including PM_{10} and $PM_{2.5}$, NO_2, SO_2, CO, and Pb. The annual network plans developed by NCDAQ, MCAQ, FCEAP, and ABAQA are posted for public inspection and comment for at least 30 days prior to submission to EPA, as required by 40 CFR 58.10(a)(1). North Carolina submits a combined network plan for the State and the local agencies. On October 29, 2025, EPA submitted a letter to North Carolina stating that the air monitoring network plan meets the requirements of 40 CFR part 58.[9]

i. Non-Interference Analysis for the Ozone NAAQS

EPA promulgated a revised 8-hour primary and secondary ozone standard of 0.080 parts per million (ppm) on July 18, 1997. Subsequently, on March 12, 2008, EPA published a final rule revising both the primary and secondary NAAQS for ozone to a level of 0.075 ppm. *See* 73 FR 16435 (March 27, 2008). On October 26, 2015, EPA published a final rule lowering the level of the 8-hour primary and secondary ozone NAAQS to 0.070 ppm. *See* 80 FR 65292. The 2015 ozone NAAQS retains the same general form and averaging time as the 1997 ozone NAAQS and 2008 ozone NAAQS but is set at a lower level.

Under EPA's regulations at 40 CFR 50.19 and 40 CFR part 50, Appendix U, the 2015 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient ozone concentration is less than or equal to 0.070 ppm. In 2017, the entirety of North Carolina (including all the 19 counties covered by this proposed rule) was designated attainment/unclassifiable for the 2015 ozone NAAQS. *See* 82 FR 54232 (November 16, 2017).

Table 3 below shows the 2014–2016 through 2023–2025 ozone design values for all ozone monitors in the 19 counties covered by this proposed rule, demonstrating that these counties have maintained compliance with all of the 8-hour ozone NAAQS mentioned above during this time period.

TABLE 3—OZONE DESIGN VALUES (DVS), ppm

Site name (county)	AQS ID	2014–2016	2015–2017	2016–2018	2017–2019	2018–2020	2019–2021	2020–2022	2021–2023	2022–2024	2023–2025**
Bent Creek (Buncombe)	37–021–0030	0.063	0.062	0.061	0.061	0.059	0.058	0.058	0.061	0.060	0.060
Wade (Cumberland)	37–051–0008	0.061	0.062	0.063	0.062	0.060	0.059	*ND	*ND	*ND	*ND
Honeycutt School (Cumberland)	37–051–0010	0.064	0.063	0.063	0.062	0.059	0.060	0.063	0.067	0.065	0.061
Wade School (Cumberland)	37–051–0011	*ND	*ND	*ND	*ND	*ND	*ND	*ND	*ND	0.064	0.062
Durham Armory (Durham)	37–063–0015	0.062	0.061	0.062	0.061	0.059	0.058	0.058	0.062	0.063	0.062
Hattie Avenue (Forsyth)	37–067–0022	0.067	0.067	0.066	0.065	0.064	0.064	0.063	0.065	0.065	0.066

[8] The current design values in the counties affected by this proposed action are attainment for the Pb and SO_2 NAAQS. No reductions or emissions benefits are expected for the I/M program for Pb or SO_2 as I/M programs are not designed to reduce Pb or SO_2. Emissions of both Pb and SO_2 are addressed primarily through fuel standards for Pb and sulfur, which have been greatly reduced over time in gasoline that powers on-road motor vehicles.

[9] EPA also noted that the 2025 annual network plan needs an addendum to provide additional information for two proposed ozone sites and possibly for a proposed $PM_{2.5}$ site. EPA is working with the State on this effort. The letter approving the network plan is in the docket for this proposed rulemaking.

TABLE 3—OZONE DESIGN VALUES (DVS), ppm—Continued

Site name (county)	AQS ID	2014–2016	2015–2017	2016–2018	2017–2019	2018–2020	2019–2021	2020–2022	2021–2023	2022–2024	2023–2025 **
Clemmons Middle (Forsyth)	37–067–0030	0.068	0.067	0.067	0.064	0.061	0.059	0.059	0.064	0.065	0.066
Union Cross (Forsyth)	37–067–1008	0.067	0.066	0.066	0.064	0.061	0.060	0.059	0.061	0.062	0.064
Mendenhall School (Guilford)	37–081–0013	0.065	0.065	0.066	0.065	0.062	0.062	0.062	0.065	0.065	0.065
West Johnston (Johnston)	37–101–0002	0.065	0.063	0.063	0.061	0.059	0.060	0.061	0.064	0.063	0.062
Crouse (Lincoln)	37–109–0004	0.067	0.067	0.065	0.064	0.060	0.061	0.061	0.065	0.064	0.063
Garinger High School (Mecklenburg)	37–119–0041	0.069	0.069	0.068	0.070	0.067	0.066	0.064	0.069	0.069	*** 0.068
University Meadows (Mecklenburg)	37–119–0046	0.070	0.070	0.070	0.069	0.067	0.066	0.064	0.068	0.069	[3] 0.068
Castle Hayne (New Hanover)	37–129–0002	0.060	0.058	0.059	0.059	0.058	0.058	0.058	0.062	0.061	0.060
Rockwell (Rowan)	37–159–0021	0.065	0.064	0.062	0.062	0.061	0.062	0.061	0.065	0.065	0.063
Monroe School (Union)	37–179–0003	0.068	0.067	0.068	0.068	0.063	0.062	0.061	0.067	0.066	0.064
Millbrook School (Wake)	37–183–0014	0.065	0.066	0.066	0.064	0.060	0.060	0.060	0.063	0.064	0.061

* No data. Indicates that a monitor does not have a valid design value for the three-year period because the monitor was not in operation or because the monitoring data is incomplete.
** The 2023–2025 ozone design values are currently preliminary. The 2025 air monitoring data will be certified by May 1, 2026.
*** The critical 2026 4th maximum daily maximum 8-hour ozone concentrations that would result in a violating 2024–2026 design value for the 2015 8-hour ozone NAAQS at the Garinger High School and University Meadows monitors are 0.082 ppm and 0.079 ppm, respectively. If the area would not violate the 2015 8-hour ozone NAAQS, it would also not violate the 1997 or the 2008 8-hour ozone NAAQS.

The Charlotte-Rock Hill, NC-SC Areas were designated nonattainment for both the 1997 and 2008 8-hour ozone NAAQS. *See* 69 FR 23858 and 77 FR 30088. The North Carolina portion of the 1997 Charlotte Area was redesignated to attainment and had its first 10-year maintenance plan approved for the 1997 8-hour ozone NAAQS in a December 2, 2013, final rule. *See* 78 FR 72036. The North Carolina portion of this area had its second 10-year maintenance plan approved on January 13, 2023, and the maintenance period ends in 2034. *See* 88 FR 2245. The design values used to assess compliance with the 8-hour ozone NAAQS are calculated according to the applicable procedures in 40 CFR part 50. Table 4 below shows the ozone design values for the 1997 8-hour ozone Charlotte Area, which encompasses the 2008 8-hour ozone Charlotte Area.

TABLE 4—DVS FOR THE ENTIRETY OF THE COUNTIES IN THE 8-HOUR OZONE CHARLOTTE AREA, ppm

Site name (county)	AQS ID	2014–2016	2015–2017	2016–2018	2017–2019	2018–2020	2019–2021	2020–2022	2021–2023	2022–2024	2023–2025 **
Crouse (Lincoln)	37–109–0004	0.067	0.067	0.065	0.064	0.060	0.061	0.061	0.065	0.064	0.063
Garinger High School (Mecklenburg)	37–119–0041	0.069	0.069	0.068	0.070	0.067	0.066	0.064	0.069	0.069	*** 0.068
University Meadows (Mecklenburg)	37–119–0046	0.070	0.070	0.070	0.069	0.067	0.066	0.064	0.068	0.069	*** 0.068
Rockwell (Rowan)	37–159–0021	0.065	0.064	0.062	0.062	0.061	0.062	0.061	0.065	0.065	0.063
Monroe School (Union)	37–179–0003	0.068	0.067	0.068	* ND	0.063	0.062	0.061	0.067	0.066	0.064
Catawba Longhouse (York, SC)	45–091–8801	* ND	* ND	0.063	0.064	0.062	0.062	0.060	0.064	0.065	* ND

* No data. Indicates that a monitor does not have a valid design value for the three-year period because the monitor was not in operation or because the monitoring data is incomplete.
** The 2023–2025 ozone design values are currently preliminary. They are expected to be validated by May 1, 2026.
*** The critical 2026 4th maximum daily maximum 8-hour ozone concentrations that would result in a violating 2024–2026 design value for the 2015 8-hour ozone NAAQS at the Garinger High School and University Meadows monitors are 0.082 and 0.079, respectively.

The North Carolina portion of the 2008 8-hour ozone NAAQS Charlotte Area was redesignated to attainment and had its first 10-year maintenance plan approved for the 2008 8-hour ozone NAAQS in a July 28, 2015, final rule. *See* 80 FR 44873. North Carolina submitted its second 10-year maintenance plan for its portion of this area on February 28, 2025. As mentioned above, EPA intends to finalize action on the second 10-year maintenance plan for the North Carolina portion of this area when it finalizes action on the I/M SIP revision. Design values used to assess compliance with the 2008 8-hour ozone NAAQS are calculated according to the applicable procedures in 40 CFR part 50. See Table 4 above.

In 2017, the entire state of North Carolina was designated as ''Attainment/Unclassifiable'' for the 2015 ozone NAAQS based on the ozone season design values from 2014–2016. *See* 82 FR 54232. The Garinger High School and University Meadows monitors are at 0.069 ppm for the most recent certified design value (2022–2024) and 0.068 ppm for the preliminary design values for 2023–2025. The 2026 critical 4th maximum daily maximum 8-hour ozone concentration for the Charlotte-Concord-Gastonia, NC-SC Metropolitan Statistical Area (*i.e.,* Charlotte MSA) is 0.079 ppm, based on the 2024 and 2025 monitored 4th maximum 8-hour values of 0.068 ppm and 0.063 ppm, respectively. Even with the emission increases projected from the removal of I/M, EPA believes that it is unlikely that the Charlotte MSA's 4th maximum 8-hour value will exceed 0.079 ppm in 2026 given the emissions analysis below, the fact that the Charlotte MSA monitors have not recorded a 4th maximum above 0.079 ppm in the past 13 years (*i.e.,* since 206), and the improvement in ozone air quality across the Southeast during this time period. As a result, EPA is proposing to determine that North Carolina has demonstrated that the removal of the I/M program will not interfere with attainment of the 2015 ozone NAAQS.

In North Carolina's submittal, the State showed that NO_X and VOC emissions would decrease over time in comparison to the 2014 base year emissions.[10] The 2014 base year is an appropriate year for comparison because it is one of the three years (*i.e.,* 2014, 2015, and 2016) that was used to base the attainment/unclassifiable designations in North Carolina for the 2015 8-hour ozone NAAQS. As older vehicles are replaced with newer vehicles that emit less pollutants, NCDAQ estimated a decline of 53 percent in NO_X emissions in the Charlotte Area counties from 2025 to

[10] See Figures 1 and 2 in the Public Notice Report (*i.e.,* Appendix E of North Carolina's submission) as well as Table 20 in North Carolina's submittal.

2035. Table 5 below shows the projected increase in NO_X and VOC emissions in 2025 associated with the removal of the I/M program and compares 2014 base year emissions for the counties in the Charlotte MSA.

TABLE 5—COUNTY LEVEL ANTHROPOGENIC EMISSIONS FOR CHARLOTTE MSA

[Tons per day (tpd)]

Sector	2014 Emissions		Projected 2025 emissions with I/M		Projected 2025 emissions without I/M	
	NO_X	VOC	NO_X	VOC	NO_X	VOC
Onroad	60.15	34.32	31.62	22.60	32.25	23.56
Nonroad	26.26	18.89	13.26	17.11	13.26	17.11
Point	32.37	12.03	16.96	17.63	16.96	17.63
Nonpoint	11.40	47.88	3.00	56.85	3.00	56.85
Total	130.18	113.12	64.84	114.19	65.47	115.14
% Reduction from 2014 Emissions			50.19%	−0.95%	49.71%	−1.76%

Tables 6 and 7 below show the NO_X and VOC emissions changes from the proposed removal of the I/M program in the 19 counties covered by the SIP-approved I/M program. This change in I/M implementation was modeled with EPA's MOVES4.0.1 mobile emissions model. The only changes to emissions occurred in the onroad sector. These tables consider anthropogenic emissions only, meaning biogenic emissions are excluded from the analysis.

Tables 5 and 6 show that the NO_X emissions increase across the Charlotte MSA would be 0.62 tpd, representing a 1.0 percent increase in 2025 total area emissions. EPA is proposing that it is not reasonable to conclude that an increase of 0.62 tpd would cause the Charlotte Area MSA, whose critical value in 2026 is 0.079 ppm, to violate the 2015 8-hour ozone NAAQS—the most stringent 8-hour ozone NAAQS.

TABLE 6—TOTAL COUNTY-LEVEL ANTHROPOGENIC NO_X EMISSIONS FOR 2025 IN THE 19 COVERED COUNTIES

[tpd]

County	Onroad			Nonroad	Point	Nonpoint (area)	Totals			
	With I/M	Without I/M	Emissions change				With I/M	Without I/M	Emissions change	Percent change
Charlotte-Gastonia-Salisbury Maintenance Area Counties for the 1997 and 2008 8-hour Ozone NAAQS										
Cabarrus	3.09	3.15	0.06	1.19	1.64	0.24	6.16	6.22	0.06	1.0
Gaston	3.56	3.62	0.06	1.13	0.60	0.32	5.62	5.68	0.06	1.1
Iredell	3.98	4.04	0.06	0.97	2.06	0.29	7.30	7.36	0.06	0.8
Lincoln	1.60	1.63	0.03	0.37	0.79	0.11	2.87	2.90	0.03	1.0
Mecklenburg	13.44	13.75	0.31	6.49	7.70	1.51	29.14	29.45	0.31	1.1
Rowan	2.92	2.96	0.04	1.28	3.43	0.22	7.85	7.89	0.04	0.5
Union	3.03	3.09	0.06	1.82	0.73	0.31	5.90	5.96	0.06	1.0
Subtotals	31.62	32.25	0.63	13.26	16.96	3.00	64.84	65.46	0.62	1.0
Triangle 1997 Ozone NAAQS Maintenance Area Counties (Raleigh/Durham/Chapel Hill)										
Durham	3.92	4.01	0.09	1.70	1.20	0.51	7.33	7.42	0.09	1.2
Franklin	0.98	1.00	0.02	0.27	0.57	0.08	1.89	1.91	0.02	1.1
Johnston	4.07	4.14	0.07	1.47	0.67	0.24	6.45	6.52	0.07	1.1
Wake	11.01	11.29	0.28	4.80	3.29	1.21	20.31	20.59	0.28	1.4
Subtotals	19.98	20.43	0.45	8.24	5.73	2.04	35.67	36.12	0.45	1.3
Triad 1997 Ozone NAAQS Attainment Area Counties (Greensboro/Winston-Salem/High Point)										
Davidson	2.85	2.90	0.05	1.55	2.56	0.24	7.20	7.25	0.05	0.7
Forsyth	5.19	5.30	0.11	1.50	1.77	0.52	8.98	9.09	0.11	1.2
Guilford	6.87	7.01	0.14	3.95	1.96	0.86	13.64	13.78	0.14	1.0
Subtotals	14.91	15.21	0.30	7.00	6.29	1.61	29.81	30.11	0.30	1.0
Other Counties (Not Subject to an Ozone Maintenance Plan)										
Alamance	2.57	2.62	0.04	0.95	0.48	0.25	4.25	4.30	0.05	1.2
Buncombe	3.83	3.90	0.07	1.31	0.72	0.45	6.31	6.38	0.07	1.1
Cumberland	3.81	3.88	0.07	1.58	3.36	0.29	9.03	9.10	0.07	0.8
New Hanover	1.84	1.89	0.05	2.13	1.96	0.28	6.20	6.25	0.05	0.8
Randolph	2.88	2.92	0.04	0.78	0.26	0.24	4.16	4.20	0.04	0.9
Subtotals	14.93	15.21	0.28	6.74	6.77	1.51	29.96	30.24	0.28	0.9
Totals	81.44	83.09	1.66	35.24	35.75	8.16	160.59	162.25	1.66	1.0

Tables 5 and 7 show the VOC emissions increase across the Charlotte Area MSA would be 0.95 tpd, representing a 0.83 percent increase in total area emissions.[11] EPA is proposing that it is not reasonable to conclude that an increase of 0.95 tpd would cause the Charlotte Area MSA, whose critical value in 2026 is 0.079 ppm, to violate the 2015 8-hour ozone NAAQS—the most stringent of the 8-hour ozone NAAQS. As mentioned above, even with the emission increases projected from the removal of I/M, EPA believes that it is unlikely that the Charlotte MSA's 4th maximum 8-hour value will exceed 0.079 ppm in 2026 given the emissions analysis below, the fact that the Charlotte MSA monitors have not recorded a 4th maximum above 0.079 ppm in the past 13 years (*i.e.,* since 2012), and the improvement in ozone air quality across the Southeast during this time period.

TABLE 7—TOTAL COUNTY-LEVEL ANTHROPOGENIC VOC EMISSIONS FOR 2025

[tpd]

County	Onroad			Nonroad	Point	Nonpoint (area)	Totals			
	With I/M	Without I/M	Emissions change				With I/M	Without I/M	Emissions change	Percent change
Charlotte-Gastonia-Salisbury Maintenance Area Counties for the 1997 and 2008 8-hour Ozone NAAQS										
Cabarrus	2.34	2.43	0.10	1.19	1.17	4.84	9.55	9.64	0.09	0.9
Gaston	2.55	2.65	0.09	1.13	1.51	5.52	10.72	10.82	0.10	0.9
Iredell	2.70	2.79	0.09	0.84	1.54	4.94	10.03	10.12	0.09	0.9
Lincoln	1.26	1.30	0.04	0.46	2.69	2.15	6.56	6.60	0.04	0.6
Mecklenburg	9.09	9.55	0.46	10.56	3.07	28.43	51.14	51.60	0.46	0.9
Rowan	2.21	2.28	0.07	0.80	5.46	4.06	12.52	12.59	0.07	0.6
Union	2.45	2.55	0.11	2.12	2.19	6.91	13.68	13.78	0.10	0.7
Subtotals	22.60	23.56	0.96	17.11	17.63	56.85	114.19	115.14	0.95	0.8
Triangle 1997 Ozone NAAQS Maintenance Area Counties (Raleigh/Durham/Chapel Hill)										
Durham	2.83	2.96	0.13	1.82	0.64	6.83	12.12	12.25	0.13	1.1
Franklin	0.83	0.86	0.03	0.36	5.36	1.71	8.26	8.29	0.03	0.4
Johnston	2.59	2.70	0.11	1.06	2.24	6.38	12.28	12.39	0.11	0.9
Wake	8.77	9.24	0.48	7.99	2.63	24.47	43.86	44.33	0.47	1.1
Subtotals	15.03	15.77	0.75	11.23	10.88	39.38	76.51	77.25	0.74	1.0
Triad 1997 Ozone NAAQS Attainment Area Counties (Greensboro/Winston-Salem/High Point)										
Davidson	2.31	2.39	0.08	0.89	2.09	3.48	8.77	8.85	0.08	0.9
Forsyth	4.00	4.16	0.16	2.05	3.63	7.22	16.91	17.07	0.16	0.9
Guilford	5.02	5.24	0.21	4.54	8.66	11.42	29.64	29.86	0.22	0.7
Subtotals	11.33	11.78	0.45	7.48	14.38	22.12	55.31	55.77	0.46	0.8
Other Counties (Not Subject to an Ozone Maintenance Plan)										
Alamance	1.99	2.06	0.07	1.50	2.11	4.54	10.13	10.20	0.07	0.7
Buncombe	2.83	2.94	0.11	1.86	2.87	6.39	13.95	14.06	0.11	0.8
Cumberland	2.74	2.86	0.12	1.83	6.60	7.13	18.30	18.42	0.12	0.7
New Hanover	1.79	1.88	0.09	1.97	2.53	4.82	11.11	11.20	0.09	0.8
Randolph	2.06	2.13	0.06	0.90	2.54	5.36	10.87	10.94	0.07	0.6
Subtotals	11.42	11.87	0.46	8.05	16.64	28.25	64.35	64.81	0.46	0.7
Totals	60.37	62.99	2.61	43.87	59.53	146.61	310.36	312.97	2.61	0.8

Regarding maintenance of the 2008 8-hour ozone Charlotte Area, Table 8 [12] shows that the 2025 projected emissions without I/M are 54 percent below 2014 baseline NO_X emissions and 7.8 percent below 2014 baseline VOC emissions. Thus, the Charlotte Area is projected to maintain the NAAQS even with removal of the I/M program. As mentioned above, EPA intends to finalize action on the second 10-year maintenance plan for the North Carolina portion of this area when it finalizes action on the I/M SIP revision.

[11] North Carolina rounds to two decimal places for emissions totals and one decimal place for the summary percentages in its submittal, as reproduced in Tables 4 and 5.

[12] The emissions reflect activity that occurs in the portion of each of the six counties included in the 2008 8-hour ozone maintenance area plus all of Mecklenburg County. Therefore, for the six partial counties, the increase in emissions attributable to the maintenance area is lower than the increases presented in Table 5, which reflects the values for the 1997 8-hour ozone maintenance area and includes the entirety of the six counties in the 2008 8-hour ozone maintenance area in addition to all of Mecklenburg County.

TABLE 8—DEMONSTRATION OF MAINTENANCE FOR NO_X AND VOC ANTHROPOGENIC EMISSIONS FOR THE 2008 OZONE CHARLOTTE AREA WITH I/M REMOVAL

Pollutant	Maintenance plan 2014 attainment year emissions (tons/day) *	2025 Projected emissions without I/M (tons/day)	% Below 2014 emissions)
NO_X	130.18	59.27	−54
VOC	113.12	104.32	−7.8

* For more information on the 2014 attainment year inventory and initial projected 2026 maintenance year inventory, see the May 21, 2015, NPRM (80 FR 29250), as approved in the July 28, 2015, NFRM (80 FR 44873).

As mentioned above, the entire state of North Carolina was designated as attainment/unclassifiable for the 2015 8-hour ozone NAAQS, so there is no analogous table to Table 8 for the 2015 8-hour ozone NAAQS; however, EPA believes it is reasonable to conclude that a 54 percent reduction in NO_X emissions and a 7.8 percent reduction in VOC emissions from the 2014 baseline emissions is still consistent with attainment of the 2015 8-hour ozone NAAQS. 2014 was one of the three years used to calculate the design value that supported the attainment/unclassifiable designation for the 2015 8-hour ozone NAAQS in North Carolina.

ii. Non-Interference Analysis for the Fine Particulate Matter ($PM_{2.5}$) NAAQS

Over the years, EPA has reviewed and revised the $PM_{2.5}$ NAAQS several times. On July 18, 1997, EPA established an annual $PM_{2.5}$ NAAQS of 15.0 micrograms per cubic meter ($\mu g/m^3$), based on a 3-year average of annual mean $PM_{2.5}$ concentrations, and a 24-hour $PM_{2.5}$ NAAQS of 65 $\mu g/m^3$, based on a 3-year average of the 98th percentile of 24-hour concentrations. *See* 62 FR 36852. On September 21, 2006, EPA retained the 1997 annual $PM_{2.5}$ NAAQS of 15.0 $\mu g/m^3$ but revised the 24-hour $PM_{2.5}$ NAAQS to 35 $\mu g/m^3$, based again on a 3-year average of the 98th percentile of 24-hour concentrations. *See* 71 FR 61144. On December 14, 2012, EPA retained the 2006 24-hour $PM_{2.5}$ NAAQS of 35 $\mu g/m^3$ but revised the annual primary $PM_{2.5}$ NAAQS to 12.0 $\mu g/m^3$, based again on a 3-year average of annual mean $PM_{2.5}$ concentrations. *See* 78 FR 3086. On March 6, 2024, EPA revised the annual primary $PM_{2.5}$ NAAQS to 9.0 $\mu g/m^3$, based again on a 3-year average of annual mean $PM_{2.5}$ concentrations. *See* 89 FR 16202.

EPA promulgated designations for the 1997 Annual $PM_{2.5}$ NAAQS on January 5, 2005. *See* 70 FR 944. The Greensboro-Winston Salem-High Point, NC Area, which contains Davidson and Guilford County, and the Hickory-Morganton-Lenoir, NC Area, which contains Catawba County, were designated as nonattainment on that date. On November 18, 2011, EPA redesignated the Greensboro-Winston Salem-High Point, NC Area and the Hickory-Morganton-Lenoir Area to attainment. *See* 76 FR 71455 and 76 FR 71452. On November 13, 2009, and on January 15, 2015, EPA published notices determining that the entire state of North Carolina was unclassifiable/attainment for the 2006 24-hour $PM_{2.5}$ NAAQS and the 2012 annual $PM_{2.5}$ NAAQS, respectively. *See* 74 FR 58688 and 80 FR 2206, respectively.

As stated earlier, in 2024 the annual primary $PM_{2.5}$ NAAQS was revised to 9.0 $\mu g/m^3$, based again on a 3-year average of annual mean $PM_{2.5}$ concentrations. Currently, all monitors in North Carolina are attaining the 2024 annual $PM_{2.5}$ NAAQS.[13] [14]

North Carolina's October 1, 2024, SIP revision concludes that the removal of the I/M program would not interfere with attainment or maintenance of the $PM_{2.5}$ NAAQS. As noted above in the ''Totals'' row from Tables 6 and 7, the modeled increase in precursor emissions of NO_X and VOCs is projected to be 1.66 tpd (1.0 percent) and 2.61 tpd (0.8 percent), respectively, across all 19 covered counties. For these reasons, EPA proposes to find that removal of the I/M program would not interfere with maintenance of the $PM_{2.5}$ NAAQS.

iii. Non-Interference Analysis for the 2010 NO_2 NAAQS

The 2010 NO_2 1-hour standard is set at 100 ppb, based on the 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations. The 1971 annual NO_2 standard of 53 ppb is based on the annual mean concentration. On February 17, 2012, EPA designated all counties in North Carolina as unclassifiable/attainment for the 2010 NO_2 NAAQS. *See* 77 FR 9532.

Based on the technical analysis in North Carolina's October 1, 2024, SIP revision, the projected increase in total anthropogenic NO_X emissions (of which NO_2 is a component) associated with the removal of the I/M program ranges from a 0.02 tpd increase in total NO_X emissions (1.1 percent) for Franklin County to a 0.31 tpd increase in total NO_X emissions (1.1 percent) for Mecklenburg County in 2025. The DVs [15] from all NO_2 monitors in the State are attaining the 2010 1-hour NO_2 standard and the 1971 annual NO_2 standard. The highest-reading monitor in the State, the Equipment Drive monitor in Mecklenburg County (AQS ID: 37–119–0050), has a DV of 13 ppb for the annual NAAQS. The form of the annual NAAQS is a single year arithmetic mean. The form of the 2010 1-hour NAAQS requires three complete years of data. The Equipment Drive monitor does not yet have a complete three-year DV for the 1-hour NAAQS because it began operation in January 2024. The highest valid DV for the 1-hour NO_2 NAAQS in the State is the Remount Road Monitor (37–119–0045) at 36 ppb.

Given the margin between the NAAQS and the DVs for the annual and 1-hour NAAQS and the size of the projected increases in NO_X emissions due to the removal of I/M, EPA proposes to find that removal of the I/M program would not interfere with maintenance of the NO_2 NAAQS.

iv. Non-Interference Analysis for the CO NAAQS

EPA promulgated the CO NAAQS in 1971 and has retained the primary standard since its last review of the standard in 2011. The primary NAAQS for CO include: (1) an 8-hour standard

[13] Air quality design values are available on the EPA website at: *https://www.epa.gov/air-trends/air-quality-design-values.*

[14] On February 6, 2025, the State of North Carolina submitted an exceptional events (EEs) demonstration for 13 days at the Remount Road monitor (AQS ID 37–119–0045) in Mecklenburg County in the June–July 2023 period to address impacts from the 2023 Canadian wildfires. On September 2, 2025, EPA issued a letter concurring on six of the 13 days and deferring action on the remaining seven days. With the six excluded days, the Remount Road monitor showed an attaining 2022–2024 design value for the 2024 annual $PM_{2.5}$ NAAQS of 9.0 $\mu g/m^3$. A copy of the September 2, 2025, letter is included in the docket for this NPRM.

[15] Air quality design values are available on EPA's website at: *https://www.epa.gov/air-trends/air-quality-design-values.*

of 9.0 ppm, measured using the annual second highest 8-hour concentration for two consecutive years as the design value; and (2) a 1-hour average of 35 ppm, using the second highest 1-hour average within a given year. In 1995, Mecklenburg, Durham, and Wake County were redesignated from nonattainment to unclassifiable/attainment, and Forsyth County was redesignated to unclassifiable/attainment in 1994. *See* 59 FR 48399 (September 21, 1994) and 60 FR 39258 (August 2, 1995).

North Carolina inventoried the emissions of CO from all anthropogenic sources for 2025, with and without the I/M program from the remaining 19 counties, showing an overall 6.4 percent projected increase in CO emissions. See Table 9 below. The highest 2023–2024 CO DVs [16] in the Charlotte (Mecklenburg County) metropolitan area are 1.6 ppm for the 8-hour CO DV and 2.0 ppm for the 1-hour DV at the Remount Road site (AQS ID: 37–119–0045). The highest 2022–2024 CO DVs in the Raleigh (Wake County) metropolitan area are 1.3 ppm for the 8-hour CO design value and 1.7 ppm for the 1-hour design value at the Millbrook School site (AQS ID: 37–183–0014). Given the margin between the NAAQS and the DVs for the 8-hour and 1-hour CO NAAQS and the size of the CO increases, EPA proposes to find that removal of the I/M program would not interfere with maintenance of the CO NAAQS.

TABLE 9—TOTAL COUNTY-LEVEL ANTHROPOGENIC CO EMISSIONS FOR 2025 (TPD)

County	Onroad			Nonroad		Point		Nonpoint (area)		Totals			
	With I/M	Without I/M	Emissions increase	With I/M	Without I/M	With I/M	Without I/M	With I/M	Without I/M	With I/M	Without I/M	Emissions increase	Percent increase
Charlotte-Gastonia-Salisbury Maintenance Area Counties for the 1997 and 2008 8-hour Ozone NAAQS													
Cabarrus	39.38	44.07	4.69	22.33	22.33	1.45	1.45	2.52	2.52	65.69	70.38	4.69	7.1
Gaston	43.02	47.78	4.76	20.87	20.87	1.14	1.14	2.70	2.70	67.72	72.48	4.76	7.0
Iredell	43.99	48.64	4.65	14.07	14.07	2.23	2.23	2.51	2.51	62.79	67.44	4.65	7.4
Lincoln	18.32	20.15	1.83	7.60	7.60	2.10	2.10	1.27	1.27	29.29	31.12	1.83	6.2
Mecklenburg	194.21	220.33	26.12	200.48	200.48	22.16	22.16	7.55	7.55	424.40	450.52	26.12	6.2
Rowan	35.52	39.05	3.53	12.24	12.24	3.61	3.61	1.79	1.79	53.17	56.70	3.53	6.6
Union	39.01	43.61	4.60	39.19	39.19	4.46	4.46	3.03	3.03	85.69	90.29	4.60	5.4
Subtotals	413.45	463.63	50.18	316.79	316.79	37.15	37.15	21.36	21.36	788.75	838.93	50.18	6.4
Triangle 1997 Ozone NAAQS Maintenance Area Counties (Raleigh/Durham/Chapel Hill)													
Durham	58.60	66.24	7.64	32.41	32.41	1.04	1.04	3.86	3.86	95.91	103.55	7.64	8.0
Franklin	11.67	12.92	1.25	6.42	6.42	20.93	20.93	1.02	1.02	40.03	41.28	1.25	3.1
Johnston	44.11	49.24	5.13	17.71	17.71	2.65	2.65	2.70	2.70	67.17	72.30	5.13	7.6
Wake	164.05	186.03	21.98	149.29	149.29	7.89	7.89	8.03	8.03	329.26	351.24	21.98	6.7
Subtotals	278.43	314.43	36.00	205.83	205.83	32.50	32.50	15.61	15.61	532.37	568.37	36.00	6.8
Triad 1997 Ozone NAAQS Attainment Area Counties (Greensboro/Winston-Salem/High Point)													
Davidson	33.13	36.37	3.25	15.49	15.49	1.20	1.20	2.21	2.21	52.03	55.27	3.24	6.2
Forsyth	69.28	77.28	8.00	40.82	40.82	2.26	2.26	3.07	3.07	115.44	123.44	8.00	6.9
Guilford	89.99	100.83	10.85	90.05	90.05	3.09	3.09	5.21	5.21	188.35	199.19	10.84	5.8
Subtotals	192.39	214.49	22.10	146.37	146.37	6.55	6.55	10.49	10.49	355.81	377.89	22.08	6.2
Other Counties (Not Subject to an Ozone Maintenance Plan)													
Alamance	28.91	31.99	3.08	28.60	28.60	3.93	3.93	2.01	2.01	63.44	66.52	3.08	4.9
Buncombe	42.99	47.66	4.66	26.69	26.69	1.48	1.48	4.37	4.37	75.52	80.19	4.67	6.2
Cumberland	50.44	56.61	6.17	31.77	31.77	5.28	5.28	2.67	2.67	90.17	96.34	6.17	6.8
New Hanover	29.98	33.80	3.82	32.98	32.98	1.45	1.45	2.33	2.33	66.74	70.56	3.82	5.7
Randolph	28.45	31.12	2.67	17.22	17.22	0.48	0.48	1.78	1.78	47.93	50.60	2.67	5.6
Subtotals	180.77	201.18	20.40	137.26	137.26	12.63	12.63	13.15	13.15	343.81	364.22	20.41	5.9
Totals	1065.04	1193.71	128.68	806.25	806.25	88.84	88.84	60.61	60.61	2020.74	2149.41	128.67	6.4

IV. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule amended regulatory text that includes incorporation by reference. EPA is proposing to remove Rules 15A NCAC 02D.1001, *Purpose;* Rule .1002, *Applicability;* Rule .1003, *Definitions;* and Rule .1005, *On-Board Diagnostic Standards* from the North Carolina SIP, which were incorporated by reference in accordance with the requirements of 1 CFR part 51, as discussed in Sections I through III of this preamble. EPA has made and will continue to make the SIP generally available at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Proposed Action

EPA is proposing to find that removal of the I/M program from the North Carolina SIP would not interfere with any applicable requirement concerning attainment and RFP or any other applicable requirement of the CAA. Consequently, EPA is proposing to approve North Carolina's October 1, 2024, SIP revision and remove the I/M program from North Carolina's SIP.

[16] Air quality design values are available on EPA's website at: *https://www.epa.gov/air-trends/air-quality-design-values.*

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175. *See* 65 FR 67249, November 9, 2000.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

(Authority: 42 U.S.C. 7401 *et seq.*)

Dated: May 5, 2026.

Kristy Eubanks,

Deputy Regional Administrator performing the functions and duties of the Regional Administrator, Region 4.

[FR Doc. 2026–09146 Filed 5–7–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, and 270

[EPA–HQ–OLEM–2023–0085; FRL–9247–04–OLEM]

RIN 2050–AH27

Definition of Hazardous Waste Applicable to Corrective Action for Releases From Solid Waste Management Units; Withdrawal

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; withdrawal.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is withdrawing its proposed rule entitled ''Definition of Hazardous Waste Applicable to Corrective Action for Releases From Solid Waste Management Units.'' The Agency issued the proposed rule to: amend the regulatory definition of hazardous waste applicable to corrective action to address releases from solid waste management units at hazardous waste treatment, storage, and disposal facilities permitted under the Resource Conservation and Recovery Act (RCRA) and make conforming amendments related to the definition amendment; and add the statutory corrective action authorities to the section of the regulations that provides notice that the statutory definitions, rather than the regulatory definitions, apply to certain sections of the statute. The Agency has concluded that the proposed revisions to the existing regulations would have complicated, rather than contributed to, efficient implementation of corrective action. For those reasons EPA has determined that withdrawal is appropriate.

DATES: The proposed rule published on February 8, 2024 (89 FR 8598) is withdrawn as of May 8, 2026.

ADDRESSES: Publicly available docket materials are available either electronically through *https://www.regulations.gov* or in hard copy at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The Docket ID No. is EPA–HQ–OLEM–2023–0085. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays). For further information on the EPA Docket Center services and the current status, see: *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Barbara Foster, Waste and Chemical Implementation Division, Office of Resource Conservation and Recovery (5303T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460, telephone number: (202) 566–0382, email address: *foster.barbara@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Authority

These regulations were proposed under the authority of sections 2002(a), 3004(u) and (v), and 3008(h) of RCRA, as amended, 42 U.S.C. 6912(a), 6924(u) and (v), and 6928(h).

II. Background

A. Description of Proposed Rule

On February 8, 2024, EPA issued a proposed rule that would have amended the regulatory definition of hazardous waste applicable to corrective action to address releases from solid waste management units at RCRA-permitted treatment, storage, and disposal facilities (*see* 89 FR 8598). The Agency proposed two related amendments. First, the Agency proposed to amend two regulatory definitions in 40 CFR—the definition of hazardous waste in § 260.10, which is applicable to corrective action under § 264.101 and subpart S, and the identical definition in § 270.2 of the hazardous waste facility permitting regulations—to expressly apply the RCRA section 1004(5) statutory definition of hazardous waste to corrective action requirements. Second, EPA proposed to add RCRA sections 3004(u) and (v) and 3008(h) to the statutory authorities identified in § 261.1(b)(2) of the regulations. That section provides notice that the statutory definitions of solid and hazardous waste, rather than the more limited regulatory definitions, govern the scope of EPA's authority under certain sections of RCRA.

B. Withdrawal Is Appropriate Because the Rule Is Not Necessary

Through the proposed rule, EPA sought to align its regulations with the RCRA statutory requirement that permitted facilities conduct corrective action to address releases not only of substances listed or identified as hazardous waste in the regulations but of any substance that meets the statutory definition of hazardous waste. EPA particularly intended the rule to provide clear authority to address, through corrective action in permits, releases of emerging contaminants that have not yet been listed or identified as hazardous waste under the regulations.

Some commenters on the proposed rule argued that the rule is not necessary for a number of reasons. After considering public comments received on the proposed rule, EPA, while not agreeing with all the arguments presented by commenters, has determined that the rule is not necessary and that withdrawal of the proposed rule is appropriate for reasons described below.

1. Amendments to the Definition of Hazardous Waste

The proposed rule would have amended the definition of hazardous waste: (1) in § 260.10 (applicable to § 264.101 and 40 CFR part 264, subpart S); and (2) § 270.2 (applicable to the RCRA permitting requirement). EPA proposed these changes to apply the definition of hazardous waste in RCRA section 1004(5) to corrective action requirements at permitted hazardous waste facilities thus reflecting in the regulations authority to address not only releases of hazardous wastes that are listed or identified in EPA's hazardous waste regulations, but also releases of any substance that meet the broader, RCRA statutory definition of hazardous waste.

There are two reasons the amendments to the definition of hazardous waste are not necessary. First, nearly all corrective actions address regulatory hazardous wastes and hazardous constituents. This has been demonstrated through years of program implementation—EPA and authorized states have issued only a limited number of permits and section 3008(h) orders addressing substances that were not hazardous waste or hazardous constituents listed or identified by regulation.[1] Second, to the extent that releases of other RCRA statutory hazardous wastes and constituents have occurred and present a risk to human health or the environment, EPA has other tools to require clean up in RCRA permits. Namely, RCRA section 3005(c)(3) and EPA's implementing regulations at § 270.32 require that all permits include such requirements as are necessary to protect human health and the environment. This ''omnibus'' authority requires that permits contain such terms and conditions as the Administrator determines necessary to protect human health and the environment, including any necessary conditions requiring an owner or operator to address releases of substances that are not hazardous waste or hazardous constituents under the regulations.

For these reasons EPA has concluded that the existing regulations provide the tools to develop protective permit conditions, when necessary, without the need to modify the hazardous waste definition applicable to § 264.101, 40 CFR part 264, subpart S, and § 270.14(d). EPA is thus withdrawing these proposed changes.

2. Amendments to § 261.1(b)(2)

Section 261.1(b) merely provides notice of EPA's statutory interpretations. EPA proposed to include its longstanding statutory interpretations of sections 3004(u) and (v) and section 3008(h) in that section. In the proposal, EPA stated that it did not believe that the addition of those sections to this paragraph would impose additional requirements on facilities. Rather, EPA's intent in revising § 261.1(b)(2) as part of its proposal to amend the applicable hazardous waste definitions was to maintain consistency in the regulations. Because the Agency is withdrawing the proposed revisions to the definitions coupled with the fact that the Agency has articulated its consistent and longstanding interpretation of the scope of its authority under sections 3004(u) and (v) and section 3008(h) elsewhere, EPA is also withdrawing the proposed revisions to § 261.1(b)(2). EPA is not reconsidering or revisiting its interpretation of those statutory provisions, and nothing in this withdrawal of the proposed rule affects those prior interpretations.

C. The Proposed Rule Could Have Complicated, Rather Than Contributed to, Efficient Implementation of Corrective Action

Though some commenters generally supported the proposed rule, EPA found convincing concerns that were raised by other commenters. Commenters stated that the proposed rule would, as a practical matter, result in confusion for regulators and owners and operators on which substances were subject to corrective action and what units were solid waste management units. Commenters argued that the statutory definition is broad, that it provides little guidance to the regulated community as to what is regulated under the statute, and that the proposed rule would result in inconsistent implementation of corrective action.

EPA agrees that the proposed rule could unnecessarily create uncertainty and disrupt implementation of corrective action. While the proposed rule would have made clear that the statutory hazardous waste definition applies to corrective action, it could have, as a result, made less clear the obligations of owners and operators in routine and established permit processes. For example, uncertainty related to the identification of hazardous waste that will be subject to corrective action at a facility could complicate compliance with the information submission requirements of § 270.14(d)(3), which requires owners and operators to submit all available information pertaining to any releases of hazardous wastes from solid waste management units, by making less clear what is an adequate permit application. The Agency thus concludes that withdrawal of the proposed rule is appropriate.

D. Additional Information

Nothing in this action modifies or affects the regulations promulgated to date to govern corrective action, or EPA's longstanding interpretations of the scope of its RCRA corrective action authorities. Any future changes to the regulations would be proceeded by a notice of proposed rulemaking published in the **Federal Register** for public comment.

Finally, EPA also retains other authorities to address releases at RCRA facilities. For example, EPA may take action under RCRA section 7003 where solid or hazardous waste management activities may present an imminent and substantial endangerment to health or the environment. And, under RCRA section 3013, EPA may require investigations where the presence of hazardous waste or releases of hazardous waste may present a substantial hazard to human health or the environment. In addition, section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

[1] *See Economic Assessment for the Definition of Hazardous Waste Applicable to Corrective Action for Releases from Solid Waste Management Units,* which is available in the docket for the proposed rule (EPA–HQ–OLEM–2023–0085).

(CERCLA),[2] provides broad authority to take action requiring abatement if EPA determines there may be an imminent and substantial endangerment caused by actual or threatened release of hazardous substances.

Lee Zeldin,

Administrator.

[FR Doc. 2026–09179 Filed 5–7–26; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket No. 26–94; FCC 26–25; FRS ID 344405]

Review of the Commission's Assessment and Collection of Regulatory Fees for Fiscal Year 2026

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on revising the fee schedule of FY 2026 regulatory fees and on several additional regulatory fee issues, as described in the text below.

DATES: Comments must be submitted on or before May 28, 2026. Reply comments must be submitted on or before June 12, 2026.

ADDRESSES: Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments identified by MD Docket No. 26–94, by any of the following methods below. Comments and reply comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

1. *Comment Filing Procedures.* Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *https://www.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission.
- Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

2. *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

3. *Materials in Accessible Formats.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice).

4. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. When the FCC Headquarters reopens to the public, these documents will also be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

For detailed instructions for submitting comments and additional information on the rulemaking process, *see* the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Patrick Brogan, Office of Economics and Analytics (202) 418–7378, or *Patrick.Brogan@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking* (NPRM), FCC 26–25, MD Docket No. 26–94, adopted on April 27, 2026 and released on April 28, 2026. Comments, reply comments, and *ex parte* submissions will be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. When the FCC Headquarters reopens to the public, these documents will also be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 45 L Street NE, Washington, DC 20554. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice).

I. Administrative Matters

5. *Ex Parte Information.* The proceeding initiated by this Notice of Proposed Rulemaking, in which we seek comment on proposals as described above, shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with § 1.1206(b) of the Commission's rules. In proceedings governed by § 1.49(f) of the Commission's rules or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments

[2] 42 U.S.C. 9606.

thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

6. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' Accordingly, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning potential rule and policy changes contained in this NPRM. The IRFA is set forth in Section VI. The Commission invites the general public, in particular small businesses, to comment on the IRFA. Comments must be filed by the deadlines for comments on the NPRM indicated on the first page of this document and must have a separate and distinct heading designating them as responses to the IRFA.

7. *Paperwork Reduction Act.* This document does not contain any proposed new or substantively modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

II. Introduction

8. Each fiscal year, the Commission must adopt a schedule of regulatory fees to be assessed and collected by the end of September in an amount that reasonably can be expected to total the Commission's annual salaries and expenses (S&E) appropriation. Pursuant to section 9 of the Communications Act of 1934, as amended (Communications Act or Act), and the Consolidated Appropriations Act, 2026, the Commission must collect $416,112,000, which is an amount equal to its fiscal year (FY) 2026 salaries and expenses (S&E) appropriation.

9. In this Notice of Proposed Rulemaking (NPRM), we propose and seek comment on the regulatory fees and methodology to assess and collect $416,112,000 in congressionally required regulatory fees for FY 2026, as set forth in Tables 3 and 4. Consistent with the Commission's long-standing regulatory fee methodology, staff has again undertaken a high-level, yet comprehensive, analysis of the work being performed by Commission employees to determine if identifiable full time equivalent (FTE) time is related to the oversight and regulation of fee payors such that it should be taken into consideration in applying our fee methodology. Based upon this analysis, we propose to reallocate a total of 59 FTEs as direct to the Commission's core licensing bureaus. As described below, our proposals to increase the number of direct FTEs allocated to a core bureau—which are substantially similar to the Commission's determinations in fiscal years 2023, 2024, and 2025—reflect our conclusion that we can determine with reasonable accuracy that certain FTE work in the Office of Economics and Analytics, the Office of General Counsel, and the Public Safety and Homeland Security Bureau is sufficiently linked to the oversight and regulation of regulatory fee payors for regulatory fee purposes for FY 2026.

10. Moreover, using the Commission's methodology of calculating television broadcaster regulatory fees based on population covered by the station's contour as the Commission has since 2020, we propose full-service broadcast television regulatory fees as set forth in Table 8. Finally, we seek comment on whether to continue to use Numbering Resource Utilization Forecast (NRUF) assigned number data as the basis for assessing regulatory fees on Commercial Mobile Radio Service (CMRS) providers.

III. Background

11. Section 9 of the Communications Act obligates the Commission to assess and collect regulatory fees each year, totaling an amount that can reasonably be expected to equal the amount of its annual S&E appropriation. Thus, the Commission has no discretion regarding the amount of fees to be collected in any given fiscal year. Regulatory fees cover all of the Commission's non-auctions direct, indirect, and support costs, including costs to cover statutorily required tasks that do not directly equate with oversight and regulation of a particular fee payor, but instead benefit the Commission and the industry as a whole. Direct costs are those such as salaries and expenses, indirect costs are those such as overhead functions, and support costs include those such as rent, utilities, and equipment. Since regulatory fees must recover the total amount of the Commission's S&E appropriation, they also must cover the costs incurred in oversight and regulation of: (1) entities that are statutorily exempt from paying regulatory fees; (2) entities whose total assessed annual regulatory fees fall below the annual de minimis threshold; and (3) entities whose regulatory fees are waived. For instance, entities that are exempt from paying regulatory fees include governmental and nonprofit entities, amateur radio operators, and noncommercial radio and television stations.

12. Congress has prescribed a method for the Commission to collect an amount equal to the full S&E appropriation in section 9 of the Communications Act, by keying our regulatory fee assessment to our ''Full Time Equivalent'' or ''Full Time Employee'' (FTE) burden. One FTE is a unit of measure equal to the work performed annually by a full-time person (working a 40-hour workweek for a full year) assigned to the particular job, and subject to agency personnel staffing limitations established by the U.S. Office of Management and Budget. The methodology for assessing regulatory fees must ''reflect the full-time equivalent number of employees within the bureaus and offices of the Commission, adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities.'' Thus, the fee assigned to each regulatory fee category relates to the FTE burden associated with oversight and regulation of each regulatory fee category by the relevant core bureaus (*i.e.,* the Wireless Telecommunications Bureau, the Media Bureau, most of the Wireline Competition Bureau, part of the Office of International Affairs, and most of the Space Bureau). In this proceeding, if we state 1.5 FTEs work on a particular subject matter, that might mean three individuals spend 50% of their time on that area. Moreover, in this NPRM, when we discuss FTEs and any change in allocation, it is solely for regulatory fee purposes and does not reflect proposals for the change of personnel in the various organizational work units.

13. The total amount of the offsetting collection generally changes each fiscal year. This means the regulatory fees due from payors also typically change as a mathematical consequence of the total amount that needs to be collected, the number of FTEs, and the projected unit estimates for each regulatory fee category. For example, if the number of units in a regulatory fee category increase, the amount due per unit may decrease, depending on other factors. This would also include proportionate increases in a given fee category to reflect an overall increase in the annual FY appropriation. Since the Communication Act's explicit language

requires that fees must reflect FTEs, FTE counts are the most administrable starting point for regulatory fee allocations, and regulatory fees are based on the direct FTEs in core bureaus. Thus, when considering changes, additions, or deletions to the regulatory fee schedule, we focus on the direct FTE cost burden related to each regulatory fee category within the core licensing bureaus. Our prior decisions to add to, delete from, or amend the regulatory fee schedule are instructive of the detailed analysis that generally accompanies a change to the FTE allocation as direct or indirect, the attribution of FTEs to a regulatory fee category, and the allocation of fees within a regulatory fee category based on the unit measure adopted.

14. FTEs within a bureau are not assigned to specific fee categories ''by rote or at random, but rather in a manner that reflects the time spent by FTEs on a regulatory fee category, which is in itself a reflection of 'benefit' to the fee category.'' We apportion regulatory fees across fee categories based on the number of direct FTEs in each core bureau to take into account factors that are reasonably related to the payors' benefits. Any decrease to the fees paid by one category of regulatory fee payors necessitates an increase in fees paid by other categories of regulatory fee payors, which means regulatory fees are a zero-sum game because the Commission must collect the full amount of its appropriation each fiscal year.

15. The Commission allocates FTEs according to the nature of the work performed by its different organizational units. If the FTE work directly relates to the oversight and regulation of a regulatory fee category in one of the five core licensing bureaus then those FTEs are considered to be direct FTEs. The Commission has long relied on direct FTE allocations because the Commission has found those allocations best reflect the 'benefits provided to the payor of the fee by the Commission's activities Work that cannot be allocated to one of those regulatory fee categories counts as indirect FTE time. For example, the Commission has historically determined that the burden of FTE time devoted to non-high-cost Universal Service Fund programs is properly categorized as indirect and has further determined to exclude broadcasters from the fee burden associated with these indirect FTEs because broadcasters do not directly participate in the universal service program. On the other hand, the Commission continues to categorize the FTE work of Office of International Affairs concerning international bearer circuit issues, including the services provided over submarine cables as direct because it directly relates to the oversight and regulation of a regulatory fee category.

16. Indirect FTE time includes work associated with a wide range of issues regarding services that are not specifically correlated with one core bureau, let alone one specific category of regulatory fee payors. Many Commission attorneys, economists, engineers, analysts, and other staff perform work during a single fiscal year, which generally benefits the telecommunications industry and the public as opposed to matters that are specific to any regulatory fee category. The Commission has categorized FTE work conducted in the Enforcement, Consumer and Governmental Affairs, and Public Safety and Homeland Security Bureaus along with some of the work in the Wireline Competition Bureau, the Space Bureau, and the Office of International Affairs as well as the work of those in the Office of the Chair and the Commissioners' Offices and in the Offices of the Managing Director, General Counsel, Inspector General, Communications Business Opportunities, Engineering and Technology, Legislative Affairs, Workplace Diversity, Media Relations, Economics and Analytics, and Administrative Law Judges as indirect for regulatory fee purposes.

17. Following this framework, the Commission assesses the allocation of FTEs by first determining the number of direct non-auctions FTEs in each of the Commission's core bureaus. Early in each fiscal year, the Human Resources Management office identifies FTEs at the core bureau level. We then validate that data through consultation with the bureaus and offices to determine the number of direct FTEs allocated to each of the five core bureaus. Those numbers are then used to calculate the corresponding percentage of the total amount of regulatory fees to be collected for a given fiscal year from the fee payors of each core bureau. The percentage for each core bureau is the number of direct non-auction FTEs within the core bureau divided by the total number of direct non-auction FTEs in the Commission. Other factors the Commission takes into consideration include the annual S&E appropriation and the projected unit estimates.

18. This means regulatory fees are initially apportioned across the regulatory fee categories based on the number of direct FTEs in each core bureau whose time is focused on a particular industry segment and then are adjusted ''to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities.'' Specifically, staff allocates appropriated amounts to be recovered proportionally based on the number of direct FTEs within each core bureau. Those proportions are then subdivided and apportioned within each core bureau into fee categories among the regulatees being served based on the time spent on each fee category. Finally, within each regulatory fee category, the amount to be collected is divided by a unit count that allocates the regulatory fee payor's proportionate share based on an objective measure. As a general matter, there is no additional calculation to attribute indirect costs. Instead, the proportional allocation of the whole S&E appropriation based on the number of direct FTEs effectively attributes all indirect costs among the core bureaus so that the Commission can recover its entire appropriation each year.

19. The FTE time devoted to developing and implementing the Commission's spectrum auctions is not included in the calculation of regulatory fees and is not offset by the collection of regulatory fees. To the extent that FTEs within the core bureaus spend a portion of their time on auctions issues and a portion of their time on appropriated issues, their time is split and only the non-auctions portion of their time is reflected in the relevant core bureau's direct FTE count. Thus, the Commission's methodology excludes all spectrum auction-related FTEs and their overhead from the regulatory fee calculations.

20. In order to collect regulatory fees in the amount required by its annual S&E appropriation, the Commission conducts a rulemaking proceeding each year to consider any necessary increases or decreases in the number of units subject to the payment of such fees and to reflect any adjustments needed to the prior year's fees schedule. For example, if the number of units in a regulatory fee category increases, the amount due per unit may decrease. This would also include proportionate increases in a given fee category to reflect an overall increase in the annual FY appropriation. Such changes are rarely the subject of dispute and are usually addressed in the more ministerial changes to the fee schedule. The Commission will propose amendments to the fee schedule ''if it determines that changes are necessary for the fees to reflect the full-time equivalent number of employees within the bureaus and offices of the Commission, adjusted to take into account factors that are reasonably related to the benefits provided to the

payor of the fee by the Commission's activities.'' Pursuant to the Act, the Commission must notify Congress immediately upon adoption of any adjustment. The Act also requires the Commission to notify Congress at least 90 days prior to making effective any amendments to the regulatory fee schedule.

21. In implementing our statutory authority, we consider the adoption of a new regulatory fee category or a change in an existing regulatory fee category only when we develop a sufficient basis for making the change, ensuring that our assessment of regulatory fees is fair, administrable, and sustainable. The Commission will adopt new regulatory fee categories and new methodologies for calculating regulatory fees when there is a sufficient basis for doing so based on the record, and under the relevant statutory provisions and precedent.

IV. Notice of Proposed Rulemaking

22. In this NPRM, we propose to adopt a schedule of regulatory fees to be assessed and collected for FY 2026 and seek comment on those proposals as set forth in Tables 3 and 4. As discussed below, we propose to increase the number of FTEs that are allocated directly to the core licensing bureaus for FY 2026 based upon the determination that the burden of the FTE work is sufficiently linked to the oversight and regulation of certain regulatory fee payors. In particular, we propose to reallocate a total of 59 indirect FTEs as direct FTEs to the Commission's core licensing bureaus from certain bureaus and offices, while we propose to allocate no such FTE work as direct from others as the Commission has done in the past. We also seek comment on our proposal to continue to calculate television broadcaster regulatory fees using the Commission's methodology of population-based full-service broadcast television regulatory fees and whether to use a different data source for our assessment of fees on CMRS providers.

A. Assessment of Regulatory Fees

1. Methodology for Assessing Regulatory Fees

23. For FY 2026, we propose to assess and collect $416,112,000 in regulatory fees, which is equal to our annual salaries and expenses (S&E) FY 2026 appropriation. Section 9 of the Communications Act requires us to set regulatory fees to ''reflect the full-time equivalent number of employees within the bureaus and offices of the Commission adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities.'' Our first step in establishing our regulatory fee schedule is identifying changes from the prior fiscal year regulatory fee proceeding, *e.g.,* changes in the (i) FY S&E appropriation, (ii) FTE levels, and (iii) relevant unit measures for each regulatory fee category. Our second step is to identify the number of direct non-auction FTEs in each core bureau for purposes of the regulatory fee calculation. After we determine the number of direct FTEs for each core bureau, we calculate the percentage of regulatory fees that we will need to collect for the given fiscal year from each regulatory fee category within each core bureau. These proportional calculations allocate all Commission non-auction related costs across all regulatory fee categories.

2. Adjustment of Reallocations of Certain Indirect FTEs as Direct FTEs

24. Using the Commission's long-standing methodology to assess regulatory fees, staff conducted a high-level analysis of the time utilized in the oversight and regulation of certain segments of the telecommunications industry to propose regulatory fees for FY 2026, which reflect the full-time equivalent number of employees within the Commission's bureaus and offices, adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities. Our proposals to reallocate certain indirect FTEs as direct to one of the Commission's core bureaus reflect our conclusion that we can determine, with reasonable accuracy for this fiscal year, that certain FTE time from the Office of General Counsel, the Office of Economics and Analytics, and the Public Safety and Homeland Security Bureau is devoted to work that is sufficiently linked to the oversight and regulation of regulatory fee payors such that the FTE burden of that work should be allocated as direct to a core bureau for regulatory fee purposes. As the Commission has explained, it will continue to evaluate whether any FTEs should be reallocated for regulatory fee purposes each year when reviewing and validating the FTE data. The Commission, however, will exercise its discretion regarding where to focus its analytical efforts each year to best respond to changes in the Commission's substantive work and organization, and changes in the telecommunications industry itself.

25. Any commenter seeking a change or modification to our proposed methodology for FY 2026 should include a thorough analysis showing a sufficient basis for making the change and provide alternative options for the Commission to meet its statutory obligation to collect the full amount of the appropriation by the end of the fiscal year. Commenters should also explain how their proposal is fair, administrable, and sustainable.

3. Adjustment of Reallocations of Certain Indirect FTEs as Direct FTEs

26. According to information provided by our Human Resources Management office, at the start of FY 2026, there were 317.5 direct non-auctions FTEs distributed among the core licensing bureaus. With respect to the FTE time in the non-core bureaus and offices, as we have done in prior years, staff has undertaken a high-level, yet comprehensive analysis of the work being performed by non-auctions FTEs in the Office of Economics and Analytics, Office of General Counsel, and the Public Safety and Homeland Security Bureau, as well as the Consumer and Governmental Affairs Bureau, the Enforcement Bureau, and the Office of Engineering and Technology (and other bureaus and offices) to determine if identifiable FTE time in those organizational units is related to the oversight and regulation of fee payors such that it should be taken into consideration in applying our fee methodology. In other words, staff has examined and validated the data to determine the proposals regarding whether any FTE time in the non-core bureaus and offices should be reallocated to be considered as direct FTE time to a core bureau.

27. The Commission has previously concluded that the majority of FTE work being performed in the non-core bureaus and offices should be categorized as indirect because it benefits the Commission and the entire telecommunications industry generally and does not specifically focus on regulatory fee payors. We do not revisit this general determination on an annual basis because doing so is not administrable as it would require the Commission to expend considerable resources to attempt to calculate the constantly shifting work of its FTEs within these organizational units. We nonetheless acknowledge that our consideration of whether the work of our FTEs is direct or indirect can change over time based on the priority of the Commission's work assignments, fluctuations within industry segments, and needs of specific regulatory fee payors. After analyzing the data for FY 2026, we tentatively conclude that the FTE burden associated with the majority of the work in the Commission's non-

core bureaus and offices remains indirect because it cannot be attributed to specific categories of fee payors and it broadly benefits the Commission, the entire communications industry, and the general public.

28. Nevertheless, as the Commission has found in the past three fiscal years, the data for FY 2026 do support a conclusion that some measurable time is being spent by FTEs in the Office of Economics and Analytics, the Office of General Counsel and the Public Safety and Homeland Security Bureau that is directly in furtherance of the oversight and regulation of regulatory fee payors in certain industry segments such that it should be reallocated to a core bureau. The proposals in this proceeding do not alter the functions of and delegation of authority to the Office of Economics and Analytics, the Office of General Counsel and the Public Safety and Homeland Security Bureau. We therefore propose to reallocate 61 FTEs from the Office of Economics and Analytics, the Office of General Counsel, and the Public Safety and Homeland Security Bureau as direct FTEs to core bureaus because the nature of their work has been determined to be primarily related to the oversight and regulation of fee payors. Specifically, for FY 2026, we propose reallocating 31 FTEs from the Office of Economics and Analytics as direct to a core bureau for regulatory fee purposes as follows: three to the Space Bureau, one to the Office of International Affairs, eight to the Wireless Telecommunications Bureau, 17 to the Wireline Competition Bureau, and two to the Media Bureau. Similarly, we propose reallocating three FTEs from the Office of General Counsel as direct FTEs to a core bureaus follows: one to the Wireline Competition Bureau, one to the Space Bureau, and one to the Media Bureau. Likewise, we propose reallocating 27 FTEs in the Public Safety and Homeland Security Bureau as direct to a core bureau as follows: 13 to the Wireless Telecommunications Bureau, eight to the Wireline Competition Bureau, and six to the Media Bureau. Notably, the reallocations the Commission makes in its annual rulemaking are not cumulative but rather reflect changes in the underlying number of FTEs in the non-core bureaus and/or changes in the amount of work performed by the non-core bureaus for this fiscal year. We seek comment on these proposed reallocations.

29. Additionally, consistent with the Commission's past practice, we propose reallocating two FTEs from the Media Bureau as indirect FTEs because the nature of their work is similar to work performed in the Enforcement Bureau, which we consider to be indirect. These reallocations result in an overall proposed increase of 59 FTEs being reallocated as direct FTEs to core bureaus.

30. Our proposals to reallocate FTEs for FY 2026 rely on staff's validation of the data and the same analysis employed in the last three fiscal years evaluating whether measurable FTE time is primarily being spent on the regulation and oversight of regulatory fee payors such that it should be considered as direct to a core bureau. Specifically, where the amount of work under consideration equaled .5 FTE or less, we rounded down to the nearest whole FTE and only proposed our reallocations in one full FTE increments. In analyzing the work of indirect FTEs in the non-core bureaus, we applied conservative estimates. The Commission previously concluded that less than a full-time FTE demonstrates that the work being done is appropriately considered to be indirect and should not be reassigned.

31. As represented below, FTE time associated with the proposed reallocations would be added to the direct FTE totals of the relevant core bureau. In other words, these reallocations would increase the number of direct FTEs in a core bureau and reduce the total number of indirect FTEs within the Commission. Because our underlying methodology for calculating regulatory fees remains unchanged, we tentatively conclude that our regulatory fee calculation continues to be consistent with section 9 of the Communications Act, which requires us to base our methodology on the number of FTEs in calculating regulatory fees. We seek comment on this conclusion.

32. Table 1 below shows the percentage of regulatory fees allocated to each core bureau based on the proposed reallocation of a total of 59 FTEs as direct to a core bureau. Our proposed reallocations result in an 18.58% increase in our overall direct FTE count for the fiscal year. These reallocations would be proportionally distributed within the core bureau. We seek comment on these reallocations for FY 2026 in Tables 3 and 4, which are based on our existing methodology and incorporate these proposals.

TABLE 1—CORE BUREAU DIRECT FTES AND PERCENTAGES FOR FY 2025 AND FY 2026 WITH REALLOCATIONS OF INDIRECT FTES

Core bureau/office	FY 2025 FTE reallocations	Total # of direct FY 2025 FTEs *with* FTE reallocations	FY 2025 % after reallocation	Total # of direct FY 2026 FTEs *without* FTE reallocations	FY 2026 FTE reallocations	Total # of direct FY 2026 FTEs *with* proposed FTE reallocations	FY 2026 % after proposed reallocations
Office of International Affairs (Submarine Cable and International Bearer Circuits).	0	8	1.80	8	+1 from OEA +0 from OGC Total additional FTEs +1	9	2.40
Space Bureau (Space and Earth Stations).	+1 from OEA +1 from OGC Total additional FTEs +2	51	11.50	44	+3 from OEA +1 from OGC Total additional FTEs +4	48	12.80
Wireless Telecommunications Bureau.	+8 from OEA +1 from OGC +14 from PSHSB Total additional FTEs +23	120	27.06	81	+8 from OEA +0 from OGC +13 from PSHSB Total additional FTEs +21	102	27.20
Wireline Competition Bureau.	+13 from OEA +1 from OGC +9 from PSHSB Total additional FTEs +23	132.5	29.88	81.5	+17 from OEA +1 from OGC +8 from PSHSB Total additional FTEs +26	107.5	28.67

TABLE 1—CORE BUREAU DIRECT FTES AND PERCENTAGES FOR FY 2025 AND FY 2026 WITH REALLOCATIONS OF INDIRECT FTES—Continued

Core bureau/office	FY 2025 FTE reallocations	Total # of direct FY 2025 FTEs *with* FTE reallocations	FY 2025 % after reallocation	Total # of direct FY 2026 FTEs *without* FTE reallocations	FY 2026 FTE reallocations	Total # of direct FY 2026 FTEs *with* proposed FTE reallocations	FY 2026 % after proposed reallocations
Media Bureau	+7 from OEA +1 from OGC +7 from PSHSB −2 from MB Reallocated as Indirect Total additional FTEs +13	134	29.76	103	+2 from OEA +1 from OGC +6 from PSHSB −2 from MB Reallocated as Indirect Total additional FTEs +7	110	28.93
Total	61	445.50	100	317.50	59	376.50	100

33. As reflected in Table 1 above, based on these proposed reallocations and after adjustments are made to the direct FTE counts to implement Commission precedent, we would have a total of 376.5 non-auctions direct FTEs for FY 2026. Accordingly, as shown in Table 2 below, we would propose to collect approximately $9.988 million (2.40%) in fees from the Office of International Affairs regulatory fee payors; $53.267 million (12.80%) in fees from the Space Bureau regulatory fee payors; $113.192 million (27.20%) in fees from Wireless Telecommunications Bureau regulatory fee payors; $119.296 million (28.67%%) in fees from Wireline Competition Bureau regulatory fee payors; and $120.369 million (28.93%) in fees from Media Bureau regulatory fee payors.

TABLE 2—CORE BUREAU FTE PERCENTAGES AND AMOUNTS FOR FY 2025 AND FY 2026 WITH PROPOSED FTE REALLOCATION ADJUSTMENTS

Core bureau	FY 2025 FTE% with FTE reallocations	FY 2025 amount with FTE reallocations (millions)	FY 2026 proposed FTE % with adjusted FTE reallocations	FY 2026 proposed amount with FTE reallocations (millions)
		FY 2025 appropriation was $390.192		FY 2026 appropriation is $416.112
Wireline Bureau	29.88	$116.580	28.67	$119.296
Media Bureau	29.76	116.119	28.93	120.369
Media Bureau; subcategory Broadcasters	13.14	51.286	12.80	53.243
Media Bureau; subcategory Cable	16.62	64.833	16.13	67.126
Wireless Bureau	27.06	105.582	27.20	113.192
Office of International Affairs	1.80	7.039	2.40	9.988
Space Bureau	11.50	44.872	12.80	53.267

34. Any proposals or comments requesting a change or modification to these proposed regulatory fees for FY 2026 should include a thorough analysis showing a sufficient basis for making the change and should provide alternative options for the Commission to meet its statutory obligation to collect the full amount of the appropriation by the end of the fiscal year. Commenters should also indicate how such proposed alternative options are fair, administrable, and sustainable.

35. While above we have proposed reallocating some FTEs from the Office of Economics and Analytics, the Office of General Counsel, and the Public Safety and Homeland Security Bureau as direct to a core bureau, to date, our analysis of the work of FTEs in the Office of Engineering and Technology, Enforcement Bureau, and Consumer and Governmental Affairs Bureau has not justified similar reallocations. In prior orders, the Commission has continually reached this conclusion, and we are aware of nothing specific in FY 2026 that would support a different approach. For example, in previously examining the work of FTEs in the Office of Engineering and Technology, the Commission has repeatedly explained that the office provides engineering and technical expertise to the agency as a whole and supports each of the agency's core bureaus. Likewise, the Commission has long concluded that Enforcement Bureau oversight is focused on the integrity of Commission's rules and ensuring the implementation of the Communications Act, which is FTE work that benefits the agency as a whole and directly benefits the American public, and not one particular group of regulatory fee payors. Similarly, in prior evaluations of the work of FTEs in the Consumer and Governmental Affairs Bureau, the Commission has observed that the bureau is primarily devoted to developing and implementing consumer policies as required by the Communications Act, including disability rights, consumer education, processing informal complaints, outreach to state, local, and Tribal governments, and oversight more generally of the telecommunications industry (*e.g.,* establishing and oversight of the Reassigned Numbers Database). In sum, historically, the Commission has found it would not be equitable for any one regulatory fee group of payors to shoulder the FTE burden of such work.

36. In the *FY 2023 Report and Order,* the Commission explained that, as part of its annual FTE analysis, it will continue to evaluate whether any FTEs should be reallocated for regulatory fee purposes when reviewing and

validating the FTE data, but it noted that in doing so, it will exercise its discretion regarding where to focus its analytical efforts each year in order to best respond to changes in the Commission's substantive work and organization, and changes in the telecommunications industry itself. The Commission therefore indicated that where its analysis merits inclusion of proposed reallocations, it will seek comment on any such potential reallocation of FTEs in an annual proceeding. In other words, consistent with our existing methodology, we will reevaluate the nature of work performed within the non-core bureaus and offices if there is a reasoned basis to determine that measurable FTE work is being done within an organizational unit that should be reallocated to be direct to an identifiable category of fee payors.

37. We invite commenters to offer any new or current reasons why the Commission should reexamine the nature of the work being performed by FTEs in its non-core bureaus and offices. For instance, have there been any significant developments in the communications industry, changes in law, and/or substantial shifts in Commission policy and workload over the past year that suggest that there would now be measurable FTE work being performed in the Office of Engineering and Technology, Enforcement Bureau, or Consumer and Governmental Affairs Bureau that directly benefits a specific category of fee payors? In particular, have there been changes in any industry segment or any increases in the specific work performed by staff of the Commission that necessitate a reevaluation of our general determination that the work being performed by FTEs within these organizational units remains indirect? Are there any significant rulemakings or adjudications involving the FTEs from the Office of Engineering and Technology, Enforcement Bureau, or Consumer and Governmental Affairs Bureau that might warrant further examination of whether there is measurable FTE work in these organizational units being devoted directly in furtherance of the oversight and regulation of specific fee payors? Have there been substantial changes such that the Commission's previously articulated policy reasons for treating these FTEs as indirect no longer hold? How can we ensure that the nature of any such identified work would remain consistent throughout the fiscal year, and that any recategorization of FTE work from indirect to direct would adhere to our statutory requirements and be consistent with our goal of a regulatory fee system that is fair, administrable and sustainable? In the absence of changes in fact or law, we request that commenters refrain from filing comments advancing repetitious arguments advocating for new categories of fee payors that have previously been declined by the Commission.

B. Broadcast Television Stations

38. For FY 2026, we also propose to continue to assess fees for full-power broadcast television stations based on the population covered by a full-service broadcast television station's contour as the Commission has since 2020. The population-based methodology conforms with the service authorized here—broadcasting television to the American people. We further propose to continue our use of 2020 U.S. Census data to assess fees for full-power broadcast television stations, as we traditionally have over the last few years. The population data for broadcasters' service areas are determined using the TVStudy software and the Licensing and Management System (LMS) database, based on a station's projected noise-limited service contour. TVStudy software is released by the Commission's Office of Engineering and Technology. TVStudy uses 2020 U.S. Census data and interfaces with data contained in the LMS to perform coverage and interference analyses of full service digital and Class A television stations. However, consistent with the Commission's prior decisions, we will continue to base assessments on limiting the population count of full-power television stations that rely on satellite television stations to reach terrain-limited areas in Puerto Rico. As previously implemented, the Commission based assessments on a full-power television station and its satellite facility on a maximum of 3.1 million population. We seek comment on our mechanism for how we will calculate the regulatory fee based on the previously decided population-based methodology. We propose adopting a factor of $.006957 per population served for the FY 2026 full-power broadcast television station fee. The population data for each licensee and the population-based fee (population multiplied by $.006957 for each full-power broadcast television station) are listed in Table 8. For those VHF stations whose power had to be increased to obtain a clearer signal, the Commission will continue to use a population count based on that station's lower VHF power level rather than at the increased power level. We seek comment on these proposed fees.

C. CMRS and Mobile Services Assessments

39. Pursuant to statute, the Commission's regulatory fee assessments are keyed to the FTE burden associated with the oversight and regulation of its regulatory fee payors. For each regulatory fee payor category, the Commission must have a mechanism to apportion the fee within a category. For some payors, the unit measure is per license; for other payors, it is per subscriber or it relates to population served. Since FY 2004, the Commission has used a unit measure methodology of assessing regulatory fees for CMRS providers based on the count of ''assigned numbers'' reported in providers' biannual Numbering Resource Utilization Forecast (NRUF) filings, with such data serving as a proxy for a provider's subscriber count.

40. Given the passage of time and new data collections adopted and implemented by the Commission that also provide the Commission with visibility into CMRS providers' subscriber counts, we seek comment on whether using a different unit measure to apportion regulatory fees for CMRS providers would better reflect the FTE burden of oversight of such fee payors. Would another source of data result in a unit measure for CMRS providers that would better achieve our goal that all aspects of our regulatory fee methodology be fair, sustainable, and administrable? For instance, would using mobile subscription data that service providers are required to submit into the Broadband Data Collection (BDC) system to determine CMRS unit counts for regulatory fee purposes be administratively easier for both the Commission and fee payors? Providers of mobile services, among others, must submit subscription data required under FCC Form 477 into the BDC system. Would using another source of data like the BDC lead to a more accurate outcome? Keeping in mind our statutory obligation to amend the fee schedule with factors that are reasonably related to the benefit of the payor of the fee and our policy goal of ensuring that our regulatory fees are fair, administrable, and sustainable, what are the tradeoffs in using one data source over another? For the purposes of the Commission's ability to determine most accurately a CMRS provider's unit counts for the assessment of regulatory fees, are there discernable variances between the Commission's data sources that make one fairer than another? We ask commenters to provide detailed

comments regarding why one data source may provide a superior basis than the other for the purposes of assessing CMRS regulatory fees.

41. To the extent we adopt a change to the data used to assess regulatory fees for this category of fee payors, any such changes would not be implemented until FY 2027 to allow fee payors the opportunity to prepare for the change and also to comply with relevant congressional notification requirements.

D. Improving the Regulatory Fee Process

42. As part of the Commission's statutory obligation to assess and collect regulatory fees each fiscal year in an amount equal to its annual S&E appropriation, the Commission strives to consider ways in which it can improve the regulatory fee process. In implementing our section 9 authority, we consider the adoption of a new regulatory fee category or a change in an existing regulatory fee category only when we develop a sufficient basis for making the change, and we work to ensure that all changes serve the goal of ensuring that our assessment of regulatory fees is fair, administrable, and sustainable. The concept of administrability includes the difficulty in collecting regulatory fees under a system that could have unpredictable dramatic shifts in assessed fees in certain categories from year to year. As explained herein, our meticulous approach to making changes to our process and methodology ensures that our actions in assessing regulatory fees are fair, administrable, and sustainable. For FY 2026, we again invite comment ''on ways to improve our regulatory fee process.'' Commenters should be mindful of the Commission's prior conclusions with respect to past proposals and fully explain the legal bases for any proposals they make and how such proposals fit within the Commission's statutory authority, precedent, and existing regulatory fee methodology.

43. Specifically, for the last several years, the Commission has rejected proposals for new fee categories offered by commenters because they have failed to satisfy the fair, administrable, and sustainable standard. After reviewing the FTE data for this fiscal year and the expected work of those FTEs, we tentatively conclude that there is no basis upon which to propose new fee categories. Commenters that disagree with this tentative conclusion should provide detailed evidence of materially changed circumstances, rather than reiterate arguments that the Commission has historically declined to adopt.

V. Procedural Matters

44. Included below are procedural items as well as our current payment and collection methods. We include these payments and collection procedures to remind regulatory fee payers and the public about these aspects of the annual regulatory fee collection process.

45. *Credit Card Transaction Levels.* In accordance with *Treasury Financial Manual,* Volume I, Part 5, Chapter 7000, Section 7065.20a—*Credit Card Collections,* the total daily credit card transactions processed from a single customer can be no more than $24,999.99 (hereinafter the ''Maximum Daily Limit'') and the total monthly transactions processed from a single customer (based on a rolling 30-day period) can be no more than $100,000.00 (hereinafter the ''Maximum Monthly Limit''). Transactions greater than the Maximum Limits will be rejected. If a customer initiates multiple transactions on the same day with the same credit card, those transactions causing the total charge to exceed the Maximum Limits will also be rejected. This applies to single payments or bundled payments of more than one bill. Multiple transactions to a single agency in one day may be aggregated and treated as a single transaction subject to the $24,999.99 limit. Customers who wish to pay an amount greater than $24,999.99 should consider available electronic alternatives such as debit cards, Automated Clearing House (ACH) debits from a bank account, and wire transfers. Each of these payment options is available after filing regulatory fee information in the Commission's Registration System (CORES). Further details will be provided regarding payment methods and procedures at the time of FY 2026 regulatory fee collection in Fact Sheets, *https://www.fcc.gov/regfees.*

46. *Payment Methods.* During the fee season for collecting regulatory fees, regulatees can pay their fees by credit card through *Pay.gov,* ACH, debit card, or by wire transfer. Additional payment instructions are posted on the Commission's website at *https://www.fcc.gov/licensing-databases/fees.* The receiving bank for all wire payments is the U.S. Treasury, New York, NY (TREAS NYC). Any other form of payment (*e.g.,* checks, cashier's checks, or money orders) will be rejected. For payments by wire, an FCC Form 159–E should still be transmitted via fax so that the Commission can associate the wire payment with the correct regulatory fee information. The fax should be sent to the Commission at (202) 418–2843 at least one hour before initiating the wire transfer (but on the same business day) so as not to delay crediting their account. Regulatees should discuss arrangements (including bank closing schedules) with their bankers several days before they plan to make the wire transfer to allow sufficient time for the transfer to be initiated and completed before the deadline. Complete instructions for making wire payments are posted at *https://www.fcc.gov/licensing-databases/fees/wire-transfer.*

47. *Standard Fee Calculations and Payment Dates.* The Commission will accept fee payments made in advance of the window for the payment of regulatory fees. The responsibility for payment of fees by service category is as follows:

48. *Media Services:* Regulatory fees must be paid for initial construction permits that were granted on or before October 1, 2025 for AM/FM radio stations, full-power VHF/UHF broadcast television stations, and satellite television stations. Regulatory fees must be paid for all broadcast facility licenses granted on or before October 1, 2025.

49. *Wireline (Common Carrier) Services:* Regulatory fees must be paid for authorizations that were granted on or before October 1, 2025. In instances where an authorization is transferred or assigned after October 1, 2025, responsibility for payment rests with the holder of the authorization as of the fee due date. Audio bridging service providers are included in this category. For Responsible Organizations (RespOrgs) that manage Toll Free Numbers (TFN), regulatory fees should be paid on all working, assigned, and reserved toll free numbers as well as toll free numbers in any other status as defined in section 52.103 of the Commission's rules. The unit count should be based on toll free numbers managed by RespOrgs on or about December 31, 2025.

50. *Wireless Services:* Commercial Mobile Radio Service (CMRS) cellular, mobile, and messaging services (fees based on number of subscribers or telephone number count): Regulatory fees must be paid for authorizations that were granted on or before October 1, 2025. The number of subscribers, units, or telephone numbers on December 31, 2025 will be used as the basis from which to calculate the fee payment. In instances where a permit or license is transferred or assigned after October 1, 2025, responsibility for payment rests with the holder of the permit or license as of the fee due date.

51. *Wireless Services, Multi-year fees:* The first eight regulatory fee categories

in our Schedule of Regulatory Fees (first seven in our Calculation of Fees Table) pay ''small multi-year wireless regulatory fees.'' Entities pay these regulatory fees in advance for the entire amount covered by the ten-year terms of their initial licenses and pay regulatory fees again only when the license is renewed, or a new license is obtained. We include these fee categories in our rulemaking to publicize our estimates of the number of ''small multi-year wireless'' licenses that will be renewed or newly obtained in FY 2026.

52. *Multichannel Video Programming Distributor (MVPD) Services (cable television operators, Cable Television Relay Service (CARS) licensees, DBS, and IPTV):* Regulatory fees must be paid for the number of basic cable television subscribers as of December 31, 2025. Regulatory fees also must be paid for CARS licenses that were granted on or before October 1, 2025. In instances where a permit or license is transferred or assigned after October 1, 2025, responsibility for payment rests with the holder of the permit or license as of the fee due date. For providers of DBS service and IPTV-based MVPDs, regulatory fees should be paid based on a subscriber count on or about December 31, 2025. In instances where a permit or license is transferred or assigned after October 1, 2025, responsibility for payment rests with the holder of the permit or license as of the fee due date.

53. *Space Services:* Regulatory fees must be paid for earth stations that were licensed (or authorized) on or before October 1, 2025. Regulatory fees must also be paid for geostationary orbit space stations (GSO) and non-geostationary orbit satellite systems (NGSO), and the two NGSO subcategories ''Small Constellations'' and ''Large Constellations,'' that were authorized or granted U.S. market access on or before October 1, 2025. Licensees of small satellites and space stations principally used for Rendezvous and Proximity Operations (RPO) or On-Orbit Servicing (OOS), including Orbit Transfer Vehicles (OTV), that were authorized or granted U.S. market access on or before October 1, 2025 must also pay regulatory fees. In instances where a permit or license is transferred or assigned after October 1, 2025, responsibility for payment rests with the holder of the authorization as of the fee due date.

54. *International Services* (*Submarine Cable Systems, Terrestrial and Satellite Services*): Regulatory fees for submarine cable systems are to be paid on a per cable landing license basis based on lit circuit capacity as of December 31, 2025. Regulatory fees for terrestrial and satellite IBCs are to be paid based on active (used or leased) international bearer circuits as of December 31, 2025, in any terrestrial or satellite transmission facility for the provision of service to an end user or resale carrier. When calculating the number of such active circuits, entities must include circuits used by themselves or their affiliates. For these purposes, ''active circuits'' include backup and redundant circuits as of December 31, 2025. Whether circuits are used specifically for voice or data is not relevant for purposes of determining that they are active circuits. In instances where a permit or license is transferred or assigned after October 1, 2025, responsibility for payment rests with the holder of the permit or license as of the fee due date.

55. *CMRS and Mobile Services Assessments.* The Commission will compile data from the Numbering Resource Utilization Forecast (NRUF) report that is based on ''assigned'' telephone number (subscriber) counts that have been adjusted for porting to net Type 0 ports (''in'' and ''out''). We have included non-geographic numbers in the calculation of the number of subscribers for each CMRS provider in Table 3 and the CMRS regulatory fee factor proposed in Table 4. CMRS provider regulatory fees will be calculated and should be paid based on the inclusion of non-geographic numbers. CMRS providers can adjust the total number of subscribers, if needed. This information of telephone numbers (subscriber count) will be posted on CORES along with the carrier's Operating Company Numbers (OCNs).

56. A carrier wishing to revise its telephone number (subscriber) count can do so by accessing CORES and following the prompts to revise their telephone number counts. Any revisions to the telephone number counts should be accompanied by an explanation. The Commission will then review the revised count and supporting explanation, if any, and either approve or disapprove the submission in CORES. If the submission is disapproved, the Commission will contact the provider to afford the provider an opportunity to discuss its revised subscriber count and/or provide supporting documentation. If the Commission receives no response from the provider, or the Commission does not reverse its initial disapproval of the provider's revised count submission, the fee payment must be based on the number of subscribers listed initially in CORES. Once the timeframe for revision has passed, the telephone number counts are final and are the basis upon which CMRS regulatory fees are to be paid. Providers can view their final telephone counts online in CORES.

57. Because some carriers do not file the NRUF report, they may not see their telephone number counts in CORES. In these instances, the carriers should compute their fee payment using the standard methodology that is currently in place for CMRS Wireless services (*i.e.,* compute their telephone number counts as of December 31, 2025), and submit their fee payment accordingly. Whether a carrier reviews its telephone number counts in CORES or not, the Commission reserves the right to audit the number of telephone numbers for which regulatory fees are paid. If the Commission determines that a carrier paid CMRS or mobile services regulatory fees based on an incorrect number of telephone numbers, the Commission will bill the carrier for the difference between what was paid and what should have been paid.

58. *Providing Accountability Through Transparency Act.* Consistent with the Providing Accountability Through Transparency Act, Public Law 118–9, a summary of this document will be available on *https://www.fcc.gov/proposed-rulemakings.*

TABLE 3—CALCULATION OF FY 2026 REVENUE REQUIREMENTS AND PRO-RATA FEES

[Regulatory fees for the first seven categories, identified with an *, are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.]

Fee category	FY 2026 payment units	Yrs	FY 2025 revenue estimate ($)	FY 2026 revenue requirement ($)	Computed FY 2026 regulatory fee ($)	Rounded FY 2026 regulatory fee ($)	Expected FY 2026 revenue ($)
* PLMRS (Exclusive Use)	1,400	10	320,000	350,000	25	25	350,000
* PLMRS (Shared use)	23,000	10	2,600,000	2,300,000	10	10	2,300,000
* Microwave	11,000	10	2,600,000	2,750,000	25	25	2,750,000

TABLE 3—CALCULATION OF FY 2026 REVENUE REQUIREMENTS AND PRO-RATA FEES—Continued

[Regulatory fees for the first seven categories, identified with an *, are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.]

Fee category	FY 2026 payment units	Yrs	FY 2025 revenue estimate ($)	FY 2026 revenue requirement ($)	Computed FY 2026 regulatory fee ($)	Rounded FY 2026 regulatory fee ($)	Expected FY 2026 revenue ($)
* Marine (Ship)	7,400	10	1,080,000	1,110,000	15	15	1,110,000
* Aviation (Aircraft)	6,000	10	590,000	600,000	10	10	600,000
* Marine (Coast)	330	10	144,000	132,000	40	40	132,000
* Aviation (Ground)	400	10	76,000	80,000	20	20	80,000
AM Class A [1]	60	1	266,220	276,453	4,608	4,610	276,600
AM Class B [1]	1,300	1	3,316,680	3,442,929	2,648	2,650	3,445,000
AM Class C [1]	730	1	1,184,400	1,230,215	1,685	1,685	1,230,050
AM Class D [1]	1,200	1	3,921,960	4,074,734	3,396	3,395	4,074,000
FM Classes A, B1 & C3 [1]	2,700	1	8,273,900	8,589,319	3,181	3,180	8,586,000
FM Classes B, C, C0, C1 & C2 [1]	3,000	1	10,128,640	10,520,418	3,507	3,505	10,515,000
AM Construction Permits [2]	1	1	570	600	600	600	600
FM Construction Permits [2]	4	1	15,000	4,200	1,050	1,050	4,200
Digital Television [5] (including Satellite TV)	3.498 billion population	1	23,412,392	24,335,017	0.006957	0.006957	24,335,586
Digital TV Construction Permits [2]	1	1	41,600	5,300	5,300	5,300	5,300
LPTV/Class A/Translators FM Trans/Boosters.	6,000	1	1,512,500	1,576,407	263	265	1,590,000
CARS Stations	97	1	194,500	201,460	2,077	2,075	201,275
Cable TV Systems, including IPTV & DBS	41,800,000	1	64,680,000	66,924,877	1.6011	1.60	66,880,000
Interstate Telecommunication Service Providers.	$20,600,000,000	1	112,750,000	115,332,870	0.005599	0.00560	115,360,000
Toll Free Numbers	40,000,000	1	3,900,000	3,962,890	0.0991	0.10	4,000,000
CMRS Mobile Services (Cellular/Public Mobile).	623,000,000	1	98,352,000	104,536,811	0.1678	0.17	105,910,000
CMRS Messaging Services	580,000	1	44,800	46,400	0.08	0.08	46,400
BRS/ [3]	1,220	1	919,600	990,660	812	810	988,200
LMDS	365	1	281,200	296,386	812	810	295,650
Per Gbps circuit Int'l Bearer Circuits Terrestrial (Common & Non-Common) & Satellite (Common & Non-Common).	36,000	1	364,000	499,378	13.87	14	504,000
Submarine Cable Providers (See chart at bottom of Table 4) [4].	79	1	6,686,863	9,488,174	120,103	120,105	9,488,295
Earth Stations	3,250	1	8,240,000	9,785,138	3,011	3,010	9,782,500
Space Stations (Geostationary)	146	1	21,977,450	26,090,149	178,700	178,700	26,090,200
Space Stations (Non-Geostationary, Small Constellation).	25	1	8,628,2202	10,233,005	409,320	409,320	10,233,000
Space Stations (Non-Geostationary, Large Constellation).	3	1	5,752,1703	6,822,003	2,274,001	2,274,000	6,822,000
Space Stations (Non-Geostationary, Small Satellite).	23	1	271,260	336,650	14,637	14,635	336,605
****** Total Estimated Revenue to be Collected.	.....	.....	391,734,169	416,924,441	.....	.....	418,322,461
****** Total Revenue Requirement	.....	.....	390,192,000	416,112,000	.....	.....	416,112,000
Difference	.....	.....	1,542,258	812,440	.....	.....	2,210,461

Notes on Table 3

[1] The fee amounts listed in the column entitled ''Rounded FY 2026 Reg. Fee'' are the result of dividing the revenue requirement by the payment units of each radio class category. The actual FY 2026 regulatory fees for AM/FM radio station are listed on a grid located at the end of Table 4.

[2] The AM and FM Construction Permit revenues and the full-power (VHF/UHF) Construction Permit revenues were adjusted, respectively, to set the regulatory fee to an amount no higher than the lowest licensed fee for that class of service based on the threshold 10,001–25,000, the traditional basis for identifying the lowest licensed fee. Reductions in the full-power (VHF/UHF) Construction Permit revenues, and in the AM and FM Construction Permit revenues, were offset by increases in the revenue totals for full-power television stations by market size, and in the AM and FM radio stations by class size and population served, respectively.

[3] The MDS/MMDS category was renamed Broadband Radio Service (BRS). See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150–2162 and 2500–2690 MHz Bands, Report & Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 14165, 14169, para. 6 (2004).

[4] The chart at the end of Table 4 lists the submarine cable bearer circuit regulatory fees (common and non-common carrier basis) that resulted from the adoption of the Assessment and Collection of Regulatory Fees for Fiscal Year 2008, Report and Order and Further Notice of Proposed Rulemaking, 24 FCC Rcd 6388 (2008) and Assessment and Collection of Regulatory Fees for Fiscal Year 2008, Second Report and Order, 24 FCC Rcd 4208 (2009). The Submarine Cable fee in Table 3 is a weighted average of the various fee payers in the chart at the end of Table 4.

[5] The actual full-power television regulatory fees to be paid by call sign are identified in Table 8.

TABLE 4—FY 2026 SCHEDULE OF REGULATORY FEES

[Regulatory fees for the first eight categories listed, identified with an *, are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.]

Fee category	Annual regulatory fee ($)
* PLMRS (per license) (Exclusive Use) (47 CFR part 90)	25.
* Microwave (per license) (47 CFR part 101)	25.
* Marine (Ship) (per station) (47 CFR part 80)	15.
* Marine (Coast) (per license) (47 CFR part 80)	40.
* Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category)	10.
* PLMRS (Shared Use) (per license) (47 CFR part 90)	10.

TABLE 4—FY 2026 SCHEDULE OF REGULATORY FEES—Continued

[Regulatory fees for the first eight categories listed, identified with an *, are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.]

Fee category	Annual regulatory fee ($)
* Aviation (Aircraft) (per station) (47 CFR part 87)	10.
* Aviation (Ground) (per license) (47 CFR part 87)	20.
CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90) (Includes Non-Geographic telephone numbers).	0.17.
CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90)	0.08.
Broadband Radio Service (formerly MMDS/MDS) (per license) (47 CFR part 27)	810.
Local Multipoint Distribution Service (per call sign) (47 CFR, part 101)	810.
AM Radio Construction Permits	600.
FM Radio Construction Permits	1,050.
AM and FM Broadcast Radio Station Fees	See Table Below.
Digital TV (47 CFR part 73) VHF and UHF Commercial Fee Factor. See Table 8 for fee amounts due, also available at *https://www.fcc.gov/licensing-databases/fees/regulatory-fees*.	0.006957.
Digital TV Construction Permits	5,300.
Low Power TV, Class A TV, TV/FM Translators & FM Boosters (47 CFR part 74)	265.
CARS (47 CFR part 78)	2,075.
Cable Television Systems (per subscriber) (47 CFR part 76), Including IPTV and Direct Broadcast Satellite (DBS)	1.60.
Interstate Telecommunication Service Providers (per revenue dollar)	0.00560.
Toll Free (per toll free subscriber) (47 CFR section 52.101 (f) of the rules)	0.10.
Earth Stations: Transmit/Receive & Transmit only (per authorization or registration)	3,010.
Space Stations (per authorized station in geostationary orbit) (47 CFR part 25)	178,700.
Space Stations (per authorized system in non-geostationary orbit) (47 CFR part 25)—Small Constellation (fewer than 1000 authorized space stations).	409,320.
Space Stations (per authorized system in non-geostationary orbit) (47 CFR part 25)—Large Constellation (1000 or more authorized space stations).	2,274,000.
Space Stations (per license/call sign in non-geostationary orbit) (47 CFR part 25) (Small Satellite)	14,635.
International Bearer Circuits—Terrestrial/Satellites (per Gbps circuit)	14.
Submarine Cable Landing Licenses Fee (per cable system)	See Table Below.

FY 2026 RADIO STATION REGULATORY FEES

Population served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C0, C1 & C2
<=10,000	$575	$415	$360	$395	$630	$720
10,001–25,000	960	690	600	660	1,050	1,200
25,001–75,000	1,440	1,035	900	990	1,575	1,800
75,001–150,000	2,160	1,555	1,350	1,485	2,365	2,700
150,001–500,000	3,245	2,330	2,030	2,230	3,550	4,055
500,001–1,200,000	4,860	3,490	3,035	3,340	5,315	6,070
1,200,001–3,000,000	7,295	5,245	4,560	5,015	7,980	9,120
3,000,001–6,000,000	10,935	7,860	6,835	7,515	11,960	13,670
>6,000,000	16,405	11,790	10,255	11,280	17,945	20,510

FY 2026 INTERNATIONAL BEARER CIRCUITS—SUBMARINE CABLE SYSTEMS

Submarine cable systems (capacity as of December 31, 2025)	Fee ratio	FY 2026 regulatory fees
Less than 50 Gbps	0.0625 Units ..	$7,505
50 Gbps or greater, but less than 250 Gbps	0.125 Units	15,015
250 Gbps or greater, but less than 1,500 Gbps	0.25 Units	30,025
1,500 Gbps or greater, but less than 3,500 Gbps	0.5 Units	60,050
3,500 Gbps or greater, but less than 6,500 Gbps	1.0 Unit	120,105
6,500 Gbps or greater	2.0 Units	240,205

Table 5—Sources of Payment Unit Estimates for FY 2026

In order to calculate individual service fees for FY 2026, we adjusted FY 2025 payment units for each service to more accurately reflect expected FY 2026 payment liabilities. We obtained our updated estimates through a variety of means and sources. For example, we used Commission licensee databases, actual prior year payment records, and industry and trade association projections, where available. The databases we consulted include our Universal Licensing System (ULS), International Communications Filing System (ICFS), Licensing and Management System (LMS), and Cable Operations and Licensing System (COALS), as well as reports generated within the Commission such as the Wireless Telecommunications Bureau's *Numbering Resource Utilization Forecast.* Regulatory fee payment units are not all the same for all fee categories. For most fee categories, the term ''units''

reflects licenses or permits that have been issued, but for other fee categories, the term ''units'' reflects quantities such as subscribers, population counts, circuit counts, telephone numbers, and revenues. As more current data are received after the *NPRM* is released, the Commission sometimes adjusts the NPRM fee rates to reflect the new information in the *Report and Order.* This is intended to make sure that the fee rates in the *Report and Order* reflect more recent and accurate information. We realize that by adjusting the unit counts as more accurate information is received may adjust the fee rates for certain regulatory fee categories. Certain entities that collect the fees from customers in advance in order to pay the Commission, such as Cable and DBS companies, ITSP providers, Cell Phone and Toll-Free providers, may need to adjust their billings to customers as the Commission adjusts its fee rates. As a result, the Commission understands that these adjustments are necessary so that these regulatees can recover their fee obligations from their customers.

We sought verification for these estimates from multiple sources and, in all cases, we compared FY 2026 estimates with actual FY 2025 payment units to ensure that our revised estimates were reasonable. Where appropriate, we adjusted and/or rounded our final estimates to take into consideration the fact that certain variables that impact on the number of payment units cannot yet be estimated with sufficient accuracy. These include an unknown number of waivers and/or exemptions that may occur in FY 2026 and the fact that, in many services, the number of actual licensees or station operators fluctuates over time due to economic, technical, or other reasons. When we note, for example, that our estimated FY 2026 payment units are based on FY 2025 actual payment units, it does not necessarily mean that our FY 2026 projection is exactly the same number as in FY 2025. We have either rounded the FY 2026 number or adjusted it slightly to account for these variables.

Fee category	Sources of payment unit estimates
Land Mobile (All), Microwave, Marine (Ship & Coast), Aviation (Aircraft & Ground), Domestic Public Fixed.	Based on Wireless Telecommunications Bureau (WTB) information as well as prior year payment information. Estimates have been adjusted to take into consideration the licensing of portions of these services.
CMRS Cellular/Mobile Services	Based on WTB projection reports, and FY 2025 payment data.
CMRS Messaging Services	Based on WTB reports, and FY 2025 payment data.
AM/FM Radio Stations	Based on downloaded LMS data, adjusted for exemptions, and actual FY 2025 payment units.
Digital TV Stations (Combined VHF/UHF units)	Based on LMS data, fee rate adjusted for exemptions, and population figures are calculated based on individual station parameters.
AM/FM/TV Construction Permits	Based on LMS data, adjusted for exemptions, and actual FY 2025 payment units.
LPTV, Translators and Boosters, Class A Television.	Based on LMS data, adjusted for exemptions, and actual FY 2025 payment units.
BRS (formerly MDS/MMDS) LMDS	Based on WTB reports and actual FY 2025 payment units. Based on WTB reports and actual FY 2025 payment units.
Cable Television Relay Service (CARS) Stations.	Based on cable trend data, data from the Media Bureau's COALS database, and actual FY 2025 payment units.
Cable Television System Subscribers, Including IPTV Subscribers.	Based on publicly available data sources for estimated subscriber counts, trend information from past payment data, and actual FY 2025 payment units.
Interstate Telecommunication Service Providers	Based on FCC Form 499–A worksheets due in April 2026, and any data assistance provided by the Wireline Competition Bureau.
Earth Stations	Based on Space Bureau licensing data and actual FY 2025 payment units.
Space Stations (GSOs & NGSOs)	Based on Space Bureau data reports and actual FY 2025 payment units.
International Bearer Circuits	Based on assistance provided by the Office of International Affairs, any data submissions by licensees, adjusted as necessary, and actual FY 2025 payment units.
Submarine Cable Licenses	Based on Office of International Affairs license information, and actual FY 2025 payment units.

Table 6—Factors, Measurements, and Calculations That Determine Station Signal Contours and Associated Population Coverages

AM Stations

For stations with nondirectional daytime antennas, the theoretical radiation was used at all azimuths. For stations with directional daytime antennas, specific information on each day tower, including field ratio, phase, spacing, and orientation was retrieved, as well as the theoretical pattern root-mean-square of the radiation in all directions in the horizontal plane (RMS) figure (milliVolt per meter (mV/m) @1 km) for the antenna system. The standard, or augmented standard if pertinent, horizontal plane radiation pattern was calculated using techniques and methods specified in sections 73.150 and 73.152 of the Commission's rules. Radiation values were calculated for each of 360 radials around the transmitter site. Next, estimated soil conductivity data was retrieved from a database representing the information in FCC Figure R3. Using the calculated horizontal radiation values, and the retrieved soil conductivity data, the distance to the principal community (5 mV/m) contour was predicted for each of the 360 radials. The resulting distance to principal community contours were used to form a geographical polygon. Population counting was accomplished by determining which 2020 block centroids were contained in the polygon. (A block centroid is the center point of a small area containing population as computed by the U.S. Census Bureau.) The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.

FM Stations

The greater of the horizontal or vertical effective radiated power (ERP) (kW) and respective height above average terrain (HAAT) (m) combination was used. Where the antenna height above mean sea level (HAMSL) was available, it was used in lieu of the average HAAT figure to calculate specific HAAT figures for each of 360 radials under study. Any available directional pattern information was applied as well, to produce a radial-specific ERP figure. The HAAT and ERP figures were used in conjunction with the Field Strength (50–50) propagation curves specified in 47 CFR 73.313 of the Commission's rules to predict the distance to the principal community (70 dBu (decibel above 1 microVolt per

meter) or 3.17 mV/m) contour for each of the 360 radials. The resulting distance to principal community contours were used to form a geographical polygon. Population counting was accomplished by determining which 2020 block centroids were contained in the polygon. The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.

TABLE 7—SPACE STATION SATELLITE CHARTS FOR FY 2026 REGULATORY FEES SPACE STATIONS (GEOSTATIONARY ORBIT): U.S.-LICENSED SPACE STATIONS

Licensee	Call sign	Satellite name	Type
1. Astranis Projects USA LLC	S3092	ARCTURUS	GSO.
2. DIRECTV Enterprises, LLC	S2632	DIRECTV D8	GSO.
3. DIRECTV Enterprises, LLC	S2640	DIRECTV D11	GSO.
4. DIRECTV Enterprises, LLC	S2641	DIRECTV D10	GSO.
5. DIRECTV Enterprises, LLC	S2669	DIRECTV D9S	GSO.
6. DIRECTV Enterprises, LLC	S2673	DIRECTV D5	GSO.
7. DIRECTV Enterprises, LLC	S2797	DIRECTV D12	GSO.
8. DIRECTV Enterprises, LLC	S2869	DIRECTV D14	GSO.
9. DIRECTV Enterprises, LLC	S2930	DIRECTV D15	GSO.
10. DIRECTV Enterprises, LLC	S3039	DIRECTV D16	GSO.
11. DISH Operating L.L.C	S2694	ECHOSTAR 10	GSO.
12. DISH Operating L.L.C	S2738	ECHOSTAR 11	GSO.
13. DISH Operating L.L.C	S2790	ECHOSTAR 14	GSO.
14. DISH Operating L.L.C	S2931	ECHOSTAR 18	GSO.
15. EchoStar Satellite Operating Corporation	S2811	ECHOSTAR 15	GSO.
16. EchoStar Satellite Operating Corporation	S2844	ECHOSTAR 16	GSO.
17. EchoStar Satellite Services L.L.C	S2179	ECHOSTAR 9	GSO.
18. EchoStar BSS Corp	S3093	ECHOSTAR 23	GSO.
19. ES 172 LLC	S2610	EUTELSAT 174A	GSO.
20. ES 172 LLC	S3021	EUTELSAT 172B	GSO.
21. Horizon-3 Satellite LLC	S2947	HORIZONS–3e	GSO.
22. Hughes Network Systems, LLC	S2753	ECHOSTAR XVII	GSO.
23. Hughes Network Systems, LLC	S2834	ECHOSTAR 19	GSO.
24. Hughes Network Systems, LLC	S3017	ECHOSTAR 24 (JUPITER 3)	GSO.
25. Intelsat License LLC/Viasat, Inc	S2160	GALAXY 28	GSO.
26. Intelsat License LLC	S2237	INTELSAT 11	GSO.
27. Intelsat License LLC	S2381	GALAXY 3C	GSO.
28. Intelsat License LLC	S2382	INTELSAT 10	GSO.
29. Intelsat License LLC	S2386	GALAXY 13/Horizons 1	GSO.
30. Intelsat License LLC	S2405	INTELSAT 901	GSO.
31. Intelsat License LLC	S2406	INTELSAT 902	GSO.
32. Intelsat License LLC	S2408	INTELSAT 904	GSO.
33. Intelsat License LLC	S2409	INTELSAT 905	GSO.
34. Intelsat License LLC	S2410	INTELSAT 906	GSO.
35. Intelsat License LLC	S2414	INTELSAT 10–02	GSO.
36. Intelsat License LLC	S2423	HORIZONS 2	GSO.
37. Intelsat License LLC	S2647	GALAXY 19	GSO.
38. Intelsat License LLC	S2687	GALAXY 16	GSO.
39. Intelsat License LLC	S2715	GALAXY 17	GSO.
40. Intelsat License LLC	S2733	GALAXY 18	GSO.
41. Intelsat License LLC	S2750	INTELSAT 16	GSO.
42. Intelsat License LLC	S2751	INTELSAT 28	GSO.
43. Intelsat License LLC	S2785	INTELSAT 14	GSO.
44. Intelsat License LLC	S2804	INTELSAT 25	GSO.
45. Intelsat License LLC	S2817	INTELSAT 18	GSO.
46. Intelsat License LLC	S2831	INTELSAT 23	GSO.
47. Intelsat License LLC	S2846	INTELSAT 22	GSO.
48. Intelsat License LLC	S2847	INTELSAT 20	GSO.
49. Intelsat License LLC	S2850	INTELSAT 19	GSO.
50. Intelsat License LLC	S2863	INTELSAT 21	GSO.
51. Intelsat License LLC	S2789	INTELSAT 15	GSO.
52. Intelsat License LLC	S2814	INTELSAT 17	GSO.
53. Intelsat License LLC	S2887	INTELSAT 30	GSO.
54. Intelsat License LLC	S2915	INTELSAT 34	GSO.
55. Intelsat License LLC	S2924	INTELSAT 31	GSO.
56. Intelsat License LLC	S2948	INTELSAT 36	GSO.
57. Intelsat License LLC	S2959	INTELSAT 35e	GSO.
58. Intelsat License LLC	S2972	INTELSAT 37e	GSO.
59. Intelsat License LLC	S3015	GALAXY 33	GSO.
60. Intelsat License LLC	S3016	GALAXY 30	GSO.
61. Intelsat License LLC	S3023	INTELSAT 39	GSO.
62. Intelsat License LLC	S3058	HISPASAT 143W–1	GSO.
63. Intelsat License LLC	S3066	INTELSAT 40e	GSO.
64. Intelsat License LLC	S3076	GALAXY 31	GSO.
65. Intelsat License LLC	S3078	GALAXY 32	GSO.
66. Intelsat License LLC	S3083	GALAXY 34	GSO.

TABLE 7—SPACE STATION SATELLITE CHARTS FOR FY 2026 REGULATORY FEES SPACE STATIONS (GEOSTATIONARY ORBIT): U.S.-LICENSED SPACE STATIONS—Continued

Licensee	Call sign	Satellite name	Type
67. Intelsat License LLC	S3143	GALAXY 35	GSO.
68. Intelsat License LLC	S3148	GALAXY 36	GSO.
69. Intelsat License LLC	S3164	GALAXY 37	GSO.
70. Ligado Networks Subsidiary, LLC	S2358	SKYTERRA–1	GSO.
71. Novavision Group, Inc	S2861	DIRECTV KU–79W	GSO.
72. Open Plaza Corp./DIRECTV Latin America, LLC.	S2922	SKY–B1	GSO.
73. Satellite CD Radio LLC	S2812	FM–6	GSO.
74. SES Americom, Inc	S2162	AMC–3	GSO.
75. SES Americom, Inc	S2180	AMC–15	GSO.
76. SES Americom, Inc	S2347	AMC–6	GSO.
77. SES Americom, Inc	S2415	NSS–10	GSO.
78. SES Americom, Inc	S2826	SES–2	GSO.
79. SES Americom, Inc	S2807	SES–1	GSO.
80. SES Americom, Inc	S2892	SES–3	GSO.
81. SES Americom, Inc	S3097	SES–19	GSO.
82. SES Americom, Inc	S3138	SES–22	GSO.
83. SES Americom, Inc	S3096	SES–18	GSO.
84. SES Americom, Inc	S3098	SES–20	GSO.
85. SES Americom, Inc	S3099	SES–21	GSO.
86. Silkwave Africa, LLC	S3074	AsiaStar	GSO.
87. Sirius XM Radio Inc	S2710	FM–5	GSO.
88. Sirius XM Radio Inc	S3033	SXM–7	GSO.
89. Sirius XM Radio Inc	S3034	SXM–8	GSO.
90. Sirius XM Radio Inc	S3166	SXM–9	GSO.
91. Sirius XM Radio Inc	S3167	SXM–10	GSO.
92. Skynet Satellite Corp	S2933	TELSTAR 12V	GSO.
93. Skynet Satellite Corporation	S2357	TELSTAR 11N	GSO.
94. Telesat Canada	S2433	ANIK F4 (AMC–11)	GSO.
95. Viasat, Inc	S2747	VIASAT–1	GSO.
96. Viasat, Inc	S2917	VIASAT–3	GSO.
97. Viasat, Inc	S3050	VIASAT–89US	GSO.
98. XM Radio LLC	S2786	XM–5	GSO.

SPACE STATIONS (GEOSTATIONARY ORBIT): NON-U.S.-LICENSED SPACE STATIONS—MARKET ACCESS THROUGH PETITION FOR DECLARATORY RULING

Grantee	Call sign	Satellite name	Type
99. Avanti Hylas 2 Ltd	S3130	HYLAS–4	GSO.
100. DBSD Services Ltd	S2651	DBSD G1	GSO.
101. Embratel TVSAT Telecomunicacoes S.A	S3142	Star One D2	GSO.
102. Embratel TVSAT Telecomunicacoes S.A	S3192	Star One C4	GSO.
103. Empresa Argentina de Soluciones Satelitales S.A.	S2956	ARSAT–2	GSO.
104. Embratel Tvsat Telecommunicacoes S.A	S2678	STAR ONE C2	GSO.
105. Embratel Tvsat Telecommunicacoes S.A	S2845	STAR ONE C3	GSO.
106. Eutelsat do Brasil Ltda	S3226	EUTELSAT 65 West A	GSO.
107. Eutelsat S.A	S3055	EUTELSAT 139 WEST A	GSO.
108. Eutelsat S.A	S3056	EUTELSAT 8 WEST B	GSO.
109. Gamma Acquisition L.L.C	S2633	TerreStar 1	GSO.
110. Hispamar Satélites, S.A	S2886	AMAZONAS–3	GSO.
111. Hispamar Satélites, S.A	S3086	AMAZONAS NEXUS	GSO.
112. Hispasat, S.A	S2969	HISPASAT 30W–6	GSO.
113. Horizons-4 Satellite LLC	S3180	Horizon-4	GSO.
114. Inmarsat PLC	S2932	Inmarsat-4 F3	GSO.
115. Inmarsat PLC	S2949	Inmarsat-3 F5	GSO.
116. Inmarsat PLC	S3205	Inmarsat 4–F2	GSO.
117. New Skies Satellites B.V	S2756	NSS–9	GSO.
118. New Skies Satellites B.V	S2828	SES–4	GSO.
119. New Skies Satellites B.V	S2870	SES–6	GSO.
120. New Skies Satellites B.V	S2950	SES–10	GSO.
121. Satelites Mexicanos, S.A. de C.V	S2873	EUTELSAT 117 WEST A	GSO.
122. Satelites Mexicanos, S.A. de C.V	S2926	EUTELSAT 117 WEST B	GSO.
123. Satelites Mexicanos, S.A. de C.V	S2938	EUTELSAT 115 WEST B	GSO.
124. SES Satellites (Gibraltar) Ltd	S2676	AMC 21	GSO.
125. SES Satellites (Gibraltar) Ltd	S2951	SES–15	GSO.
126. SES Americom, Inc	S2964	SES–11	GSO.
127. SES Americom, Inc	S3037	NSS–11	GSO.
128. SES DTH do Brasil Ltda	S2974	SES–14	GSO.

SPACE STATIONS (GEOSTATIONARY ORBIT): NON-U.S.-LICENSED SPACE STATIONS—MARKET ACCESS THROUGH PETITION FOR DECLARATORY RULING—Continued

Grantee	Call sign	Satellite name	Type
129. SES–17 S.a.r.l	S3043	SES–17	GSO.
130. Spacing Guild UK Limited	S3150	NuView Bravo	GSO.
131. Spacing Guild UK Limited	S3151	NuView Alpha	GSO.
132. Telesat Brasil Capacidade de Satelites Ltda	S2821	ESTRELA DO SUL 2	GSO.
133. Telesat Canada	S2674	ANIK F1R	GSO.
134. Telesat Canada	S2703	ANIK F3	GSO.
135. Telesat Canada	S2472	ANIK F2	GSO.
136. Telesat International Ltd	S2955	TELSTAR 19 VANTAGE	GSO.
137. Viasat, Inc	S2902	VIASAT–2	GSO.

SPACE STATIONS (GEOSTATIONARY ORBIT): NON-U.S.-LICENSED SPACE STATIONS—MARKET ACCESS THROUGH EARTH STATION LICENSES

ITU or operator name (if available)	Call sign	Common name	Type
138. AUSSAT B 152E	M221170	OPTUS D2	GSO.
139. Ciel Satellite Group	E050029	Ciel-2	GSO.
140. Ciel Satellite Group	E140100	Ciel-6i	GSO.
141. QuetzSat, S.de R.L. de C.V	E090020	Quetzsat-1	GSO.
142. Eutelsat 65 West A	E160081	Eutelsat 65 West A	GSO.
143. INMARSAT 5F2	E120072	INMARSAT 5F2	GSO.
144. INMARSAT 5F3	E150028	INMARSAT 5F3	GSO.
145. SES Americom, Inc	E960207	JCSAT–3A	GSO.
146. JCSAT–2B	M174163	JCSAT–2B	GSO.
147. NIMIQ 5	E080107	NIMIQ 5	GSO.
148. WILDBLUE–1	E040213	WILDBLUE–1	GSO.
149. Intelsat License LLC	E120106		GSO.
150. Hawaii Pacific Teleport, L.P	E010016	Telstar 18 Vantage	GSO.
151. APT Satellite Holdings	M161190	APSTAR 6C	GSO.
152. APT Satellite Holdings	M246190	APSTAR 6D	GSO.

SPACE STATIONS (PER LICENSE/CALL SIGN IN NON-GEOSTATIONARY ORBIT)

[Small satellite]

Licensee/grantee	Call sign	Satellite name	Type
1. Aethero Space Inc	S3189	Deimos	Small Satellite.
2. Capella Space Corp	S3162	Acadia-1&2	Small Satellite.
3. ICEYE US, Inc	S3082	ICEYE	Small Satellite.
4. ICEYE US, Inc	S3165	ICEYE Second Tranche	Small Satellite.
5. ICEYE US, Inc	S3224	ICEYE Third Tranche	Small Satellite.
6. Impulse Space	S3194	Impulse-2	Small Satellite.
7. Impulse Space	S3228	Impulse-3	Small Satellite.
8. Loft Orbital Solutions Inc	S3072	YAM–3	Small Satellite.
9. Loft Orbital Solutions Inc	S3147	YAM–5	Small Satellite.
10. Loft Orbital Solutions, Inc	S3170	YAM–6	Small Satellite.
11. Loft Orbital Solutions, Inc	S3184	YAM–7	Small Satellite.
12. Loft Orbital Solutions, Inc	S3199	YAM–8	Small Satellite.
13. Loft Orbital Solutions, Inc	S3227	YAM–9	Small Satellite.
14. Lynk Global, Inc	S3087	Lynk Towers	Small Satellite.
15. Space Logistics, LLC	S2990	Mission Extension Vehicle-1	RPO/OOS.
16. Space Logistics, LLC	S3059	Mission Extension Vehicle-2	RPO/OOS.
17. Space Sciences & Engineering LLC	S3153	GNOMES–4	Small Satellite.
18. Space Sciences & Engineering LLC	S3185	GNOMES–5	Small Satellite.
19. Turion Space Corp	S3146	DROID.001	Small Satellite.
20. Turion Space Corp	S3198	DROID .002	Small Satellite.
21. Umbra Lab Inc	S3095	Umbra SAR	Small Satellite.
22. Umbra Lab Inc	S3168	Umbra Block Two SAR Constellation	Small Satellite.
23. Umbra Lab Inc	S3186	Umbra Block 2.1 SAR Constellation	Small Satellite.
24. Xona Space Systems, Inc	S3215	IOV	Small Satellite.
25. XPLORE, Inc	S3193	XCUBE–1	Small Satellite.

SPACE STATIONS (NON-GEOSTATIONARY ORBIT)—SMALL CONSTELLATIONS

Licensee/grantee	Call sign	Satellite/system name	Authorized stations
1. Albedo Space Inc	S3208	Clarity-1	1
2. AST & Science, LLC	S3065	Bluebird Block 1	5
3. BlackSky Global, LLC	S3032	Global	16
4. Capella Space Corp	S3178	Acadia-3, Acadia-4, Acadia-5, Acadia-6	4
5. Globalstar License LLC	S2115	GLOBALSTAR	96
6. Hawkeye 360	S3042	HE360	174
7. Iridium Constellation LLC	S2110	IRIDIUM	99
8. Kepler Communications, Inc	S2981	KEPLER	140
9. Kineis	S3054	KINEIS	25
10. Loft Orbital Solutions, Inc	S3181	YAC–1	10
11. Maxar License, Inc., DG Consents Sub, Inc	S2129/S2348	WorldView 1, 2 & 3, GeoEye-1 Worldview Legion	15
12. Muon Space, Inc	S3173	MuSat-2, MuSat-3	2
13. Myriota Pty. Ltd	S3047	MYRIOTA	26
14. O3b Limited	S2935	O3b	42
15. ORBCOMM License Corp	S2103	ORBCOMM	72
16. Orbital Sidekick, Inc	S3139	GHOSt	6
17. Planet Labs PBC	S2912	Flock/Skysats	576
18. Planet Labs PBC	S3152	Tanager	2
19. Pixxel Space Technologies, Inc	S3200	FLYY	3
20. Sidus Space, Inc	S3175	LizzieSat-2, LizzieSat-3, LizzieSat-4, LizzieSat-5	4
21. Sierra Nevada Company, LLC	S3214	Vindler Constellation	3
22. Space Norway AS	S2978	ARCTIC SATELLITE BROADBAND MISSION	2
23. Spire Global, Inc	S2946/S3045/ S3182.	LEMUR & MINAS & HUBBLE	636
24. Spire Global, Inc	S3213	LEMUR–4	175
25. Telesat LEO Inc	S2976	TELESAT Ku/Ka-Band	117
26. The Tomorrow Companies, Inc	S3156	Tomorrow.io Weather Constellation	4
27. Viasat, Inc	S2985	ViaSat—NGSO	20

SPACE STATIONS (NON-GEOSTATIONARY)—LARGE CONSTELLATIONS

Licensee/grantee	Call sign	Satellite/system name	Authorized stations
1. Kuiper Systems LLC	S3051	KUIPER	3,232
2. Space Exploration Holdings, LLC	S2983/S3018/ S2992/S3069.	SPACEX/Ku-/Ka-/V–band/Gen 2	11,908
3. WorldVu Satellites Ltd.	S2963/S2994	ONEWEB Ku-/Ka-/V–BAND	2,000

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
3246	KAAH–TV	1,018,897	939,246	$6,534
18285	KAAL	605,222	580,564	4,039
11912	KAAS–TV	243,984	243,947	1,697
56528	KABB	3,017,860	3,000,477	20,874
282	KABC–TV	18,303,336	17,670,502	122,934
1236	KACV–TV	383,228	383,071	2,665
33261	KADN–TV	889,583	889,583	6,189
8263	KAEF–TV	139,510	124,133	864
2728	KAET	4,867,739	4,836,434	33,647
2767	KAFT	1,294,492	1,218,670	8,478
62442	KAID	864,547	857,276	5,964
4145	KAII–TV	203,698	179,435	1,248
67494	KAIL	2,091,288	2,061,175	14,340
13988	KAIT	594,090	583,749	4,061
40517	KAJB	393,654	393,355	2,737
65522	KAKE	821,488	816,811	5,683
804	KAKM	397,237	395,241	2,750
148	KAKW–DT	3,350,876	3,242,159	22,556
51598	KALB–TV	933,915	932,500	6,487
51241	KALO	1,018,088	971,631	6,760
40820	KAMC	411,973	411,949	2,866
8523	KAMR–TV	377,485	377,410	2,626
65301	KAMU–TV	395,784	392,044	2,727
2506	KAPP	337,194	298,159	2,074
3658	KARD	680,743	678,724	4,722

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
23079	KARE	4,243,145	4,234,439	29,459
33440	KARK–TV	1,243,813	1,230,366	8,560
37005	KARZ–TV	1,153,588	1,134,221	7,891
32311	KASA–TV	1,198,361	1,159,350	8,066
41212	KASN	1,200,705	1,185,725	8,249
7143	KASW	4,828,272	4,813,078	33,485
55049	KASY–TV	1,182,887	1,143,258	7,954
33471	KATC	1,376,057	1,376,057	9,573
13813	KATN	95,520	95,197	662
21649	KATU	3,400,708	3,238,560	22,531
33543	KATV	1,285,451	1,265,986	8,807
50182	KAUT–TV	1,826,857	1,825,132	12,697
21488	KAUU	398,876	396,486	2,758
6864	KAUZ–TV	366,943	365,162	2,540
73101	KAVU–TV	323,202	322,961	2,247
49579	KAWB	193,767	193,705	1,348
49578	KAWE	139,854	137,788	959
58684	KAYU–TV	925,282	861,276	5,992
29234	KAZA–TV	15,481,136	14,233,993	99,026
17433	KAZD	8,087,952	8,085,339	56,250
776273	KAZF	253,785	188,057	1,308
1151	KAZQ	1,137,703	1,126,947	7,840
776268	KAZS	396,796	390,474	2,717
35811	KAZT–TV	495,353	409,112	2,846
4148	KBAK–TV	1,626,532	1,363,867	9,488
16940	KBCA	465,218	465,157	3,236
53586	KBCB	1,510,168	1,478,647	10,287
22685	KBDI–TV	4,731,715	4,335,180	30,160
65395	KBFD–DT	1,016,508	887,671	6,176
169030	KBGS–TV	176,271	173,911	1,210
61068	KBHE–TV	153,390	144,914	1,008
48556	KBIM–TV	226,233	226,194	1,574
29108	KBIN–TV	1,014,918	1,013,041	7,048
33658	KBJR–TV	278,564	274,572	1,910
83306	KBLN–TV	322,286	145,745	1,014
63768	KBLR	2,280,730	2,220,879	15,451
53324	KBME–TV	146,149	146,082	1,016
10150	KBMT	799,217	798,262	5,554
22121	KBMY	142,682	142,622	992
49760	KBOI–TV	872,030	863,497	6,007
55370	KBRR	154,408	154,405	1,074
66414	KBSD–DT	151,986	151,901	1,057
66415	KBSH–DT	97,884	95,916	667
19593	KBSI	730,259	728,325	5,067
66416	KBSL–DT	47,462	46,328	322
4939	KBSV	1,535,281	1,424,913	9,913
62469	KBTC–TV	4,319,699	4,228,861	29,420
61214	KBTV–TV	771,692	771,692	5,369
6669	KBTX–TV	5,354,551	5,351,089	37,228
35909	KBVO	1,911,833	1,684,206	11,717
58618	KBVU	136,908	121,846	848
776229	KBWT	2,672	2,667	19
6823	KBYU–TV	2,838,181	2,620,447	18,230
33756	KBZK	153,764	141,054	981
21422	KCAL–TV	18,258,912	17,586,821	122,352
11265	KCAU–TV	769,096	754,352	5,248
14867	KCBA	3,334,176	2,557,080	17,790
27507	KCBD	426,315	426,302	2,966
9628	KCBS–TV	18,628,137	17,359,665	120,771
776213	KCBU	28,971	23,368	163
49750	KCBY–TV	92,825	77,624	540
33710	KCCI	1,216,146	1,209,219	8,413
9640	KCCW–TV	294,831	287,246	1,998
63158	KCDO–TV	3,305,368	3,160,730	21,989
62424	KCDT	807,726	762,258	5,303
83913	KCEB	446,377	445,850	3,102
57219	KCEC	4,497,531	4,237,580	29,481
10245	KCEN–TV	2,224,490	2,174,193	15,126
13058	KCET	17,868,933	16,310,676	113,473
18079	KCFW–TV	196,292	157,001	1,092
132606	KCGE	129,876	129,876	904

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
60793	KCHF	1,175,596	1,148,137	7,988
33722	KCIT	392,243	391,646	2,725
62468	KCKA	1,082,723	906,771	6,308
41969	KCLO–TV	150,949	145,392	1,011
47903	KCNC–TV	4,460,509	4,175,114	29,046
71586	KCNS	9,007,762	8,012,556	55,743
33742	KCOP–TV	18,134,022	17,318,605	120,486
19117	KCOS	1,092,982	1,092,792	7,603
63165	KCOY–TV	700,154	478,768	3,331
33894	KCPQ	5,131,164	4,985,829	34,686
53843	KCPT	2,690,171	2,688,808	18,706
33875	KCRA–TV	11,608,107	7,153,845	49,769
9719	KCRG–TV	1,143,055	1,130,704	7,866
60728	KCSD–TV	323,237	323,093	2,248
59494	KCSG	229,899	220,818	1,536
33749	KCTS–TV	4,848,434	4,778,758	33,246
41230	KCTV	2,732,197	2,730,443	18,996
58605	KCVU	700,745	689,702	4,798
10036	KCWC–DT	42,872	38,501	268
64444	KCWE	2,642,880	2,641,432	18,376
51502	KCWI–TV	1,152,163	1,151,070	8,008
42008	KCWO–TV	55,411	55,383	385
166511	KCWV	210,633	210,626	1,465
24316	KCWX	4,897,780	4,890,042	34,020
68713	KCWY–DT	85,085	84,715	589
22201	KDAF	7,951,276	7,949,040	55,301
33764	KDBC–TV	1,101,513	1,097,028	7,632
79258	KDCK	43,010	42,993	299
166332	KDCU–DT	773,823	773,808	5,383
38375	KDEN–TV	3,973,266	3,942,210	27,426
17037	KDFI	7,990,955	7,989,287	55,581
33770	KDFW	7,962,141	7,959,855	55,377
29102	KDIN–TV	1,193,740	1,189,191	8,273
25454	KDKA–TV	3,569,162	3,428,192	23,850
60740	KDKF	73,619	66,137	460
4691	KDLH	267,326	264,686	1,841
41975	KDLO–TV	214,001	213,796	1,487
55379	KDLT–TV	700,230	689,305	4,795
55375	KDLV–TV	98,101	97,673	680
25221	KDMD	394,250	391,278	2,722
78915	KDMI	1,248,443	1,247,337	8,678
56524	KDNL–TV	3,013,924	3,009,244	20,935
24518	KDOC–TV	18,264,021	17,379,123	120,907
1005	KDOR–TV	1,180,603	1,177,894	8,195
60736	KDRV	551,809	469,537	3,267
61064	KDSD–TV	65,355	60,171	419
53329	KDSE	52,777	51,188	356
56527	KDSM–TV	1,202,702	1,201,866	8,361
49326	KDTN	7,901,133	7,898,922	54,953
83491	KDTP	25,965	23,729	165
33778	KDTV–DT	8,697,794	7,750,134	53,918
67910	KDTX–TV	7,985,188	7,983,676	55,542
126	KDVR	4,301,541	4,144,268	28,832
18084	KECI–TV	228,161	210,560	1,465
51208	KECY–TV	407,175	403,848	2,810
791767	KEDB	105,050	97,963	682
791702	KEDS	2,594,159	2,593,835	18,045
58408	KEDT	527,343	527,343	3,669
55435	KEET	181,333	161,389	1,123
41983	KELO–TV	767,130	715,437	4,977
34440	KEMO–TV	9,007,762	8,012,556	55,743
776162	KEMS	55,920	54,847	382
2777	KEMV	634,060	576,758	4,013
26304	KENS	3,091,086	3,077,749	21,412
63845	KENV–DT	52,294	45,932	320
18338	KENW	85,762	85,762	597
50591	KEPB–TV	680,317	618,277	4,301
56029	KEPR–TV	529,602	519,486	3,614
49324	KERA–TV	7,984,381	7,981,440	55,527
40878	KERO–TV	1,387,245	1,257,683	8,750
61067	KESD–TV	172,302	165,214	1,149

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
25577	KESQ–TV	1,487,393	615,803	4,284
50205	KETA–TV	1,874,445	1,860,161	12,941
62182	KETC	2,945,200	2,942,622	20,472
37101	KETD	3,918,776	3,879,692	26,991
2768	KETG	421,357	403,179	2,805
12895	KETH–TV	7,293,196	7,293,115	50,738
55643	KETK–TV	1,072,485	1,071,097	7,452
2770	KETS	1,209,518	1,191,713	8,291
53903	KETV	1,491,674	1,486,408	10,341
92872	KETZ	505,102	502,310	3,495
68853	KEYC–TV	553,554	539,853	3,756
33691	KEYE–TV	3,533,479	3,444,549	23,964
60637	KEYT–TV	1,466,777	1,275,243	8,872
83715	KEYU	366,142	366,071	2,547
34406	KEZI	1,221,893	1,166,907	8,118
73701	KFAA–TV	7,987,157	7,983,918	55,544
34412	KFBB–TV	96,782	95,488	664
125	KFCT	967,548	960,099	6,679
51466	KFDA–TV	394,744	393,695	2,739
22589	KFDM	770,621	770,609	5,361
48521	KFDR	672,350	657,307	4,573
65370	KFDX–TV	367,320	366,583	2,550
49264	KFFV	4,674,758	4,634,964	32,245
12729	KFFX–TV	467,787	463,006	3,221
83992	KFJX	709,125	679,797	4,729
42122	KFMB–TV	4,239,135	3,914,207	27,231
53321	KFME	442,176	441,664	3,073
74256	KFNB	84,543	83,990	584
21613	KFNE	53,059	52,392	364
21612	KFNR	9,724	9,457	66
66222	KFOR–TV	1,813,323	1,811,723	12,604
33716	KFOX–TV	1,107,424	1,097,251	7,634
41517	KFPH–DT	385,474	313,720	2,183
81509	KFPX–TV	1,072,290	1,072,222	7,459
31597	KFQX	197,918	173,495	1,207
59013	KFRE–TV	1,850,426	1,835,478	12,769
51429	KFSF–DT	7,986,866	7,039,241	48,972
66469	KFSM–TV	1,005,574	981,351	6,827
8620	KFSN–TV	1,973,837	1,957,017	13,615
29560	KFTA–TV	907,937	894,593	6,224
83714	KFTC	64,284	64,250	447
60537	KFTH–DT	7,287,908	7,287,530	50,699
60549	KFTR–DT	18,326,526	16,971,273	118,069
61335	KFTS	77,847	66,866	465
81441	KFTU–DT	109,271	105,476	734
34439	KFTV–DT	1,930,415	1,914,464	13,319
664	KFVE	91,164	81,417	566
592	KFVS–TV	867,085	843,470	5,868
29015	KFWD	7,970,373	7,964,229	55,407
35336	KFXA	914,357	912,893	6,351
17625	KFXB–TV	377,548	370,365	2,577
70917	KFXK–TV	969,012	966,868	6,727
84453	KFXL–TV	977,327	976,428	6,793
56079	KFXV	1,335,643	1,335,643	9,292
41427	KFYR–TV	153,218	150,858	1,050
25685	KGAN	1,122,060	1,109,804	7,721
34457	KGBT–TV	1,350,104	1,350,004	9,392
7841	KGCW	938,174	935,835	6,511
24485	KGEB	1,257,918	1,224,797	8,521
34459	KGET–TV	982,744	940,071	6,540
53320	KGFE	120,164	120,164	836
7894	KGIN	235,875	233,749	1,626
83945	KGLA–DT	1,754,806	1,754,806	12,208
34445	KGMB	1,017,227	907,842	6,316
58608	KGMC	2,076,523	2,052,808	14,281
36914	KGMD–TV	101,247	100,762	701
36920	KGMV	209,577	175,904	1,224
10061	KGNS–TV	283,777	274,877	1,912
34470	KGO–TV	9,406,080	8,630,291	60,041
56034	KGPE	1,829,902	1,812,936	12,613
81694	KGPX–TV	792,059	724,592	5,041

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
25511	KGTF	155,729	154,491	1,075
40876	KGTV	4,257,568	3,912,037	27,216
36918	KGUN–TV	1,479,221	1,292,183	8,990
34874	KGW	3,397,112	3,239,730	22,539
63177	KGWC–TV	84,597	84,117	585
63162	KGWL–TV	37,314	37,199	259
63166	KGWN–TV	558,685	528,237	3,675
63170	KGWR–TV	49,435	49,242	343
4146	KHAW–TV	102,381	101,946	709
60353	KHBS	610,455	588,263	4,093
27300	KHCE–TV	2,848,289	2,842,696	19,777
26431	KHET	1,022,459	1,009,772	7,025
21160	KHGI–TV	245,331	244,515	1,701
36917	KHII–TV	1,017,217	907,842	6,316
29085	KHIN	1,137,059	1,135,866	7,902
17688	KHME	196,002	194,233	1,351
47670	KHMT	193,159	188,714	1,313
47987	KHNE–TV	205,833	204,923	1,426
34867	KHNL	1,017,191	907,816	6,316
60354	KHOG–TV	862,177	797,810	5,550
4144	KHON–TV	1,016,508	944,271	6,569
34529	KHOU	7,289,635	7,287,991	50,703
4690	KHQA–TV	308,541	308,333	2,145
34537	KHQ–TV	938,773	887,184	6,172
30601	KHRR	1,298,625	1,241,818	8,639
34348	KHSD–TV	203,077	199,032	1,385
24508	KHSL–TV	634,956	615,388	4,281
69677	KHSV	2,384,812	2,343,597	16,304
64544	KHVO	101,138	99,980	696
23394	KIAH	7,307,171	7,306,816	50,834
34564	KICU–TV	8,992,796	7,837,235	54,524
56028	KIDK	351,335	348,794	2,427
58560	KIDY	126,096	126,079	877
53382	KIEM–TV	177,885	166,501	1,158
66258	KIFI–TV	360,684	357,711	2,489
16950	KIFR	2,356,175	2,330,021	16,210
10188	KIII	580,363	577,602	4,018
29095	KIIN	1,405,103	1,375,871	9,572
34527	KIKU	1,017,227	920,837	6,406
63865	KILM	18,009,859	16,478,550	114,641
56033	KIMA–TV	325,241	275,599	1,917
66402	KIMT	671,281	662,859	4,612
67089	KINC	2,320,873	2,230,933	15,521
34847	KING–TV	4,735,386	4,686,752	32,606
51708	KINT–TV	1,093,579	1,093,227	7,606
26249	KION–TV	2,814,543	1,002,679	6,976
62427	KIPT	190,856	189,839	1,321
66781	KIRO–TV	4,715,994	4,685,383	32,596
62430	KISU–TV	358,145	353,319	2,458
12896	KITU–TV	749,934	749,934	5,217
64548	KITV	1,016,508	890,101	6,192
59255	KIVI–TV	864,257	856,996	5,962
47285	KIXE–TV	484,629	444,405	3,092
13792	KJJC–TV	85,813	84,995	591
14000	KJLA	18,944,109	17,650,447	122,794
20015	KJNP–TV	96,266	96,001	668
53315	KJRE	15,414	15,394	107
59439	KJRH–TV	1,475,194	1,458,401	10,146
55364	KJRR	45,707	44,148	307
7675	KJTL	365,659	365,242	2,541
55031	KJTV–TV	433,372	432,694	3,010
13814	KJUD	32,087	31,083	216
36607	KJZZ–TV	2,837,622	2,620,561	18,231
776244	KKAB	935,198	933,568	6,495
776230	KKAC	128,739	128,719	895
776239	KKAD	55,004	54,083	376
83180	KKAI	1,016,756	995,859	6,928
58267	KKAP	1,002,980	967,770	6,733
24766	KKCO	252,558	223,619	1,556
776228	KKEL	8,625	8,430	59
35097	KKJB	780,452	775,264	5,394

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
22644	KKPX–TV	8,265,775	7,324,470	50,956
35037	KKTV	3,340,505	2,899,502	20,172
35042	KLAS–TV	2,421,827	2,256,225	15,697
52907	KLAX–TV	350,490	350,144	2,436
3660	KLBK–TV	409,551	409,512	2,849
65523	KLBY	29,875	29,852	208
38430	KLCS	17,868,933	16,310,676	113,473
77719	KLCW–TV	404,384	404,369	2,813
51479	KLDO–TV	267,717	267,717	1,863
37105	KLEI	149,648	122,977	856
56032	KLEW–TV	173,816	158,086	1,100
35059	KLFY–TV	1,380,417	1,379,775	9,599
54011	KLJB	1,003,676	992,763	6,907
11264	KLKN	1,295,353	1,249,913	8,696
52593	KLML	285,490	232,725	1,619
47975	KLNE–TV	124,206	124,134	864
38590	KLPA–TV	395,240	395,079	2,749
38588	KLPB–TV	789,881	789,881	5,495
749	KLRN	2,865,059	2,843,302	19,781
11951	KLRT–TV	1,206,848	1,187,015	8,258
8564	KLRU	3,404,331	3,364,831	23,409
8322	KLSR–TV	617,791	555,511	3,865
31114	KLST	205,611	176,862	1,230
24436	KLTJ	7,239,268	7,239,082	50,362
38587	KLTL–TV	438,847	438,847	3,053
38589	KLTM–TV	670,083	665,283	4,628
38591	KLTS–TV	930,704	927,650	6,454
68540	KLTV	1,125,646	1,108,403	7,711
12913	KLUJ–TV	1,304,523	1,304,523	9,076
57220	KLUZ–TV	1,122,002	1,061,683	7,386
11683	KLVX	2,368,176	2,246,657	15,630
82476	KLWB	1,066,369	1,066,248	7,418
40250	KLWY	652,057	648,301	4,510
64551	KMAU	230,508	205,410	1,429
51499	KMAX–TV	11,771,919	7,828,092	54,460
65686	KMBC–TV	2,690,459	2,688,812	18,706
35183	KMCB	77,018	70,797	493
41237	KMCC	2,384,330	2,325,062	16,175
42636	KMCI–TV	2,611,447	2,610,077	18,158
38584	KMCT–TV	270,862	270,855	1,884
22127	KMCY	80,761	80,722	562
162016	KMDE	34,041	34,035	237
26428	KMEB	239,702	216,916	1,509
24753	KMEE–TV	217,161	202,513	1,409
39665	KMEG	763,806	758,839	5,279
35123	KMEX–DT	18,389,371	16,955,856	117,962
40875	KMGH–TV	4,484,612	4,211,082	29,296
35131	KMID	453,896	453,890	3,158
16749	KMIR–TV	3,014,399	805,795	5,606
63164	KMIZ	573,185	571,442	3,976
53541	KMLM–DT	358,819	358,819	2,496
52046	KMLU	685,717	681,660	4,742
47981	KMNE–TV	44,963	41,160	286
4326	KMOS–TV	823,502	819,698	5,703
41425	KMOT	90,764	88,505	616
70034	KMOV	3,058,356	3,053,447	21,243
51488	KMPH–TV	1,871,826	1,831,011	12,738
44052	KMSB	1,390,772	1,081,454	7,524
68883	KMSP–TV	4,232,627	4,200,278	29,221
12525	KMSS–TV	1,047,384	1,044,317	7,265
43095	KMTP–TV	9,007,762	8,012,556	55,743
35189	KMTR	858,621	737,863	5,133
35190	KMTV–TV	1,482,627	1,481,213	10,305
77063	KMTW	782,241	782,233	5,442
35200	KMVT	203,865	194,642	1,354
32958	KMVU–DT	333,344	255,430	1,777
86534	KMYA–DT	181,750	181,710	1,264
51518	KMYS	2,695,906	2,689,444	18,710
54420	KMYT–TV	1,378,264	1,366,926	9,510
35822	KMYU	174,066	170,667	1,187
993	KNAT–TV	1,194,249	1,164,035	8,098

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
24749	KNAZ–TV	370,644	251,297	1,748
47906	KNBC	18,007,954	16,466,286	114,556
81464	KNBN	158,327	149,470	1,040
9754	KNCT	2,162,813	2,134,345	14,849
82611	KNDB	140,901	140,846	980
82615	KNDM	81,669	81,636	568
12395	KNDO	326,624	291,816	2,030
12427	KNDU	531,985	514,613	3,580
17683	KNEP	96,311	91,722	638
776145	KNGF	418,755	418,649	2,913
48003	KNHL	282,894	282,649	1,966
125710	KNIC–DT	2,916,877	2,900,176	20,177
59363	KNIN–TV	861,563	857,065	5,963
48525	KNLC	3,009,669	3,007,124	20,921
84215	KNMD–TV	1,175,472	1,147,431	7,983
55528	KNME–TV	1,185,928	1,145,659	7,970
47707	KNMT	3,242,939	3,141,420	21,855
48975	KNOE–TV	744,581	736,357	5,123
49273	KNOP–TV	84,998	83,626	582
10228	KNPB	687,138	528,128	3,674
55362	KNRR	24,339	24,315	169
35277	KNSD	4,176,531	3,908,916	27,194
19191	KNSN–TV	703,800	557,463	3,878
23302	KNSO	1,962,568	1,942,998	13,517
35280	KNTV	9,285,323	8,743,038	60,825
144	KNVA	3,326,171	3,285,676	22,858
33745	KNVN	497,887	470,307	3,272
69692	KNVO	1,359,785	1,359,785	9,460
29557	KNWA–TV	935,156	915,507	6,369
59440	KNXV–TV	4,839,106	4,825,470	33,571
59014	KOAA–TV	1,865,217	1,422,070	9,893
50588	KOAB–TV	254,424	250,749	1,744
50590	KOAC–TV	2,168,640	1,718,555	11,956
58552	KOAM–TV	822,738	789,385	5,492
53928	KOAT–TV	1,171,605	1,145,416	7,969
35313	KOB	1,189,849	1,152,270	8,016
35321	KOBF	198,225	163,241	1,136
8260	KOBI	595,619	551,251	3,835
62272	KOBR	227,347	226,868	1,578
50170	KOCB	1,803,171	1,802,139	12,537
4328	KOCE–TV	18,212,242	17,141,918	119,256
84225	KOCM	1,615,493	1,614,922	11,235
12508	KOCO–TV	1,890,246	1,881,152	13,087
83181	KOCW	80,292	80,262	558
18283	KODE–TV	789,082	781,251	5,435
66195	KOED–TV	1,555,369	1,523,164	10,597
50198	KOET	657,252	637,057	4,432
51189	KOFY–TV	5,746,338	4,850,897	33,748
34859	KOGG	206,000	173,034	1,204
166534	KOHD	248,737	244,163	1,699
35380	KOIN	3,398,786	3,237,691	22,525
35388	KOKH–TV	1,800,124	1,797,602	12,506
11910	KOKI–TV	1,428,477	1,415,308	9,846
48663	KOLD–TV	1,278,430	932,536	6,488
7890	KOLN	1,565,175	1,465,478	10,195
63331	KOLO–TV	1,045,027	912,343	6,347
28496	KOLR	1,111,540	1,075,340	7,481
21656	KOMO–TV	4,798,742	4,748,599	33,036
65583	KOMU–TV	560,878	559,926	3,895
776087	KONC	1,752,026	1,713,180	11,919
35396	KONG	4,651,055	4,627,490	32,193
60675	KOOD	107,949	107,840	750
50589	KOPB–TV	3,433,002	3,231,453	22,481
2566	KOPX–TV	1,674,969	1,674,820	11,652
64877	KORO	572,684	572,684	3,984
6865	KOSA–TV	412,004	408,993	2,845
34347	KOTA–TV	189,181	166,163	1,156
8284	KOTI	318,713	97,757	680
35434	KOTV–DT	1,476,322	1,464,332	10,187
56550	KOVR	11,787,731	7,857,430	54,664
51101	KOZJ	431,452	429,469	2,988

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
51102	KOZK	876,101	867,569	6,036
3659	KOZL–TV	1,026,947	999,396	6,953
35455	KPAX–TV	224,598	210,969	1,468
67868	KPAZ–TV	4,842,326	4,829,190	33,597
6124	KPBS	3,878,727	3,740,193	26,021
50044	KPBT–TV	405,749	405,749	2,823
77452	KPCB–DT	30,087	30,010	209
35460	KPDX	3,335,153	3,195,785	22,233
12524	KPEJ–TV	439,758	439,752	3,059
41223	KPHO–TV	4,847,036	4,823,456	33,557
61551	KPIC	162,187	108,923	758
86205	KPIF	294,133	287,132	1,998
25452	KPIX–TV	8,939,616	8,011,243	55,734
58912	KPJK	8,580,033	7,562,337	52,611
166510	KPJR–TV	3,994,308	3,966,833	27,597
13994	KPLC	1,433,578	1,431,830	9,961
41964	KPLO–TV	55,567	52,690	367
35417	KPLR–TV	3,020,349	3,017,559	20,993
12144	KPMR	1,305,956	1,148,984	7,993
47973	KPNE–TV	89,112	84,360	587
35486	KPNX	4,833,873	4,829,331	33,598
77512	KPNZ	2,843,405	2,620,343	18,230
73998	KPOB–TV	131,017	130,539	908
26655	KPPX–TV	4,839,734	4,825,175	33,569
53117	KPRC–TV	7,306,242	7,305,940	50,827
48660	KPRY–TV	42,882	42,790	298
61071	KPSD–TV	19,034	17,986	125
53544	KPTB–DT	351,156	349,137	2,429
81445	KPTF–DT	83,380	83,378	580
77451	KPTH	709,738	706,066	4,912
51491	KPTM	1,544,022	1,542,684	10,732
33345	KPTS	849,715	845,613	5,883
50633	KPTV	3,367,478	3,193,457	22,217
82575	KPTW	93,904	86,230	600
1270	KPVI–DT	301,761	295,401	2,055
58835	KPXB–TV	7,268,859	7,268,534	50,567
68695	KPXC–TV	3,953,241	3,922,814	27,291
68834	KPXD–TV	7,851,329	7,849,492	54,609
33337	KPXE–TV	2,621,434	2,620,523	18,231
5801	KPXG–TV	3,396,167	3,240,309	22,543
81507	KPXJ	1,114,713	1,111,470	7,732
61173	KPXL–TV	2,675,400	2,663,341	18,529
35907	KPXM–TV	3,872,706	3,871,246	26,932
58978	KPXN–TV	18,009,859	16,478,550	114,641
77483	KPXO–TV	1,016,659	977,430	6,800
21156	KPXR–TV	870,810	864,123	6,012
69619	KPYX	8,951,798	8,033,747	55,891
10242	KQCA	11,066,274	6,905,589	48,042
41430	KQCD–TV	46,118	43,974	306
18287	KQCK	3,914,615	3,869,797	26,922
78322	KQCW–DT	1,198,492	1,192,260	8,295
35525	KQDS–TV	309,526	305,800	2,127
35500	KQED	8,924,403	7,934,659	55,201
35663	KQEH	8,924,403	7,934,659	55,201
8214	KQET	3,221,916	2,234,120	15,543
5471	KQIN	585,179	585,151	4,071
17686	KQME	203,177	198,383	1,380
61063	KQSD–TV	32,060	31,225	217
8378	KQSL	209,114	145,828	1,015
20427	KQTV	1,587,910	1,493,576	10,391
78921	KQUP	801,534	624,922	4,348
306	KRBC–TV	237,068	236,992	1,649
166319	KRBK	1,018,307	1,001,775	6,969
22161	KRCA	18,303,336	17,670,502	122,934
57945	KRCB	9,553,735	9,246,484	64,328
41110	KRCG	758,918	744,644	5,180
8291	KRCR–TV	523,130	470,701	3,275
10192	KRCW–TV	3,330,638	3,194,693	22,225
49134	KRDK–TV	396,418	396,379	2,758
52579	KRDO–TV	3,041,472	2,649,733	18,434
70578	KREG–TV	159,270	97,419	678

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
34868	KREM	935,162	865,664	6,022
51493	KREN–TV	890,359	755,865	5,259
70596	KREX–TV	154,968	154,745	1,077
70579	KREY–TV	77,765	69,062	480
48589	KREZ–TV	148,142	101,846	709
43328	KRGV–TV	1,364,680	1,364,370	9,492
82698	KRII	130,753	129,582	902
29114	KRIN	989,720	976,875	6,796
25559	KRIS–TV	576,145	576,104	4,008
22204	KRIV	7,295,333	7,294,571	50,748
14040	KRMA–TV	4,385,284	4,186,932	29,128
14042	KRMJ	184,799	169,573	1,180
20476	KRMT	3,457,214	3,353,993	23,334
84224	KRMU	86,743	70,549	491
20373	KRMZ	37,319	34,727	242
47971	KRNE–TV	45,930	38,258	266
60307	KRNV–DT	1,043,407	879,554	6,119
65526	KRON–TV	9,335,037	8,729,878	60,734
53539	KRPV–DT	65,504	65,504	456
48575	KRQE	1,174,664	1,143,133	7,953
57431	KRSU–TV	1,078,345	1,076,370	7,488
82613	KRTN–TV	86,907	67,161	467
35567	KRTV	95,862	94,385	657
84157	KRWB–TV	118,050	117,368	817
35585	KRWF	82,308	82,308	573
55516	KRWG–TV	929,122	719,343	5,004
48360	KRXI–TV	802,294	612,918	4,264
307	KSAN–TV	142,667	142,664	993
11911	KSAS–TV	773,161	773,144	5,379
53118	KSAT–TV	3,075,254	3,027,321	21,061
35584	KSAX	380,811	380,811	2,649
35587	KSAZ–TV	4,854,767	4,831,287	33,611
38214	KSBI	1,751,439	1,749,811	12,173
19653	KSBW	5,564,606	4,838,506	33,661
19654	KSBY	564,561	526,110	3,660
82910	KSCC	534,707	534,707	3,720
10202	KSCE	1,093,223	1,089,485	7,580
35608	KSCI	18,212,242	17,141,918	119,256
26231	KSCN–TV	18,512,098	18,476,669	128,542
72348	KSCW–DT	927,681	922,979	6,421
46981	KSDK	3,013,779	3,007,368	20,922
35594	KSEE	1,888,344	1,874,494	13,041
29121	KSFL–TV	328,842	328,837	2,288
48658	KSFY–TV	731,978	677,603	4,714
17680	KSGW–TV	63,725	62,410	434
59444	KSHB–TV	2,616,078	2,614,543	18,189
73706	KSHV–TV	927,614	927,074	6,450
29096	KSIN–TV	349,020	347,636	2,419
34846	KSIX–TV	79,019	79,019	550
35606	KSKN	841,494	741,761	5,160
70482	KSLA	998,682	998,217	6,945
6359	KSL–TV	2,839,353	2,616,980	18,206
71558	KSMN	357,081	357,075	2,484
33336	KSMO–TV	2,585,699	2,584,094	17,978
28510	KSMQ–TV	540,217	524,751	3,651
35611	KSMS–TV	1,684,095	922,727	6,419
21161	KSNB–TV	748,097	747,971	5,204
72359	KSNC	166,315	165,997	1,155
67766	KSNF	640,722	637,167	4,433
72361	KSNG	143,267	143,050	995
72362	KSNK	46,872	43,725	304
67335	KSNT	657,321	629,824	4,382
10179	KSNV	2,283,885	2,225,135	15,480
72358	KSNW	810,301	809,927	5,635
61956	KSPS–TV	935,711	883,159	6,144
52953	KSPX–TV	7,814,495	5,846,886	40,677
166546	KSQA	391,323	383,112	2,665
53313	KSRE	83,984	83,984	584
35843	KSTC–TV	4,228,163	4,218,565	29,349
63182	KSTF	49,439	49,305	343
28010	KSTP–TV	4,230,921	4,222,032	29,373

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
60534	KSTR–DT	7,934,842	7,931,770	55,181
64987	KSTS	9,125,502	7,902,723	54,979
22215	KSTU	2,834,133	2,604,938	18,123
23428	KSTW	4,945,092	4,849,973	33,741
5243	KSVI	192,678	191,712	1,334
58827	KSWB–TV	3,976,536	3,773,857	26,255
60683	KSWK	78,448	78,334	545
35645	KSWO–TV	461,432	437,725	3,045
776219	KSWY	40,578	36,197	252
61350	KSYS	551,328	475,899	3,311
59988	KTAB–TV	281,813	281,579	1,959
999	KTAJ–TV	2,529,426	2,528,757	17,593
35648	KTAL–TV	1,072,280	1,070,439	7,447
12930	KTAS	501,069	491,644	3,420
81458	KTAZ	4,835,851	4,811,877	33,476
35649	KTBC	4,138,493	3,857,454	26,836
67884	KTBN–TV	18,729,484	17,423,297	121,214
67999	KTBO–TV	1,758,274	1,756,813	12,222
35652	KTBS–TV	1,138,628	1,135,638	7,901
28324	KTBU	7,233,338	7,232,807	50,319
67950	KTBW–TV	4,873,117	4,763,879	33,142
35655	KTBY	360,565	358,722	2,496
68594	KTCA–TV	4,022,616	4,008,908	27,890
68597	KTCI–TV	3,912,137	3,908,528	27,192
35187	KTCW	106,581	93,009	647
36916	KTDO	1,093,374	1,089,602	7,580
2769	KTEJ	417,496	415,013	2,887
83707	KTEL–TV	61,338	61,328	427
35666	KTEN	629,981	627,687	4,367
24514	KTFD–TV	3,767,471	3,727,523	25,932
35512	KTFF–DT	2,403,821	2,383,063	16,579
20871	KTFK–DT	7,705,367	5,721,312	39,803
68753	KTFN	1,095,022	1,091,962	7,597
35084	KTFQ–TV	1,188,205	1,154,792	8,034
29232	KTGM	153,836	153,653	1,069
2787	KTHV	1,302,388	1,276,430	8,880
29100	KTIN	275,295	273,715	1,904
66170	KTIV	806,217	800,304	5,568
49397	KTKA–TV	805,221	786,518	5,472
35670	KTLA	18,962,616	17,555,224	122,132
62354	KTLM	1,148,738	1,148,738	7,992
49153	KTLN–TV	5,867,943	5,221,797	36,328
64984	KTMD	7,304,022	7,303,795	50,813
14675	KTMF	203,121	182,458	1,269
10177	KTMW	2,690,440	2,543,730	17,697
21533	KTNC–TV	9,007,762	8,012,556	55,743
47996	KTNE–TV	95,310	90,746	631
60519	KTNL–TV	8,275	8,274	58
74100	KTNV–TV	2,422,112	2,249,532	15,650
71023	KTNW	512,412	493,366	3,432
8651	KTOO–TV	32,198	32,017	223
7078	KTPX–TV	1,138,473	1,136,085	7,904
68541	KTRE	438,137	420,563	2,926
35675	KTRK–TV	7,318,272	7,316,846	50,903
28230	KTRV–TV	869,223	861,267	5,992
69170	KTSC	3,598,645	3,397,164	23,634
61066	KTSD–TV	84,807	83,980	584
37511	KTSF	8,697,794	7,750,134	53,918
67760	KTSM–TV	1,093,389	1,090,716	7,588
35678	KTTC	836,828	748,435	5,207
28501	KTTM	77,930	75,368	524
11908	KTTU–TV	1,393,795	1,109,962	7,722
22208	KTTV	18,130,338	17,373,502	120,867
28521	KTTW	381,013	377,833	2,629
65355	KTTZ–TV	402,714	402,692	2,802
35685	KTUL	1,573,310	1,543,051	10,735
10173	KTUU–TV	397,237	395,237	2,750
77480	KTUZ–TV	1,841,616	1,840,457	12,804
49632	KTVA	354,313	354,089	2,463
34858	KTVB	869,177	862,056	5,997
31437	KTVC	140,329	104,355	726

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
68581	KTVD	4,468,718	4,179,057	29,074
35692	KTVE	607,145	606,961	4,223
49621	KTVF	96,106	95,973	668
5290	KTVH–DT	241,887	181,640	1,264
35693	KTVI	3,025,572	3,022,219	21,026
40993	KTVK	4,837,443	4,825,882	33,574
22570	KTVL	476,591	388,139	2,700
18066	KTVM–TV	294,105	208,697	1,452
59139	KTVN	1,043,407	885,756	6,162
21251	KTVO	220,732	220,235	1,532
35694	KTVQ	193,122	188,064	1,308
50592	KTVR	153,040	56,934	396
23422	KTVT	8,233,312	8,230,812	57,262
35703	KTVU	9,036,813	8,056,602	56,050
35705	KTVW–DT	4,827,096	4,809,796	33,462
68889	KTVX	2,838,210	2,602,217	18,104
55907	KTVZ	249,013	246,030	1,712
18286	KTWO–TV	84,574	84,044	585
70938	KTWU	1,834,018	1,697,183	11,807
51517	KTXA	8,210,642	8,208,172	57,104
42359	KTXD–TV	8,012,541	8,010,333	55,728
51569	KTXH	7,302,378	7,301,602	50,797
10205	KTXL	9,145,873	6,451,158	44,881
308	KTXS–TV	269,545	267,328	1,860
69315	KUAC–TV	96,544	96,043	668
51233	KUAM–TV	153,836	153,836	1,070
2722	KUAS–TV	1,060,599	1,041,636	7,247
2731	KUAT–TV	1,596,429	1,361,399	9,471
60520	KUBD	15,387	13,666	95
70492	KUBE–TV	7,297,882	7,297,596	50,769
1136	KUCW	2,837,693	2,601,359	18,098
69396	KUED	2,837,687	2,603,895	18,115
69582	KUEN	2,806,982	2,580,258	17,951
82576	KUES	32,094	26,754	186
82585	KUEW	174,491	162,588	1,131
66611	KUFM–TV	203,395	180,333	1,255
169028	KUGF–TV	89,762	89,455	622
68717	KUHM–TV	166,592	156,454	1,088
69269	KUHT	7,288,782	7,288,082	50,703
62382	KUID–TV	482,761	308,950	2,149
169027	KUKL–TV	140,626	131,415	914
35724	KULR–TV	194,552	186,663	1,299
41429	KUMV–TV	70,878	70,314	489
81447	KUNP	133,781	45,006	313
4624	KUNS–TV	4,682,176	4,668,774	32,481
86532	KUOK	28,807	28,738	200
66589	KUON–TV	1,516,440	1,502,853	10,455
86263	KUPB	386,448	386,448	2,689
65535	KUPK	147,290	146,174	1,017
27431	KUPT	101,334	101,329	705
89714	KUPU	1,019,651	1,010,979	7,033
57884	KUPX–TV	2,824,302	2,598,543	18,078
23074	KUSA	4,470,580	4,195,376	29,187
61072	KUSD–TV	519,419	519,181	3,612
10238	KUSI–TV	3,853,072	3,707,454	25,793
43567	KUSM–TV	155,558	140,071	974
69694	KUTF	1,357,824	1,164,486	8,101
81451	KUTH–DT	2,636,456	2,416,549	16,812
68886	KUTP	4,842,720	4,823,413	33,556
35823	KUTV	2,837,398	2,601,168	18,096
63927	KUVE–DT	1,370,137	1,024,072	7,124
7700	KUVI–DT	1,287,700	1,076,164	7,487
35841	KUVN–DT	7,987,884	7,986,084	55,559
58609	KUVS–DT	4,496,875	4,458,448	31,017
49766	KVAL–TV	1,113,777	992,676	6,906
32621	KVAW	58,052	58,052	404
58795	KVCR–DT	19,073,599	18,308,953	127,375
35846	KVCT	291,432	290,038	2,018
10195	KVCW	2,283,670	2,224,688	15,477
64969	KVDA	3,114,838	3,092,933	21,518
19783	KVEA	18,300,497	17,059,098	118,680

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
12523	KVEO–TV	1,357,022	1,356,984	9,441
2495	KVEW	537,519	524,246	3,647
35852	KVHP	773,592	773,545	5,382
49832	KVIA–TV	1,093,416	1,090,743	7,588
35855	KVIE	11,759,390	8,232,137	57,271
40450	KVIH–TV	139,435	119,247	830
40446	KVII–TV	392,629	391,979	2,727
61961	KVLY–TV	409,018	408,931	2,845
16729	KVMD	15,940,782	15,143,297	105,352
83825	KVME–TV	26,212	22,277	155
25735	KVOA	1,386,793	1,069,725	7,442
35862	KVOS–TV	2,566,816	2,493,670	17,348
69733	KVPT	1,854,771	1,828,301	12,719
55372	KVRR	403,075	403,075	2,804
166331	KVSN–DT	3,136,196	2,698,298	18,772
608	KVTH–DT	319,985	318,374	2,215
2784	KVTJ–DT	1,459,963	1,459,552	10,154
607	KVTN–DT	970,045	963,130	6,700
35867	KVUE	3,458,312	3,395,187	23,620
78910	KVUI	286,007	279,513	1,945
35870	KVVU–TV	2,369,125	2,246,682	15,630
36170	KVYE	404,453	401,890	2,796
776246	KWAL	202,934	167,016	1,162
35095	KWBA–TV	1,194,062	1,136,172	7,904
78314	KWBM	694,164	676,716	4,708
27425	KWBN	1,016,508	893,029	6,213
76268	KWBQ	1,186,772	1,147,638	7,984
66413	KWCH–DT	897,522	896,232	6,235
71549	KWCM–TV	253,609	245,441	1,708
35419	KWDK	4,867,196	4,778,196	33,242
42007	KWES–TV	506,963	506,675	3,525
50194	KWET	125,090	109,790	764
35881	KWEX–DT	2,871,330	2,864,298	19,927
35883	KWGN–TV	4,368,605	4,155,087	28,907
37099	KWHB	1,056,520	1,056,118	7,347
36846	KWHE	1,015,533	885,013	6,157
56384	KWHY	18,512,098	18,476,669	128,542
35096	KWKB	1,167,302	1,156,465	8,046
162115	KWKS	38,196	37,876	264
12522	KWKT–TV	1,631,788	1,626,721	11,317
21162	KWNB–TV	87,130	85,538	595
776269	KWNV	18,419	17,701	123
67347	KWOG	634,387	615,024	4,279
56852	KWPX–TV	4,985,717	4,873,427	33,904
6885	KWQC–TV	1,082,087	1,072,789	7,463
53318	KWSE	85,141	83,532	581
71024	KWSU–TV	824,342	528,984	3,680
25382	KWTV–DT	1,801,405	1,800,115	12,523
35903	KWTX–TV	2,532,542	2,418,595	16,826
593	KWWL	1,127,596	1,116,266	7,766
84410	KWWT	358,813	358,813	2,496
14674	KWYB	91,657	72,951	508
10032	KWYP–DT	163,309	143,265	997
35920	KXAN–TV	3,476,567	3,408,238	23,711
49330	KXAS–TV	8,080,362	8,077,819	56,197
24287	KXGN–TV	14,265	13,906	97
37103	KXHI	105,022	101,614	707
35954	KXII	2,904,223	2,845,456	19,796
55083	KXLA	18,944,109	17,650,447	122,794
35959	KXLF–TV	301,370	256,892	1,787
53847	KXLN–DT	7,293,696	7,293,476	50,741
35906	KXLT–TV	369,632	369,086	2,568
61978	KXLY–TV	884,722	852,475	5,931
55684	KXMA–TV	42,033	41,964	292
55686	KXMB–TV	164,736	160,794	1,119
55685	KXMC–TV	108,096	100,774	701
55683	KXMD–TV	66,215	66,107	460
47995	KXNE–TV	314,798	313,705	2,182
81593	KXNW	707,066	702,866	4,890
35991	KXRM–TV	2,129,262	1,769,815	12,313
1255	KXTF	157,622	157,168	1,093

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
25048	KXTV	11,761,085	8,212,854	57,137
35994	KXTX–TV	8,029,815	8,026,902	55,843
62293	KXVA	195,284	195,242	1,358
23277	KXVO	1,535,792	1,534,836	10,678
9781	KXXV	2,192,443	2,159,450	15,023
31870	KYAZ	7,295,634	7,295,425	50,754
29086	KYIN	596,722	594,616	4,137
60384	KYLE–TV	367,648	367,562	2,557
33639	KYMA–DT	403,372	400,541	2,787
47974	KYNE–TV	1,089,692	1,089,546	7,580
53820	KYOU–TV	679,167	668,722	4,652
36003	KYTV	1,129,940	1,117,420	7,774
55644	KYTX	956,234	955,262	6,646
13815	KYUR	397,084	395,055	2,748
5237	KYUS–TV	12,525	12,495	87
33752	KYVE	317,640	273,973	1,906
55762	KYVV–TV	51,859	51,856	361
25453	KYW–TV	11,769,848	11,559,783	80,421
69531	KZJL	7,255,731	7,255,494	50,476
69571	KZJO	4,814,396	4,758,120	33,102
61062	KZSD–TV	40,148	34,607	241
33079	KZTV	578,385	575,560	4,004
57292	WAAY–TV	1,644,869	1,570,146	10,924
1328	WABC–TV	22,259,872	21,880,695	152,224
4190	WABE–TV	6,138,218	6,116,631	42,553
43203	WABG–TV	352,521	352,047	2,449
17005	WABI–TV	532,053	512,796	3,568
16820	WABM	1,857,082	1,825,082	12,697
23917	WABW–TV	1,106,011	1,104,788	7,686
19199	WACH	1,448,991	1,442,358	10,034
189358	WACP	9,884,531	9,777,819	68,024
23930	WACS–TV	785,954	782,957	5,447
60018	WACX	5,173,569	5,164,028	35,926
361	WACY–TV	992,148	991,650	6,899
455	WADL	4,727,529	4,719,528	32,834
589	WAFB	1,928,550	1,927,924	13,413
591	WAFF	1,642,889	1,574,162	10,951
70689	WAGA–TV	6,879,310	6,793,067	47,259
48305	WAGM–TV	60,320	59,087	411
37809	WAGV	1,267,813	1,122,725	7,811
706	WAIQ	624,285	622,198	4,329
701	WAKA	796,039	790,015	5,496
4143	WALA–TV	1,431,666	1,428,457	9,938
70713	WALB	794,686	793,085	5,517
60536	WAMI–DT	6,013,991	6,013,991	41,839
70852	WAND	1,345,860	1,344,596	9,354
39270	WANE–TV	1,182,627	1,182,599	8,227
72120	WANF	6,907,445	6,833,668	47,542
64546	WAOW	642,013	633,108	4,405
52073	WAPA–TV	3,310,492	2,963,089	20,614
49712	WAPT	784,962	783,938	5,454
67792	WAQP	2,125,841	2,121,638	14,760
13206	WATC–DT	6,582,231	6,553,248	45,591
71082	WATE–TV	1,971,491	1,724,804	11,999
22819	WATL	6,759,193	6,686,998	46,521
20287	WATM–TV	868,640	735,080	5,114
11907	WATN–TV	1,792,866	1,789,289	12,448
13989	WAVE	1,998,359	1,989,161	13,839
71127	WAVY–TV	2,171,033	2,171,033	15,104
54938	WAWD	661,368	661,287	4,601
65247	WAWV–TV	684,558	679,421	4,727
12793	WAXN–TV	3,101,362	3,092,322	21,513
65696	WBAL–TV	10,637,240	10,226,692	71,147
74417	WBAY–TV	1,275,960	1,275,160	8,871
71085	WBBH–TV	2,368,347	2,368,347	16,477
65204	WBBJ–TV	654,842	651,262	4,531
9617	WBBM–TV	10,069,057	10,062,626	70,006
9088	WBBZ–TV	1,293,109	1,281,368	8,914
70138	WBDT	3,996,184	3,976,552	27,665
51349	WBEC–TV	5,979,674	5,979,674	41,601
10758	WBFF	9,293,641	9,148,848	63,649

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
12497	WBFS–TV	5,895,133	5,895,133	41,012
6568	WBGU–TV	1,325,871	1,325,871	9,224
81594	WBIF	315,981	315,981	2,198
84802	WBIH	734,949	717,111	4,989
717	WBIQ	1,649,738	1,621,834	11,283
46984	WBIR–TV	2,083,590	1,795,576	12,492
67048	WBKB–TV	131,202	123,916	862
34167	WBKI	2,220,753	2,204,001	15,333
4692	WBKO	1,079,438	953,403	6,633
76001	WBKP	54,703	54,532	379
68427	WBMM	595,569	595,314	4,142
73692	WBNA	1,955,499	1,904,525	13,250
23337	WBNG–TV	1,400,072	1,023,266	7,119
71217	WBNS–TV	3,083,491	3,021,775	21,022
72958	WBNX–TV	3,642,087	3,632,499	25,271
71218	WBOC–TV	880,031	880,031	6,122
71220	WBOY–TV	689,705	605,977	4,216
60850	WBPH–TV	11,348,739	10,115,153	70,371
7692	WBPX–TV	7,354,860	7,283,151	50,669
5981	WBRA–TV	1,705,750	1,657,188	11,529
71221	WBRC	1,976,420	1,942,307	13,513
71225	WBRE–TV	2,912,468	2,263,626	15,748
38616	WBRZ–TV	2,815,186	2,813,190	19,571
82627	WBSF	1,816,355	1,811,602	12,603
30826	WBTV	4,973,067	4,828,412	33,591
66407	WBTW	2,060,897	2,044,444	14,223
16363	WBUI	964,071	964,061	6,707
59281	WBUP	124,208	111,143	773
60830	WBUY–TV	1,568,306	1,566,684	10,899
72971	WBXX–TV	2,270,940	2,098,066	14,596
25456	WBZ–TV	8,524,410	8,283,402	57,628
63153	WCAU	11,821,594	11,646,436	81,024
363	WCAV	1,122,505	960,525	6,682
46728	WCAX–TV	793,321	675,201	4,697
39659	WCBB	985,125	952,373	6,626
10587	WCBD–TV	1,336,923	1,336,923	9,301
12477	WCBI–TV	675,135	673,011	4,682
9610	WCBS–TV	23,434,126	22,837,346	158,879
49157	WCCB	4,088,954	4,017,224	27,948
9629	WCCO–TV	4,237,121	4,228,346	29,417
14050	WCCT–TV	5,898,482	5,384,454	37,460
69544	WCCU	673,293	673,293	4,684
3001	WCCV–TV	3,000,204	2,188,016	15,222
23937	WCES–TV	1,138,637	1,137,146	7,911
65666	WCET	3,245,827	3,234,134	22,500
46755	WCFE–TV	468,278	427,164	2,972
71280	WCHS–TV	1,276,867	1,199,053	8,342
42124	WCIA	809,784	809,348	5,631
711	WCIQ	3,433,774	3,244,161	22,570
71428	WCIU–TV	10,205,649	10,199,522	70,958
9015	WCIV	1,341,404	1,341,404	9,332
42116	WCIX	568,778	555,600	3,865
16993	WCJB–TV	1,080,055	1,080,055	7,514
11125	WCLF	5,072,243	5,072,204	35,287
68007	WCLJ–TV	2,538,971	2,537,989	17,657
3255	WCLO–TV	3,274,828	3,009,859	20,940
50781	WCMH–TV	2,988,929	2,947,009	20,502
9917	WCML	229,956	221,000	1,537
9908	WCMU–TV	717,859	708,880	4,932
9922	WCMV	435,637	421,372	2,931
9913	WCMW	107,851	105,871	737
32326	WCNC–TV	4,347,601	4,262,460	29,654
53734	WCNY–TV	1,328,626	1,263,336	8,789
73642	WCOV–TV	916,080	911,398	6,341
40618	WCPB	612,947	612,947	4,264
59438	WCPO–TV	3,461,834	3,448,166	23,989
10981	WCPX–TV	9,906,756	9,905,251	68,911
71297	WCSC–TV	1,188,482	1,188,482	8,268
39664	WCSH	1,844,256	1,625,773	11,311
69479	WCTE	645,441	572,887	3,986
18334	WCTI–TV	1,741,252	1,734,851	12,069

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
31590	WCTV	1,083,799	1,083,709	7,539
33081	WCTX	7,999,974	7,453,383	51,853
65684	WCVB–TV	8,334,723	8,171,970	56,852
9987	WCVE–TV	1,894,231	1,892,374	13,165
83304	WCVI–TV	41,004	40,978	285
34204	WCVN–TV	2,242,264	2,237,912	15,569
9989	WCVW	1,662,141	1,660,801	11,554
73042	WCWF	1,175,186	1,174,365	8,170
35385	WCWG	3,895,811	3,546,156	24,671
29712	WCWJ	1,938,352	1,938,263	13,484
73264	WCWN	1,917,787	1,630,664	11,345
2455	WCYB–TV	2,296,374	1,447,129	10,068
11291	WDAF–TV	2,724,533	2,722,049	18,937
21250	WDAM–TV	507,937	495,331	3,446
22129	WDAY–TV	389,109	389,023	2,706
22124	WDAZ–TV	155,202	154,877	1,077
71325	WDBB	1,874,003	1,841,150	12,809
71326	WDBD	924,445	923,304	6,423
71329	WDBJ	1,603,364	1,421,509	9,889
51567	WDCA	8,945,253	8,890,093	61,848
16530	WDCQ–TV	1,226,421	1,226,397	8,532
30576	WDCW	9,008,590	8,971,597	62,415
54385	WDEF–TV	1,887,280	1,668,579	11,608
32851	WDFX–TV	343,408	343,096	2,387
43846	WDHN	454,174	453,945	3,158
71338	WDIO–DT	345,803	332,242	2,311
714	WDIQ	674,543	625,633	4,353
53114	WDIV–TV	5,555,564	5,555,436	38,649
71427	WDJT–TV	3,315,464	3,306,632	23,004
39561	WDKA	640,692	640,230	4,454
64017	WDKY–TV	1,280,920	1,245,717	8,666
67893	WDLI–TV	4,131,639	4,098,980	28,517
72335	WDPB	652,694	652,694	4,541
83740	WDPM–DT	1,493,282	1,491,552	10,377
1283	WDPN–TV	12,164,952	12,033,746	83,719
6476	WDPX–TV	7,354,860	7,283,151	50,669
28476	WDRB	2,166,593	2,149,625	14,955
12171	WDSC–TV	4,131,441	4,131,441	28,742
17726	WDSE	335,589	320,243	2,228
71353	WDSI–TV	1,155,212	1,094,624	7,615
71357	WDSU	1,746,300	1,746,300	12,149
7908	WDTI	2,314,404	2,313,996	16,098
65690	WDTN	3,998,815	3,979,357	27,684
70592	WDTV	554,217	513,260	3,571
25045	WDVM–TV	7,516,686	5,790,489	40,284
4110	WDWL	2,449,731	2,192,227	15,251
49421	WEAO	3,954,789	3,936,003	27,383
71363	WEAR–TV	1,662,799	1,662,271	11,564
7893	WEAU	1,031,280	993,529	6,912
61003	WEBA–TV	652,051	645,245	4,489
19561	WECN	2,551,597	2,296,482	15,977
48666	WECT	1,284,078	1,284,078	8,933
13602	WEDH	5,419,331	4,792,684	33,343
13607	WEDN	3,520,804	2,654,657	18,468
69338	WEDQ	6,372,341	6,354,538	44,209
21808	WEDU	6,372,341	6,354,538	44,209
13594	WEDW	21,942,405	21,529,106	149,778
13595	WEDY	5,419,331	4,792,684	33,343
24801	WEEK–TV	730,054	729,949	5,078
6744	WEFS	4,115,849	4,115,849	28,634
24215	WEHT	854,000	838,936	5,836
721	WEIQ	1,138,095	1,137,690	7,915
18301	WEIU–TV	442,120	442,040	3,075
69271	WEKW–TV	1,306,163	800,635	5,570
60825	WELF–TV	1,547,836	1,455,263	10,124
26602	WELU	2,052,918	1,847,568	12,854
40761	WEMT	1,708,704	1,169,182	8,134
69237	WENH–TV	4,865,355	4,679,954	32,558
71508	WENY–TV	636,768	501,692	3,490
83946	WEPH	604,510	602,977	4,195
81508	WEPX–TV	945,425	945,425	6,577

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
25738	WESH	4,917,201	4,906,261	34,133
65670	WETA–TV	9,177,186	9,112,861	63,398
69944	WETK	681,830	571,729	3,978
60653	WETM–TV	844,248	745,266	5,185
18252	WETP–TV	2,251,212	1,940,383	13,499
2709	WEUX	396,788	387,527	2,696
72041	WEVV–TV	751,428	750,047	5,218
59441	WEWS–TV	4,098,329	4,061,663	28,257
72052	WEYI–TV	3,802,069	3,734,694	25,982
72054	WFAA	8,238,058	8,226,984	57,235
81669	WFBD	919,012	918,335	6,389
69532	WFDC–DT	9,008,590	8,971,597	62,415
10132	WFFF–TV	644,230	566,681	3,942
25040	WFFT–TV	1,133,445	1,133,031	7,882
11123	WFGC	6,357,641	6,357,641	44,230
6554	WFGX	1,631,714	1,631,224	11,348
13991	WFIE	742,941	741,771	5,161
715	WFIQ	550,070	548,067	3,813
64592	WFLA–TV	6,656,303	6,639,930	46,194
22211	WFLD	10,111,733	10,105,397	70,303
72060	WFLI–TV	1,357,801	1,252,063	8,711
39736	WFLX	6,299,680	6,299,680	43,827
72062	WFMJ–TV	4,291,547	3,802,286	26,453
72064	WFMY–TV	5,399,787	5,364,129	37,318
39884	WFMZ–TV	11,348,739	10,115,153	70,371
83943	WFNA	1,511,431	1,509,839	10,504
47902	WFOR–TV	5,952,062	5,952,062	41,408
11909	WFOX–TV	1,881,740	1,881,740	13,091
40626	WFPT	6,479,421	6,072,020	42,243
21245	WFPX–TV	2,980,937	2,976,800	20,710
25396	WFQX–TV	537,914	533,910	3,714
9635	WFRV–TV	1,313,825	1,300,885	9,050
53115	WFSB	4,799,110	4,417,573	30,733
6093	WFSG	403,233	403,173	2,805
21801	WFSU–TV	592,693	592,676	4,123
11913	WFTC	4,159,690	4,144,073	28,830
64588	WFTS–TV	6,213,173	6,213,039	43,224
16788	WFTT–TV	5,291,296	5,291,296	36,812
72076	WFTV	4,707,940	4,707,940	32,753
70649	WFTX–TV	2,076,721	2,076,721	14,448
60553	WFTY–DT	5,838,625	5,724,691	39,827
25395	WFUP	235,473	234,457	1,631
60555	WFUT–DT	21,842,105	21,428,169	149,076
22108	WFWA	1,071,881	1,071,733	7,456
9054	WFXB	1,448,018	1,447,713	10,072
3228	WFXG	1,126,109	1,115,208	7,759
70815	WFXL	748,116	748,087	5,204
19707	WFXP	556,627	543,130	3,779
24813	WFXR	1,418,873	1,283,217	8,927
6463	WFXT	8,044,623	7,951,492	55,319
22245	WFXU	225,675	225,675	1,570
43424	WFXV	682,282	587,673	4,088
25236	WFXW	217,631	217,631	1,514
41397	WFYI	2,614,535	2,613,865	18,185
53930	WGAL	6,592,850	5,851,154	40,706
2708	WGBA–TV	1,219,315	1,218,972	8,480
24314	WGBC	233,035	232,798	1,620
72099	WGBH–TV	8,264,395	8,151,180	56,708
12498	WGBO–DT	9,984,682	9,984,501	69,462
72098	WGBX–TV	8,354,289	8,184,570	56,940
72096	WGBY–TV	4,556,980	3,838,887	26,707
62388	WGCU	1,789,951	1,789,951	12,453
54275	WGEM–TV	325,716	325,430	2,264
27387	WGEN–TV	47,451	47,451	330
7727	WGFL	958,665	958,665	6,669
25682	WGGB–TV	3,501,457	3,092,700	21,516
11027	WGGN–TV	4,010,515	3,987,566	27,741
9064	WGGS–TV	2,096,590	1,891,182	13,157
72106	WGHP	4,716,324	4,663,025	32,441
710	WGIQ	367,358	367,140	2,554
12520	WGMB–TV	1,815,089	1,814,919	12,626

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
25683	WGME–TV	1,562,382	1,391,898	9,683
24618	WGNM	765,295	764,308	5,317
72119	WGNO	1,737,340	1,737,340	12,087
9762	WGNT	2,218,861	2,218,861	15,437
72115	WGN–TV	10,139,791	10,133,994	70,502
40619	WGPT	570,828	347,754	2,419
65074	WGPX–TV	3,063,562	3,053,879	21,246
64547	WGRZ	2,042,983	1,973,423	13,729
63329	WGTA	1,174,842	1,134,460	7,892
66285	WGTE–TV	2,250,689	2,250,689	15,658
59279	WGTQ	114,517	109,995	765
59280	WGTU	395,169	388,357	2,702
23948	WGTV	6,872,895	6,793,292	47,261
7623	WGTW–TV	830,912	830,818	5,780
24783	WGVK	2,565,756	2,563,031	17,831
24784	WGVU–TV	1,943,807	1,894,218	13,178
21536	WGWG	1,146,502	1,146,502	7,976
56642	WGWW	1,742,591	1,714,951	11,931
58262	WGXA	799,532	798,664	5,556
73371	WHAM–TV	1,381,792	1,333,395	9,276
32327	WHAS–TV	2,065,124	2,034,746	14,156
6096	WHA–TV	1,715,866	1,709,075	11,890
13950	WHBF–TV	1,726,081	1,717,606	11,949
12521	WHBQ–TV	1,735,050	1,714,081	11,925
10894	WHBR	1,425,293	1,424,691	9,912
65128	WHDF	1,720,614	1,666,798	11,596
72145	WHDH	7,993,816	7,899,325	54,956
83929	WHDT	6,334,757	6,334,757	44,071
70041	WHEC–TV	1,322,761	1,278,323	8,893
67971	WHFT–TV	5,976,793	5,976,793	41,581
41458	WHIO–TV	4,041,602	4,033,560	28,061
713	WHIQ	1,383,801	1,329,761	9,251
61216	WHIZ–TV	962,141	885,771	6,162
18780	WHLA–TV	569,415	530,529	3,691
48668	WHLT	481,036	479,959	3,339
24582	WHLV–TV	4,739,820	4,739,820	32,975
37102	WHMB–TV	3,187,327	3,126,458	21,751
61004	WHMC	838,228	838,228	5,832
36117	WHME–TV	1,490,612	1,490,518	10,370
37106	WHNO	1,561,961	1,561,961	10,867
72300	WHNS	2,753,561	2,462,848	17,134
48693	WHNT–TV	1,687,347	1,607,863	11,186
66221	WHO–DT	1,226,093	1,209,327	8,413
6866	WHOI	716,035	715,956	4,981
11113	WHOT–TV	1,964,065	1,956,753	13,613
72313	WHP–TV	4,219,869	3,695,568	25,710
51980	WHPX–TV	5,666,126	5,176,293	36,011
73036	WHRM–TV	537,971	535,112	3,723
25932	WHRO–TV	2,261,464	2,261,381	15,732
68058	WHSG–TV	6,744,093	6,678,392	46,462
4688	WHSV–TV	894,602	760,620	5,292
9990	WHTJ	867,445	743,025	5,169
72326	WHTM–TV	3,349,178	2,923,354	20,338
11117	WHTN	2,282,597	2,269,471	15,789
27772	WHUT–TV	8,785,956	8,745,663	60,844
18793	WHWC–TV	1,205,932	1,152,576	8,018
72338	WHYY–TV	10,984,166	10,590,279	73,677
5360	WIAT	1,959,076	1,921,566	13,368
63160	WIBW–TV	1,312,372	1,263,123	8,788
25684	WICD	1,220,886	1,219,775	8,486
25686	WICS	1,060,412	1,058,572	7,364
24970	WICU–TV	704,263	654,470	4,553
62210	WICZ–TV	1,208,124	932,840	6,490
18410	WIDP	2,258,204	2,022,801	14,073
26025	WIFS	1,664,757	1,659,814	11,547
720	WIIQ	325,293	321,753	2,238
68939	WILL–TV	1,148,587	1,125,681	7,831
6863	WILX–TV	3,505,808	3,321,258	23,106
22093	WINK–TV	2,135,187	2,135,187	14,854
67787	WINM	1,035,236	1,004,998	6,992
41314	WINP–TV	2,918,791	2,870,939	19,973

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
3646	WIPB	2,098,072	2,097,589	14,593
48408	WIPL	902,112	849,374	5,909
53863	WIPM–TV	2,018,636	1,743,992	779
53859	WIPR–TV	3,164,369	2,988,035	20,788
10253	WIPX–TV	2,538,971	2,537,989	17,657
39887	WIRS	962,531	803,553	3,105
71336	WIRT–DT	125,282	123,221	857
13990	WIS	2,873,204	2,819,721	19,617
65143	WISC–TV	1,816,917	1,779,975	12,383
13960	WISE–TV	1,105,600	1,105,444	7,691
39269	WISH–TV	3,141,430	3,093,806	21,524
65680	WISN–TV	3,041,677	3,036,957	21,128
73083	WITF–TV	2,757,178	2,500,545	17,396
73107	WITI	3,149,773	3,140,719	21,850
594	WITN–TV	1,942,458	1,927,751	13,411
61005	WITV	1,002,380	1,002,380	6,974
7780	WIVB–TV	1,911,934	1,834,562	12,763
11260	WIVT	831,941	612,317	4,260
60571	WIWN	3,387,206	3,370,697	23,450
62207	WIYC	673,128	670,480	4,665
73120	WJAC–TV	2,152,162	1,855,359	12,908
10259	WJAL	9,654,785	9,309,845	64,769
50780	WJAR	7,602,846	7,447,435	51,812
35576	WJAX–TV	1,909,321	1,909,321	13,283
27140	WJBF	1,669,785	1,652,861	11,499
73123	WJBK	5,840,177	5,804,131	40,379
37174	WJCL	1,031,857	1,031,857	7,179
73130	WJCT	1,893,148	1,892,490	13,166
29719	WJEB–TV	1,880,192	1,880,192	13,080
65749	WJET–TV	711,412	685,375	4,768
7651	WJFB	2,745,573	2,734,787	19,026
49699	WJFW–TV	281,148	271,274	1,887
73136	WJHG–TV	912,881	905,531	6,300
57826	WJHL–TV	2,035,505	1,463,539	10,182
68519	WJKT	645,594	645,161	4,488
1051	WJLA–TV	9,654,785	9,314,754	64,803
86537	WJLP	22,694,994	22,426,423	156,021
9630	WJMN–TV	158,494	151,938	1,057
61008	WJPM–TV	587,058	586,836	4,083
58340	WJPX	2,861,004	2,653,740	18,462
21735	WJRT–TV	2,831,612	2,583,368	17,972
23918	WJSP–TV	4,678,958	4,643,904	32,308
41210	WJTC	1,517,180	1,516,056	10,547
48667	WJTV	966,513	958,676	6,670
73150	WJW	3,969,148	3,895,876	27,104
61007	WJWJ–TV	1,180,652	1,180,652	8,214
58342	WJWN–TV	1,830,695	1,568,858	3,105
53116	WJXT	1,899,110	1,899,110	13,212
11893	WJXX	1,888,910	1,888,113	13,136
32334	WJYS	9,820,848	9,820,831	68,324
25455	WJZ–TV	10,637,240	10,228,751	71,161
73152	WJZY	4,965,077	4,831,865	33,615
64983	WKAQ–TV	3,259,225	2,914,322	1,159
6104	WKAR–TV	1,713,640	1,709,038	11,890
34171	WKAS	522,877	496,277	3,453
51570	WKBD–TV	5,180,191	5,179,980	36,037
73153	WKBN–TV	4,870,043	4,522,748	31,465
13929	WKBS–TV	1,054,914	914,205	6,360
74424	WKBT–DT	973,803	920,961	6,407
54176	WKBW–TV	2,261,221	2,175,654	15,136
53465	WKCF	5,109,221	5,107,692	35,534
73155	WKEF	3,860,944	3,850,405	26,787
34177	WKGB–TV	444,266	442,639	3,079
34196	WKHA	475,212	372,027	2,588
34207	WKLE	918,947	911,337	6,340
34212	WKMA–TV	558,464	558,150	3,883
71293	WKMG–TV	4,643,692	4,643,692	32,306
34195	WKMJ–TV	1,572,974	1,565,579	10,892
34202	WKMR	457,241	422,772	2,941
34174	WKMU	339,477	339,064	2,359
42061	WKNO	1,649,295	1,647,327	11,460

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
83931	WKNX–TV	1,778,483	1,548,751	10,775
776176	WKOF	1,636,277	1,519,722	10,573
34205	WKOH	591,189	584,484	4,066
67869	WKOI–TV	3,996,184	3,976,552	27,665
34211	WKON	1,170,361	1,163,470	8,094
18267	WKOP–TV	1,641,367	1,465,642	10,196
64545	WKOW	1,999,166	1,978,160	13,762
21432	WKPC–TV	1,620,977	1,613,304	11,224
65758	WKPD	277,245	276,367	1,923
34200	WKPI–TV	552,999	432,287	3,007
27504	WKPT–TV	1,107,992	876,999	6,101
58341	WKPV	981,832	762,182	3,105
11289	WKRC–TV	3,412,677	3,359,970	23,375
73187	WKRG–TV	1,661,088	1,660,222	11,550
73188	WKRN–TV	2,843,550	2,823,383	19,642
34222	WKSO–TV	675,800	663,810	4,618
40902	WKTC	1,422,142	1,421,788	9,891
60654	WKTV	1,566,267	1,340,030	9,323
73195	WKYC	4,162,460	4,109,739	28,591
24914	WKYT–TV	1,263,314	1,247,201	8,677
71861	WKYU–TV	447,402	444,471	3,092
34181	WKZT–TV	1,092,295	1,075,603	7,483
18819	WLAE–TV	1,489,518	1,489,518	10,363
36533	WLAJ	4,230,811	4,195,529	29,188
2710	WLAX	480,917	455,361	3,168
68542	WLBT	930,984	929,897	6,469
39644	WLBZ	374,046	364,463	2,536
69328	WLED–TV	333,929	175,095	1,218
63046	WLEF–TV	201,828	200,259	1,393
73203	WLEX–TV	1,083,858	1,075,334	7,481
37806	WLFB	756,510	656,110	4,565
37808	WLFG	1,555,609	1,240,816	8,632
73204	WLFI–TV	2,422,930	2,397,991	16,683
73205	WLFL	4,154,373	4,151,842	28,884
19777	WLII–DT	2,661,917	2,391,018	16,634
37503	WLIO	1,076,204	1,052,712	7,324
38336	WLIW	21,331,793	21,007,396	146,148
27696	WLJC–TV	1,433,034	1,317,702	9,167
71645	WLJT	382,232	381,417	2,654
53939	WLKY	2,035,700	2,028,397	14,112
11033	WLLA	2,204,047	2,203,715	15,331
1222	WLMA	1,681,703	1,678,515	11,677
17076	WLMB	1,598,305	1,597,151	11,111
68518	WLMT	1,764,760	1,762,079	12,259
22591	WLNE–TV	6,880,185	6,815,475	47,415
74420	WLNS–TV	4,230,811	4,195,529	29,188
73206	WLNY–TV	7,829,527	7,738,668	53,838
84253	WLOO	897,764	896,755	6,239
56537	WLOS	3,337,211	2,748,224	19,119
37732	WLOV–TV	608,778	606,994	4,223
13995	WLOX	1,236,798	1,224,809	8,521
38586	WLPB–TV	1,409,300	1,409,216	9,804
73189	WLPX–TV	1,012,910	963,892	6,706
66358	WLRN–TV	6,010,422	6,010,422	41,815
73226	WLS–TV	10,428,632	10,421,900	72,505
73230	WLTV–DT	5,988,029	5,988,029	41,659
37176	WLTX	1,614,789	1,611,719	11,213
37179	WLTZ	738,023	734,057	5,107
21259	WLUC–TV	103,185	95,367	663
4150	WLUK–TV	1,237,211	1,236,394	8,602
73238	WLVI	7,993,816	7,899,325	54,956
36989	WLVT–TV	11,348,739	10,115,153	70,371
3978	WLWC	3,398,164	3,257,998	22,666
46979	WLWT	3,499,610	3,489,652	24,278
54452	WLXI	3,243,843	3,015,382	20,978
55350	WLYH	3,349,178	2,923,354	20,338
43192	WMAB–TV	389,089	384,767	2,677
43170	WMAE–TV	692,999	663,737	4,618
43197	WMAH–TV	1,302,245	1,301,790	9,057
43176	WMAO–TV	333,490	333,321	2,319
47905	WMAQ–TV	10,069,653	10,068,069	70,044

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
59442	WMAR–TV	10,025,750	9,879,744	68,733
43184	WMAU–TV	637,434	631,358	4,392
43193	WMAV–TV	1,018,601	1,018,556	7,086
43169	WMAW–TV	731,384	716,614	4,985
46991	WMAZ–TV	1,238,176	1,180,117	8,210
66398	WMBB	990,632	964,744	6,712
43952	WMBC–TV	22,446,503	21,778,765	151,515
42121	WMBD–TV	720,722	720,669	5,014
83969	WMBF–TV	526,232	526,232	3,661
60829	WMCF–TV	644,916	641,833	4,465
9739	WMCN–TV	10,984,166	10,590,279	73,677
19184	WMC–TV	1,559,675	1,557,573	10,836
189357	WMDE	6,933,795	6,802,466	47,325
73255	WMDN	259,822	259,616	1,806
16455	WMDT	790,315	790,315	5,498
39656	WMEA–TV	965,365	911,355	6,340
39648	WMEB–TV	411,335	396,677	2,760
70537	WMEC	199,187	198,698	1,382
39649	WMED–TV	28,850	27,884	194
776266	WMEI	910,872	910,788	6,336
39662	WMEM–TV	61,231	60,308	420
41893	WMFD–TV	2,011,673	1,686,812	11,735
41436	WMFP	6,230,964	5,959,061	41,457
61111	WMGM–TV	830,912	830,818	5,780
43847	WMGT–TV	614,625	614,040	4,272
73263	WMHT	1,729,302	1,559,066	10,846
68545	WMLW–TV	1,863,951	1,863,679	12,966
53819	WMOR–TV	6,400,456	6,400,333	44,527
81503	WMOW	122,110	106,904	744
65944	WMPB	8,059,368	7,940,127	55,239
43168	WMPN–TV	843,756	841,772	5,856
65942	WMPT	9,500,117	9,442,413	65,691
60827	WMPV–TV	1,565,537	1,564,599	10,885
10221	WMSN–TV	2,030,916	2,010,636	13,988
2174	WMTJ	2,764,573	2,492,464	17,340
6870	WMTV	1,628,641	1,625,206	11,307
73288	WMTW	2,041,342	1,737,673	12,089
23935	WMUM–TV	926,604	921,419	6,410
73292	WMUR–TV	5,652,739	5,453,759	37,942
42663	WMVS	3,216,887	3,155,770	21,955
42665	WMVT	3,216,887	3,155,770	21,955
81946	WMWC–TV	935,338	912,437	6,348
56548	WMYA–TV	1,808,659	1,723,755	11,992
74211	WMYD	5,840,155	5,839,880	40,628
20624	WMYT–TV	4,965,077	4,831,865	33,615
25544	WMYV	4,406,813	4,379,408	30,468
73310	WNAB	2,600,886	2,591,235	18,027
73311	WNAC–TV	7,817,084	7,459,610	51,897
47535	WNBC	23,283,577	22,722,761	158,082
83965	WNBW–DT	1,557,530	1,550,637	10,788
72307	WNCF	665,079	658,994	4,585
50782	WNCN	4,201,973	4,186,944	29,129
57838	WNCT–TV	2,034,787	1,975,930	13,747
41674	WNDU–TV	1,901,588	1,870,311	13,012
28462	WNDY–TV	3,141,430	3,093,806	21,524
71928	WNED–TV	1,408,141	1,390,745	9,675
60931	WNEH	1,389,794	1,383,193	9,623
41221	WNEM–TV	1,437,726	1,434,104	9,977
49439	WNEO	3,343,598	3,265,373	22,717
73318	WNEP–TV	3,472,501	2,879,994	20,036
18795	WNET	22,428,695	21,915,470	152,466
51864	WNEU	7,676,529	7,606,661	52,920
23942	WNGH–TV	6,461,522	6,281,764	43,702
67802	WNIN	907,713	891,200	6,200
41671	WNIT	1,335,767	1,335,767	9,293
48457	WNJB	22,145,547	21,374,668	148,704
48477	WNJN	22,145,547	21,374,668	148,704
48481	WNJS	7,729,626	7,710,589	53,643
48465	WNJT	7,729,626	7,710,589	53,643
73333	WNJU	23,283,577	22,722,761	158,082
73336	WNJX–TV	1,446,990	1,265,826	953

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
61217	WNKY	414,184	412,652	2,871
71905	WNLO	1,911,934	1,834,562	12,763
4318	WNMU	178,504	177,692	1,236
73344	WNNE	801,186	684,501	4,762
54280	WNOL–TV	1,730,074	1,730,074	12,036
71676	WNPB–TV	2,094,971	1,923,306	13,380
62137	WNPI–DT	159,208	154,143	1,072
41398	WNPT	2,692,492	2,657,273	18,487
28468	WNPX–TV	2,494,581	2,470,662	17,188
61009	WNSC–TV	2,860,897	2,853,300	19,850
61010	WNTV	2,775,252	2,572,161	17,895
16539	WNTZ–TV	328,336	327,661	2,280
7933	WNUV	9,944,268	9,731,571	67,703
9999	WNVC	867,445	743,025	5,169
10019	WNVT	1,894,231	1,892,374	13,165
776263	WNWE	16,156	16,156	112
73354	WNWO–TV	2,915,507	2,915,507	20,283
136751	WNYA	1,932,105	1,656,014	11,521
30303	WNYB	1,784,805	1,758,025	12,231
6048	WNYE–TV	20,693,079	20,445,674	142,241
34329	WNYI	1,609,642	1,329,569	9,250
67784	WNYO–TV	1,449,480	1,428,169	9,936
73363	WNYT	1,975,605	1,653,904	11,506
22206	WNYW	21,377,740	21,043,915	146,403
69618	WOAI–TV	3,063,753	3,050,610	21,223
66804	WOAY–TV	536,548	414,046	2,881
41225	WOFL	4,897,034	4,891,577	34,031
70651	WOGX	1,262,333	1,262,333	8,782
8661	WOI–DT	1,278,698	1,277,340	8,886
39746	WOIO	4,198,546	4,095,152	28,490
71725	WOLE–DT	1,581,955	1,411,809	4,933
73375	WOLF–TV	3,025,477	2,531,097	17,609
60963	WOLO–TV	2,854,959	2,814,886	19,583
36838	WOOD–TV	2,637,147	2,631,110	18,305
67602	WOPX–TV	4,677,102	4,676,992	32,538
64865	WORA–TV	3,172,055	2,933,387	20,408
73901	WORO–DT	2,847,102	2,661,536	18,516
60357	WOST	1,055,465	918,659	6,391
66185	WOSU–TV	3,073,523	3,013,857	20,967
131	WOTF–TV	4,204,625	4,204,625	29,252
10212	WOTV	2,493,328	2,492,908	17,343
50147	WOUB–TV	739,667	721,384	5,019
50141	WOUC–TV	1,680,457	1,618,502	11,260
23342	WOWK–TV	1,098,995	1,028,502	7,155
65528	WOWT	1,516,978	1,514,052	10,533
31570	WPAN	1,392,393	1,392,261	9,686
51988	WPBF	3,601,603	3,601,603	25,056
21253	WPBN–TV	452,157	440,310	3,063
62136	WPBS–TV	332,147	296,972	2,066
13456	WPBT	5,976,331	5,976,331	41,577
13924	WPCB–TV	2,920,794	2,802,648	19,498
64033	WPCH–TV	6,826,973	6,747,200	46,940
4354	WPCT	207,688	207,286	1,442
17012	WPDE–TV	1,845,347	1,838,747	12,792
52527	WPEC	6,332,850	6,332,850	44,058
84088	WPFO	1,390,230	1,272,952	8,856
54728	WPGA–TV	575,813	575,578	4,004
60820	WPGD–TV	2,787,190	2,772,517	19,288
73875	WPGH–TV	3,209,933	3,099,658	21,564
2942	WPGX	448,453	445,686	3,101
73879	WPHL–TV	10,944,731	10,756,717	74,834
73881	WPIX	22,259,872	21,818,842	151,794
69880	WPKD–TV	3,366,547	3,181,216	22,132
53113	WPLG	6,165,413	6,165,413	42,893
11906	WPMI–TV	1,609,741	1,609,491	11,197
10213	WPMT	2,757,178	2,500,545	17,396
18798	WPNE–TV	1,210,150	1,209,366	8,414
73907	WPNT	3,148,917	3,050,465	21,222
28480	WPPT	11,348,739	10,115,153	70,371
51984	WPPX–TV	8,429,105	8,212,096	57,132
47404	WPRI–TV	7,754,340	7,480,561	52,042

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
51991	WPSD–TV	852,232	848,332	5,902
12499	WPSG	11,342,493	11,068,585	77,004
66219	WPSU–TV	1,016,983	842,529	5,861
73905	WPTA	1,136,029	1,135,873	7,902
25067	WPTD	3,535,155	3,522,151	24,504
25065	WPTO	3,080,289	3,066,947	21,337
59443	WPTV–TV	6,414,108	6,414,108	44,623
57476	WPTZ	801,186	684,501	4,762
8616	WPVI–TV	11,997,071	11,834,791	82,335
48772	WPWR–TV	10,111,733	10,105,397	70,303
51969	WPXA–TV	7,486,662	7,341,812	51,077
71236	WPXC–TV	1,812,411	1,812,329	12,608
5800	WPXD–TV	5,357,614	5,357,504	37,272
37104	WPXE–TV	3,105,562	3,094,581	21,529
48406	WPXG–TV	2,760,323	2,697,351	18,765
73312	WPXH–TV	1,558,487	1,543,110	10,735
73910	WPXI	3,270,399	3,179,997	22,123
2325	WPXJ–TV	2,383,753	2,319,308	16,135
52628	WPXK–TV	1,897,932	1,672,850	11,638
21729	WPXL–TV	1,738,354	1,738,354	12,094
48608	WPXM–TV	5,673,283	5,673,283	39,469
73356	WPXN–TV	22,193,311	21,756,322	151,359
27290	WPXP–TV	6,117,297	6,117,297	42,558
50063	WPXQ–TV	3,398,164	3,257,998	22,666
70251	WPXR–TV	1,361,522	1,199,794	8,347
40861	WPXS	2,313,093	2,228,599	15,504
53065	WPXT	1,058,317	1,005,248	6,994
37971	WPXU–TV	764,835	764,835	5,321
67077	WPXV–TV	1,997,620	1,997,620	13,897
74091	WPXW–TV	8,918,745	8,866,240	61,682
21726	WPXX–TV	1,563,942	1,560,675	10,858
73319	WQAD–TV	1,077,293	1,065,179	7,410
65130	WQCW	1,234,953	1,165,995	8,112
71561	WQEC	177,193	175,191	1,219
41315	WQED	3,491,971	3,385,114	23,550
60556	WQHS–DT	3,982,203	3,936,334	27,385
53716	WQLN	573,688	553,172	3,848
52075	WQMY	403,099	246,363	1,714
64550	WQOW	383,460	372,929	2,594
5468	WQPT–TV	928,221	922,909	6,421
64690	WQPX–TV	1,624,976	1,207,503	8,401
52408	WQRF–TV	1,384,090	1,360,850	9,467
2175	WQTO	2,533,848	1,714,503	4,227
8688	WRAL–TV	4,258,430	4,255,027	29,602
10133	WRAY–TV	4,701,102	4,682,210	32,574
64611	WRAZ	4,206,845	4,204,439	29,250
136749	WRBJ–TV	1,029,422	1,026,759	7,143
3359	WRBL	1,573,722	1,534,121	10,673
57221	WRBU	2,964,043	2,960,986	20,600
54940	WRBW	4,929,252	4,926,807	34,276
59137	WRCB	1,674,932	1,436,942	9,997
47904	WRC–TV	9,040,003	8,996,367	62,588
54963	WRDC	4,380,924	4,374,069	30,430
55454	WRDQ	4,765,929	4,765,929	33,157
73937	WRDW–TV	1,630,465	1,580,144	10,993
66174	WREG–TV	1,645,112	1,638,826	11,401
61011	WRET–TV	2,775,252	2,572,161	17,895
73940	WREX	2,777,313	2,554,899	17,774
54443	WRFB	2,361,435	2,105,790	1,159
73942	WRGB	1,773,206	1,559,637	10,850
411	WRGT–TV	3,563,572	3,528,799	24,550
74416	WRIC–TV	2,264,724	2,197,233	15,286
61012	WRJA–TV	1,227,284	1,220,205	8,489
412	WRLH–TV	2,215,949	2,152,568	14,975
61013	WRLK–TV	1,268,677	1,267,713	8,819
43870	WRLM	3,954,789	3,936,003	27,383
74156	WRNN–TV	21,146,732	20,904,564	145,433
73964	WROC–TV	1,210,157	1,192,546	8,297
159007	WRPT	108,521	108,009	751
20590	WRPX–TV	2,980,937	2,976,800	20,710
62009	WRSP–TV	1,062,091	1,060,251	7,376

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
40877	WRTV	3,148,448	3,125,475	21,744
15320	WRUA	2,624,204	2,339,222	16,274
71580	WRXY–TV	2,114,529	2,114,529	14,711
48662	WSAV–TV	1,094,897	1,094,884	7,617
6867	WSAW–TV	657,843	651,328	4,531
36912	WSAZ–TV	1,173,019	1,103,266	7,675
56092	WSBE–TV	8,044,866	7,776,757	54,103
73982	WSBK–TV	7,834,658	7,766,985	54,035
72053	WSBS–TV	47,386	47,386	330
73983	WSBT–TV	1,790,673	1,780,628	12,388
23960	WSB–TV	6,772,503	6,695,450	46,580
69446	WSCG	961,649	961,649	6,690
64971	WSCV	6,029,382	6,029,382	41,946
70536	WSEC	517,830	517,364	3,599
49711	WSEE–TV	585,062	562,271	3,912
21258	WSES	1,905,067	1,866,312	12,984
73988	WSET–TV	1,587,650	1,345,990	9,364
13993	WSFA	1,206,335	1,168,069	8,126
11118	WSFJ–TV	1,911,871	1,902,328	13,234
10203	WSFL–TV	5,890,244	5,890,244	40,978
72871	WSFX–TV	1,088,964	1,088,964	7,576
73999	WSIL–TV	650,734	647,093	4,502
4297	WSIU–TV	994,418	936,746	6,517
74007	WSJV	1,686,953	1,680,493	11,691
78908	WSKA	530,610	416,302	2,896
74034	WSKG–TV	866,172	616,130	4,286
76324	WSKY–TV	2,003,325	2,002,894	13,934
776220	WSLN	3,269,796	3,020,118	21,011
57840	WSLS–TV	1,436,974	1,276,869	8,883
21737	WSMH	2,350,370	2,335,477	16,248
41232	WSMV–TV	2,883,773	2,837,323	19,739
70119	WSNS–TV	10,069,653	10,068,069	70,044
74070	WSOC–TV	4,156,321	4,085,565	28,423
66391	WSPA–TV	3,717,232	3,549,667	24,695
64352	WSPX–TV	1,285,581	1,167,040	8,119
17611	WSRE	1,490,766	1,489,946	10,366
63867	WSST–TV	312,974	312,260	2,172
60341	WSTE–DT	3,284,058	3,220,155	22,403
21252	WSTM–TV	1,437,543	1,367,590	9,514
11204	WSTR–TV	3,424,743	3,411,973	23,737
19776	WSUR–DT	3,276,102	3,182,722	4,933
2370	WSVI	41,004	41,004	285
63840	WSVN	6,165,386	6,165,386	42,893
73374	WSWB	1,516,774	1,088,360	7,572
28155	WSWG	389,103	389,030	2,706
71680	WSWP–TV	849,038	633,378	4,406
74094	WSYM–TV	1,695,809	1,694,640	11,790
73113	WSYR–TV	1,314,500	1,226,575	8,533
40758	WSYT	1,962,530	1,731,744	12,048
56549	WSYX	2,871,413	2,825,664	19,658
65681	WTAE–TV	2,985,875	2,865,692	19,937
23341	WTAJ–TV	1,158,024	925,907	6,442
4685	WTAP–TV	489,083	469,004	3,263
416	WTAT–TV	1,284,148	1,284,148	8,934
67993	WTBY–TV	16,997,114	16,897,718	117,557
29715	WTCE–TV	2,964,583	2,964,583	20,625
65667	WTCI	1,276,295	1,159,269	8,065
67786	WTCT	590,643	586,819	4,082
28954	WTCV	2,861,004	2,653,740	18,462
74422	WTEN	1,913,356	1,621,808	11,283
9881	WTGL	4,516,827	4,516,827	31,424
27245	WTGS	1,064,292	1,064,066	7,403
70655	WTHI–TV	966,268	914,388	6,361
70162	WTHR	3,175,603	3,122,761	21,725
147	WTIC–TV	5,397,501	4,767,795	33,170
26681	WTIN–TV	3,277,279	3,162,469	953
66536	WTIU	1,690,704	1,689,678	11,755
1002	WTJP–TV	2,037,103	2,002,301	13,930
4593	WTJR	316,974	316,852	2,204
70287	WTJX–TV	112,125	104,561	727
47401	WTKR	2,242,929	2,242,846	15,603

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
82735	WTLF	883,350	883,326	6,145
23486	WTLH	1,082,589	1,082,542	7,531
67781	WTLJ	1,738,667	1,736,853	12,083
65046	WTLV	2,041,165	2,022,822	14,073
74098	WTMJ–TV	3,139,304	3,123,411	21,730
74109	WTNH	7,999,974	7,453,267	51,852
19200	WTNZ	1,790,817	1,598,570	11,121
590	WTOC–TV	1,061,993	1,061,993	7,388
74112	WTOG	6,239,245	6,236,871	43,390
4686	WTOK–TV	391,847	386,112	2,686
13992	WTOL	4,534,147	4,527,590	31,498
21254	WTOM–TV	120,159	116,524	811
74122	WTOV–TV	3,866,114	3,605,421	25,083
82574	WTPC–TV	2,138,494	2,132,635	14,837
86496	WTPX–TV	258,246	258,154	1,796
6869	WTRF–TV	2,938,363	2,562,114	17,825
67798	WTSF	879,853	811,994	5,649
11290	WTSP	6,538,906	6,515,239	45,327
4108	WTTA	6,656,303	6,639,930	46,194
74137	WTTE	2,926,672	2,885,004	20,071
22207	WTTG	8,945,253	8,890,093	61,848
56526	WTTK	3,074,975	3,055,143	21,255
74138	WTTO	1,966,252	1,931,949	13,441
56523	WTTV	2,752,635	2,749,080	19,125
10802	WTTW	9,929,487	9,929,071	69,077
74148	WTVA	807,017	794,561	5,528
22590	WTVC	1,828,040	1,618,274	11,258
8617	WTVD	4,201,042	4,188,018	29,136
55305	WTVE	5,368,807	5,365,301	37,326
36504	WTVF	2,816,921	2,798,755	19,471
74150	WTVG	4,440,934	4,429,742	30,818
74151	WTVH	1,375,016	1,313,054	9,135
10645	WTVI	3,286,073	3,261,428	22,690
63154	WTVJ	6,009,434	6,009,434	41,808
52280	WTVK	7,403,075	7,395,979	51,454
595	WTVM	1,577,223	1,471,502	10,237
72945	WTVO	1,413,778	1,400,377	9,742
28311	WTVP	660,258	660,214	4,593
51597	WTVQ–DT	1,060,102	1,054,409	7,336
57832	WTVR–TV	1,998,729	1,990,377	13,847
16817	WTVS	5,607,125	5,606,929	39,007
68569	WTVT	6,511,462	6,491,829	45,164
3661	WTVW	839,062	833,035	5,795
35575	WTVX	3,558,645	3,556,727	24,744
4152	WTVY	1,032,612	1,029,898	7,165
40759	WTVZ–TV	2,251,663	2,251,580	15,664
66908	WTWC–TV	1,078,213	1,078,166	7,501
20426	WTWO	716,304	710,680	4,944
81692	WTWV	1,529,924	1,528,555	10,634
51568	WTXF–TV	11,330,716	11,023,958	76,694
41065	WTXL–TV	1,071,056	1,070,908	7,450
8532	WUAB	4,198,546	4,095,152	28,490
12855	WUCF–TV	4,516,827	4,516,827	31,424
36395	WUCW	4,213,867	4,205,494	29,258
69440	WUFT	1,524,792	1,524,792	10,608
413	WUHF	1,161,377	1,157,795	8,055
8156	WUJA	2,449,731	2,192,227	15,251
69080	WUNC–TV	4,701,102	4,682,210	32,574
69292	WUND–TV	1,526,704	1,526,704	10,621
69114	WUNE–TV	3,449,284	2,886,515	20,081
69300	WUNF–TV	2,825,704	2,517,064	17,511
69124	WUNG–TV	4,065,099	4,049,218	28,170
60551	WUNI	7,755,236	7,627,170	53,062
69332	WUNJ–TV	1,224,449	1,224,449	8,518
69149	WUNK–TV	2,105,575	2,099,533	14,606
69360	WUNL–TV	3,243,843	3,015,382	20,978
69444	WUNM–TV	1,370,547	1,370,547	9,535
69397	WUNP–TV	1,488,708	1,474,989	10,261
69416	WUNU	1,212,006	1,210,875	8,424
83822	WUNW	2,012,283	1,476,883	10,275
6900	WUPA	6,845,271	6,764,030	47,057

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
13938	WUPL	1,833,116	1,833,116	12,753
10897	WUPV	2,142,407	2,122,016	14,763
19190	WUPW	2,136,541	2,135,020	14,853
23128	WUPX–TV	1,182,585	1,166,267	8,114
65593	WUSA	9,654,785	9,309,845	64,769
4301	WUSI–TV	320,658	320,658	2,231
60552	WUTB	9,293,641	9,148,848	63,649
30577	WUTF–TV	8,479,857	8,266,141	57,508
57837	WUTR	511,394	470,311	3,272
415	WUTV	1,611,128	1,579,265	10,987
16517	WUVC–DT	4,224,285	4,208,453	29,278
48813	WUVG–DT	6,908,879	6,834,542	47,548
3072	WUVN	1,236,426	1,156,397	8,045
60560	WUVP–DT	10,944,731	10,756,717	74,834
9971	WUXP–TV	2,749,827	2,737,094	19,042
417	WVAH–TV	1,295,710	1,222,075	8,502
23947	WVAN–TV	1,118,534	1,117,845	7,777
65387	WVBT	1,964,109	1,964,109	13,664
72342	WVCY–TV	3,149,773	3,140,719	21,850
60559	WVEA–TV	5,324,315	5,322,343	37,028
74167	WVEC	2,217,117	2,216,436	15,420
5802	WVEN–TV	4,749,513	4,749,513	33,042
61573	WVEO	962,531	803,553	3,105
69946	WVER	903,858	770,412	5,360
10976	WVFX	688,514	596,278	4,148
47929	WVIA–TV	3,472,501	2,879,994	20,036
3667	WVII–TV	368,499	348,813	2,427
70309	WVIR–TV	2,140,100	2,107,081	14,659
74170	WVIT	5,920,252	5,425,459	37,745
18753	WVIZ	3,694,957	3,687,740	25,656
70021	WVLA–TV	1,969,063	1,969,000	13,698
81750	WVLR	1,483,484	1,376,091	9,573
35908	WVLT–TV	1,983,974	1,714,780	11,930
74169	WVNS–TV	889,675	560,472	3,899
11259	WVNY	755,448	673,828	4,688
29000	WVOZ–TV	981,832	762,182	3,105
71657	WVPB–TV	939,383	910,465	6,334
60111	WVPT	995,523	887,449	6,174
70491	WVPX–TV	4,131,639	4,098,980	28,517
66378	WVPY	917,535	855,616	5,953
67190	WVSN	2,593,148	2,271,512	15,803
69940	WVTB	468,294	246,240	1,713
74173	WVTM–TV	2,101,947	2,026,895	14,101
74174	WVTV	3,130,664	3,122,630	21,724
77496	WVUA	2,305,621	2,250,337	15,656
4149	WVUE–DT	1,781,266	1,781,266	12,392
4329	WVUT	267,531	267,450	1,861
74176	WVVA	997,556	690,651	4,805
3113	WVXF	70,673	66,853	465
12033	WWAY	1,328,366	1,328,366	9,241
30833	WWBT	2,109,206	2,074,930	14,435
20295	WWCP–TV	2,798,717	2,540,105	17,672
24812	WWCW	1,390,908	1,210,482	8,421
23671	WWDP	6,230,964	5,959,061	41,457
21158	WWHO	2,994,400	2,952,760	20,542
14682	WWJE–DT	7,755,236	7,627,170	53,062
65919	WWJS	3,798,882	3,731,768	25,962
72123	WWJ–TV	5,653,566	5,653,219	39,329
166512	WWJX	524,625	524,579	3,649
6868	WWLP	3,866,407	3,097,621	21,550
74192	WWL–TV	1,908,335	1,908,335	13,276
3133	WWMB	1,596,320	1,591,501	11,072
74195	WWMT	2,667,986	2,657,016	18,485
68851	WWNY–TV	368,613	341,101	2,373
74197	WWOR–TV	21,146,732	20,904,564	145,433
65943	WWPB	3,531,585	3,086,500	21,473
23264	WWPX–TV	2,612,045	2,544,163	17,700
68547	WWRS–TV	2,376,549	2,354,442	16,380
61251	WWSB	3,830,838	3,830,838	26,651
23142	WWSI	11,821,594	11,646,436	81,024
16747	WWTI	195,127	188,538	1,312

TABLE 8—FY 2026 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

Facility Id	Call sign	Service area population	Terrain-limited population	Terrain-limited fee amount
998	WWTO–TV	6,837,732	6,837,732	47,570
26994	WWTV	1,047,227	1,032,448	7,183
84214	WWTW	1,529,924	1,528,555	10,634
26993	WWUP–TV	114,688	108,690	756
23338	WXBU	4,219,869	3,695,568	25,710
61504	WXCW	2,000,927	2,000,927	13,920
61084	WXEL–TV	5,976,331	5,976,331	41,577
60539	WXFT–DT	10,428,632	10,421,900	72,505
23929	WXGA–TV	618,176	616,843	4,291
51163	WXIA–TV	7,067,151	6,920,534	48,146
53921	WXII–TV	3,895,811	3,546,156	24,671
146	WXIN	3,066,589	3,043,020	21,170
39738	WXIX–TV	3,033,449	3,023,049	21,031
414	WXLV–TV	4,920,177	4,882,710	33,969
68433	WXMI	2,110,083	2,109,607	14,677
64549	WXOW	433,343	422,605	2,940
6601	WXPX–TV	5,414,068	5,411,832	37,650
74215	WXTV–DT	21,842,105	21,428,169	149,076
12472	WXTX	745,811	742,438	5,165
11970	WXXA–TV	1,691,753	1,553,272	10,806
57274	WXXI–TV	1,192,140	1,176,310	8,184
53517	WXXV–TV	1,235,520	1,233,511	8,582
10267	WXYZ–TV	5,716,967	5,716,632	39,771
77515	WYCI	32,321	21,447	149
70149	WYCW	3,717,232	3,549,667	24,695
62219	WYDC	542,984	435,924	3,033
18783	WYDN	2,760,323	2,697,351	18,765
35582	WYDO	1,340,990	1,340,990	9,329
25090	WYES–TV	1,776,818	1,776,667	12,360
53905	WYFF	2,836,376	2,609,544	18,155
49803	WYIN	7,062,511	7,062,511	49,134
24915	WYMT–TV	1,144,097	819,069	5,698
17010	WYOU	2,912,468	2,246,394	15,628
77789	WYOW	94,927	94,486	657
13933	WYPX–TV	1,547,670	1,434,147	9,977
4693	WYTV	4,870,043	4,522,748	31,465
5875	WYZZ–TV	1,008,995	1,002,743	6,976
15507	WZBJ	1,603,364	1,421,509	9,889
28119	WZDX	1,714,034	1,633,019	11,361
70493	WZME	22,102,923	21,652,522	150,637
81448	WZMQ	73,784	73,510	511
71871	WZPX–TV	2,165,413	2,165,333	15,064
136750	WZRB	1,007,172	1,006,731	7,004
418	WZTV	2,743,270	2,733,978	19,020
83270	WZVI	64,187	63,279	440
19183	WZVN–TV	2,331,155	2,331,155	16,218
49713	WZZM	1,678,220	1,652,095	11,494

[1] Call signs WIPM and WIPR are stations in Puerto Rico that are linked together with a total fee of $21,567.
[2] Call signs WNJX and WAPA are stations in Puerto Rico that are linked together with a total fee of $21,567.
[3] Call signs WKAQ and WORA are stations in Puerto Rico that are linked together with a total fee of $21,567.
[4] Call signs WOLE and WLII are stations in Puerto Rico that are linked together with a total fee of $21,567.
[5] Call signs WVEO and WTCV are stations in Puerto Rico that are linked together with a total fee of $21,567.
[6] Call signs WJPX and WJWN are stations in Puerto Rico that are linked together with a total fee of $21,567.
[7] Call signs WAPA and WTIN are stations in Puerto Rico that are linked together with a total fee of $21,567.
[8] Call signs WSUR and WLII are stations in Puerto Rico that are linked together with a total fee of $21,567.
[9] Call signs WVOZ and WTCV are stations in Puerto Rico that are linked together with a total fee of $21,567.
[10] Call signs WJPX and WKPV are stations in Puerto Rico that are linked together with a total fee of $21,567.
[11] Call signs WMTJ and WQTO are stations in Puerto Rico that are linked together with a total fee of $21,567.
[12] Call signs WIRS and WJPX are stations in Puerto Rico that are linked together with a total fee of $21,567.
[13] Call signs WRFB and WORA are stations in Puerto Rico that are linked together with a total fee of $21,567.

Table 9 FY 2025 Schedule of Regulatory Fees

Regulatory fees for the first eight categories listed, identified with an *, are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.

Fee category	Annual regulatory fee ($)
*PLMRS (per license) (Exclusive Use) (47 CFR part 90)	25.
*Microwave (per license) (47 CFR part 101)	25.
*Marine (Ship) (per station) (47 CFR part 80)	15.
*Marine (Coast) (per license) (47 CFR part 80)	40.
*Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category)	10.
*PLMRS (Shared Use) (per license) (47 CFR part 90)	10.
*Aviation (Aircraft) (per station) (47 CFR part 87)	10.
*Aviation (Ground) (per license) (47 CFR part 87)	20.
CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90) (Includes Non-Geographic telephone numbers).	0.16.
CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90)	0.08.
Broadband Radio Service (formerly MMDS/MDS) (per license) (47 CFR part 27)	760.
Local Multipoint Distribution Service (per call sign) (47 CFR, part 101)	760.
AM Radio Construction Permits	570.
FM Radio Construction Permits	1,000.
AM and FM Broadcast Radio Station Fees	See Table Below.
Full Power TV (47 CFR part 73) VHF and UHF Commercial Fee Factor	.006674.*
Full Power TV Construction Permits	5,200.
Low Power TV, Class A TV, TV/FM Translators & FM Boosters (47 CFR part 74)	275.
CARS (47 CFR part 78)	1,945.
Cable Television Systems (per subscriber) (47 CFR part 76), Including IPTV and Direct Broadcast Satellite (DBS)	1.47.
Interstate Telecommunication Service Providers (per revenue dollar)	.005125.
Toll Free (per toll free subscriber) (47 CFR section 52.101(f) of the rules)	0.10.
Earth Stations: Transmit/Receive & Transmit only (per authorization or registration)	2,060.
Space Stations (per authorized station in geostationary orbit) (47 CFR part 25)	141,790.
Space Stations (per authorized system in non-geostationary orbit) (47 CFR part 25)—Small Constellation (fewer than 1,000 authorized space stations).	375,140.
Space Stations (per authorized system in non-geostationary orbit) (47 CFR part 25)—Large Constellation (1,000 or more authorized space stations).	1,917,390.
Space Stations (per license/call sign in non-geostationary orbit) (47 CFR part 25) (Small Satellite)	12,330.
International Bearer Circuits—Terrestrial/Satellites (per Gbps circuit)	14.
Submarine Cable Landing Licenses Fee (per cable system)	See Table Below.

*See Appendix F of FY 2025 Report and Order for fee amounts due, also available at *https://www.fcc.gov/licensing-databases/fees/regulatory-fees*.

FY 2025 Radio Station Regulatory Fees

Population served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C0, C1 & C2
<=10,000	$545	$395	$340	$375	$600	$685
10,001–25,000	910	655	570	625	1,000	1,140
25,001–75,000	1,365	985	855	940	1,500	1,710
75,001–150,000	2,050	1,475	1,285	1,405	2,250	2,565
150,001–500,000	3,075	2,215	1,925	2,115	3,380	3,855
500,001–1,200,000	4,605	3,315	2,885	3,160	5,060	5,770
1,200,001–3,000,000	6,915	4,980	4,330	4,750	7,600	8,665
3,000,001–6,000,000	10,365	7,460	6,490	7,120	11,390	12,985
>6,000,000	15,550	11,195	9,740	10,680	17,090	19,485

FY 2025 International Bearer Circuits—Submarine Cable Systems

Submarine cable systems (capacity as of December 31, 2024)	Fee ratio (units)	FY 2025 regulatory fees
Less than 50 Gbps	0.0625	$5,510
50 Gbps or greater, but less than 250 Gbps	0.125	11,015
250 Gbps or greater, but less than 1,500 Gbps	0.25	22,030
1,500 Gbps or greater, but less than 3,500 Gbps	0.5	44,065
3,500 Gbps or greater, but less than 6,500 Gbps	1.0	88,130
6,500 Gbps or greater	2.0	176,260

VI. Initial Regulatory Flexibility Analysis

59. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Federal Communications Commission (Commission) has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the policies and rules proposed in the Notice of Proposed Rulemaking (NPRM) assessing the possible significant economic impact on a substantial number of small entities. The Commission requests written public comments on this IRFA. Comments

must be identified as responses to the IRFA and must be filed by the deadlines for comments specified on the first page of the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy. In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

60. Each fiscal year, the Commission is required to collect regulatory fees in an amount equal to our annual salaries and expenses (S&E) appropriation by the end of September. Pursuant to section 9 of the Communications Act of 1934, as amended (Communications Act or Act), and the fiscal year (FY) 2026 Further Consolidation Appropriations Act, the Commission must collect $416,112,000, which is an amount equal to its fiscal year (FY) 2026 salaries and expenses (S&E) appropriation. The Commission's methodology for assessing regulatory fees must ''reflect the full-time equivalent number of employees within the bureaus and offices of the Commission, adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities.'' The total amount we must collect in an offsetting collection generally changes each fiscal year, and payors' regulatory fees will also typically change each fiscal year as a mathematical consequence of the changes in the total amount to be collected, the number of full-time equivalents (FTEs), and projected unit estimates for each regulatory fee category. The *NPRM* seeks comment on the proposed regulatory fees and methodology for FY 2026, as set forth in Tables 3 and 4. The *NPRM* also seeks comment on the calculation of television broadcaster regulatory fees as set forth in Table 8, whether we should reexamine the ''indirect'' classification of FTEs in its non-core bureaus and offices, and whether to use a different data source for our assessment of fees on CMRS providers. Finally, we seek comment on whether there are ways to improve our regulatory fee process in order to meet our statutory obligations to assess and collect regulatory fees from payors, some of which are small entities.

B. Legal Basis

61. The proposed action is authorized pursuant to sections 4(i), 4(j), 9, 9A, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 159, 159A, and 303(r).

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

62. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. The SBA establishes small business size standards that agencies are required to use when promulgating regulations relating to small businesses; agencies may establish alternative size standards for use in such programs, but must consult and obtain approval from SBA before doing so.

63. Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration's (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses. Next, ''small organization'' are not-for-profit enterprises that are independently owned and operated and not dominant in their field.'' While we do not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees. Finally, ''small governmental jurisdiction'' are defined as cities, counties, towns, townships, villages, school districts, or special districts with a populations of less than fifty thousand. Based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.

64. The rules proposed in the *NPRM* will apply to small entities in the industries identified in the chart below by their six-digit North American Industry Classification System (NAICS) codes and corresponding SBA size standard. Based on currently available U.S. Census data regarding the estimated number of small firms in each identified industry, we conclude that the proposed rules will impact a substantial number of small entities. Where available, we also provide additional information regarding the number of potentially affected entities in the industries identified below.

2022 U.S. Census Bureau Data by NAICS Code

Regulated industry (footnotes specify potentially affected entities within a regulated industry where applicable)	NAICS code	SBA size standard	Total firms	Total small firms	% Small firms
Radio Broadcasting Stations	516110	$47 million	2,616	2,136	81.65
Television Broadcasting Stations	516120	$47 million	413	316	76.51
Wired Telecommunications Carriers	517111	1,500 employees	3,403	3,027	88.95
Wireless Telecommunications Carriers (except Satellite).	517112	1,500 employees	1,184	1,081	91.30
Telecommunications Resellers	517121	1,500 employees	955	847	88.69
Satellite Telecommunications	517410	$44 million	332	195	58.73
All Other Telecommunications	517810	$40 million	1,673	1,007	60.19
Other Management Consulting Services	541618	$19 million	10,446	6,383	61.10
Other Services Related to Advertising	541890	$19 million	7,067	4,850	68.63

TELECOMMUNICATIONS SERVICE PROVIDER DATA

2024 Universal service monitoring report telecommunications service provider data (data as of December 2023)	SBA size standard (1,500 employees)		
Affected entity	Total number FCC form 499A filers	Small firms	% Small entities
Competitive Local Exchange Carriers (CLECs)	3,729	3,576	95.90
Incumbent Local Exchange Carriers (Incumbent LECs)	1,175	917	78.04
Interexchange Carriers (IXCs)	113	95	84.07
Local Exchange Carriers (LECs)	4,904	4,493	91.62
Local Resellers	222	217	97.75
Other Toll Carriers	74	71	95.95
Prepaid Card Providers	47	47	100.00
Toll Resellers	411	398	96.84
Telecommunications Resellers	633	615	97.16
Wired Telecommunications Carriers	4,682	4,276	91.33
Wireless Telecommunications Carriers (except Satellite)	585	498	85.13

CABLE ENTITIES DATA

Cable entities	Size standard	Total firms	Small firms	% Small firms in industry
Cable System Operators (Telecom Act Standard). Small Cable Operator.	Serves fewer than 498,000 subscribers, either directly or through affiliates.	530	524	98.87
Cable Companies and Systems (Rate Regulation). Small Cable Company.	Serves 400,000 or fewer subscribers nationwide.	530	523	98.51
Cable Companies and Systems (Rate Regulation). Small Cable System (headends).	Serves 15,000 or fewer subscribers	4,545	3,965	87.24

D. Description of Economic Impact and Projected Reporting, Recordkeeping and Other Compliance Requirements for Small Entities

65. The RFA directs agencies to describe the economic impact of proposed rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirements and the type of professional skills necessary for preparation of the report or record.

66. The *NPRM* does not propose any changes to the Commission's current information collection, reporting, recordkeeping, or compliance requirements for collecting regulatory fees from small entities. Small and other regulated entities are required to pay regulatory fees on an annual basis. The cost of compliance with the annual regulatory assessment for small entities is the amount assessed for their regulatory fee category, which may increase or decrease based upon the methodology employed by the Commission in FY 2026 to determine the allocation of direct FTEs within the core bureaus, and indirect FTEs in non-core bureaus and offices. Complying with their annual regulatory assessment should not require small entities to hire professionals to comply, as they are accustomed to paying the annual fees and most should be familiar with both the Commission's current collection process.

67. For small licensees experiencing financial hardship, access to fee relief, via options such as waiver, reduction, deferral and/or installment payment of their regulatory fees may be available, and small entities may be exempt from paying a regulatory fee if the assessed fee is below the de minimis threshold that the Commission has established.

E. Discussion of Significant Alternatives Considered That Minimize the Significant Economic Impact on Small Entities

68. The RFA directs agencies to provide a description of any significant alternatives to the proposed rules that would accomplish the stated objectives of applicable statutes, and minimize any significant economic impact on small entities. The discussion is required to include alternatives such as: ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

69. *Assessment of Regulatory Fees.* The Commission's long-standing methodology for assessing regulatory fees reflects the full-time equivalent number of employees within the Commission's bureaus and offices, adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities. In making such adjustments to establish our regulatory fee schedule for FY 2026, following a high-level staff analysis of the time utilized in the oversight and regulation of certain segments of the telecommunications industry, we propose reallocating certain indirect FTEs as direct to one of the Commission's core licensing bureaus. Our proposals reflect our conclusion that we can determine, with reasonable accuracy for this fiscal year, that certain FTE time from the Office of General Counsel, the Office of Economics and Analytics, and the Public Safety and Homeland Security Bureau is devoted to work that is sufficiently linked to the oversight and regulation of regulatory fee payors in a core bureau such that the FTE burden of that work should be allocated as direct to a licensing bureau for regulatory fee purposes.

70. For FY 2026, we propose that 61 indirect FTEs could be reallocated as direct FTEs to a relevant core bureau for purposes of calculating regulatory fees for FY 2026, which could reduce regulatory fee obligations for some small and other regulatory payees.

Additionally, consistent with the Commission's determination for the past three fiscal years, we propose to reallocate 2 direct FTEs from the Media Bureau to be indirect FTEs because the nature of their work is sufficiently linked to work that is similar to that performed in the Enforcement Bureau, which has previously been categorized as indirect. These reallocations result in an overall proposed increase of 59 indirect FTEs being reallocated as direct FTEs to core bureaus. While we considered alternatives to the reallocations we propose for FY 2026, we find that these proposed reallocations are consistent with section 9 of the Communications Act, which requires us to determine regulatory fees based on FTEs.

71. *Broadcast Regulatory Fees.* The *NPRM* considers and seeks comment on whether the Commission should continue to assess fees for full-power broadcast television stations based on the population covered by a full-service broadcast television station's contour, which may reduce the economic impact of the regulatory fees for some small licensees. While the population-based methodology increases fees for some licensees and reduces fees for others, the Commission believes the population-based metric better conforms with the service of broadcasting television to the American people.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

72. None.

VII. Ordering Clauses

73. Accordingly, *it is ordered* that, pursuant to sections 47 U.S.C. 4(i), 4(j), 9, 9A, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 159, 159A, and 303(r), this Notice of Proposed Rulemaking *is hereby adopted.*

74. *It is further ordered* that the Commission's Office of the Secretary *shall send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2026–09193 Filed 5–7–26; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

[WC Docket Nos. 26–49, 20–67, 13–97, 07–243; FCC 26–17; FR ID 344564]

Combatting Illegal Robocalls Through FCC Numbering Policies; Implementation of TRACED Act—Knowledge of Customers by Entities With Access to Numbering Resources

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) seeks comment on whether to adopt changes to its numbering policies with respect to how assigned numbering resources are utilized, reported, and resold by service providers as part of its continuing effort to combat illegal robocalls. The Commission explores and proposes a broad array of solutions to strengthen the Commission's numbering requirements and policies, particularly as they relate to resellers that use numbering resources to engage in some of the most extensive illegal robocalling schemes.

DATES: Comments are due on or before June 8, 2026. Reply Comments are due on or before July 7, 2026. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public and other interest parties on or before July 7, 2026.

ADDRESSES: You may submit comments, identified by WC Docket Nos. 26–49, 20–67, 13–97, 07–243, by any of the following methods:

- *Electronic Filers.* Comments may be filed electronically using the Commission's website by accessing the Electronic Comment Filing System (ECFS): *https://www.fcc.gov/ecfs.*
- *Paper Filers.* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the Commission's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bans or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial courier deliveries (any not send by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.
- *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.
- *Availability of Documents.* Comments, reply comments, and ex parte submissions will be publicly available online via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

For additional information on submitting comments and the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document. Send a copy of your comment on the proposed information collection to *PRA@fcc.gov* or contact Nicole Ongele at *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Raphael Sznajder or Ed Krachmer, FCC Wireline Competition Bureau, Competition Policy Division at *Raphael.Sznajder@fcc.gov* or *Edward.Krachmer@fcc.gov.* For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Nicole Ongele at *Nicole.Ongele@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (*NPRM*) in WC Docket Nos. 26–49, 20–67, 13–97, 07–243; FCC 26–17, adopted on March 26, 2026, and released on March 27, 2026. The complete text of this document is available for download at *https://docs.fcc.gov/public/attachments/FCC-26-17A1.pdf.* To request materials in accessible formats for people with disabilities (*e.g.,* Braille, large print, electronic files, audio format, etc.), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.

Regulatory Flexibility Act. The Regulatory Flexibility Act of 1980, as amended (RFA) requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a

substantial number of small entities.'' Accordingly, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the possible impact of the proposed rules contained in the *NPRM* on small entities. The IRFA is set forth in Appendix B, *https://docs.fcc.gov/public/attachments/FCC-26-17A1.pdf.*

Paperwork Reduction Act. This *NPRM* may contain proposed new and revised information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements described in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Providing Accountability Through Transparency Act. The Providing Accountability Through Transparency Act, Public Law 118–9, requires each agency, in providing notice of a rulemaking, to post online a brief plain-language summary of the proposed rule. The required summary of this document will be available at *https://www.fcc.gov/proposed-rulemakings*.

Ex Parte Rules. The proceeding this *NPRM* initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

Synopsis

The FCC initiates this proceeding to evaluate whether we should adopt changes to our telephone numbering policies, particularly in how assigned numbers are used by service providers, to further combat illegal robocalls originating from those numbers. Although wireline, wireless, and interconnected VoIP service providers may receive numbering resources directly from the North American Numbering Plan Administrator (NANPA), distribution of numbers is broader because, in some instances, it involves multiple levels of resellers that indirectly access numbering resources. This wide and indirect distribution of numbering resources also partly enables the robocall ecosystem. We explore a broad array of solutions to strengthen our numbering requirements and policies, especially as related to resellers because some of the most extensive illegal robocalling schemes often involve resellers. Specifically, this item considers expanding certain interconnected VoIP direct access certification and disclosure obligations to all service providers accessing numbering resources directly from the NANPA and also to those reselling voice service that includes the provisioning of one or more telephone numbers (the resale of telephone numbers). We explore implementing enhanced reporting and tracking of the use of numbering resources by resellers of telephone numbers as a way to prevent them from enabling robocalls and from obstructing robocall enforcement. We also propose and seek comment on other changes to our numbering administration policies for all providers that may aid in our efforts to combat robocalls. We propose these actions pursuant to the Commission's broad numbering administration authority under the Communications Act of 1934, as amended (the Act), and in furtherance of our work implementing Section 6(a) of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act.

I. Notice of Proposed Rulemaking

A. Expanding Certification and Disclosure Requirements Beyond Service Providers With Direct Access Authorizations

1. In the *Third VoIP Direct Access Report and Order* (91 FR 7153), we observed that previously adopted certification and information disclosures for interconnected Voice over internet Protocol (VoIP) direct access applicants (of which the robocall certifications are part) ''have provided much needed transparency and enhanced the Commission's enforcement mechanisms against potential bad actors seeking to exploit numbering resources and the authorization process.'' We reasoned that extending these obligations to preexisting direct access authorization holders and then-pending applicants ''ensure[s] that our ongoing actions targeting illegal robocalling and spoofing, as well as safeguards for national security and public safety, have a greater impact and are consistently applied.''

2. For the same reasons, we now propose to further extend the robocall certification requirements to *all* service providers that receive numbering resources directly from the North American Numbering Plan Administrator (NANPA), not just interconnected VoIP providers, and also to resellers of telephone numbers. These certification requirements should apply uniformly and not just to interconnected VoIP providers with direct access authorizations, just as many of our robocall rules themselves apply equally to all voice service providers. Further, given the role that at least some resellers of telephone numbers have played in enabling robocalling, it is likely necessary to apply the certification requirements to resellers as well, thereby closing a transparency gap in the numbering ecosystem.

3. We propose to level the regulatory playing field so that all entities obtaining numbering resources directly from the NANPA, and resellers of telephone numbers, must abide by certain certifications currently required of interconnected VoIP direct access applicants, comprehensively applying robocall-related certifications to the full

spectrum of service providers obtaining and using numbering resources. We propose to define resellers of telephone numbers as all local exchange carriers (LECs), commercial mobile radio service (CMRS) providers, and interconnected VoIP providers reselling or seeking to resell services that include the provisioning of geographic numbering resources other than pseudo-ANI. We propose to exclude providers of Video Relay Service (VRS) and internet Protocol Relay Service (IP Relay)—two forms of Telecommunications Relay Services (TRS), that receive numbering resources indirectly—to the extent that any such TRS providers could be considered LECs or interconnected VoIP providers. (TRS are not within a specific category of defined communications services, rather they are referred to as telephone transmission services, and defined by function.) Use of numbering resources for TRS purposes are closely overseen, with numbers assigned to registered users in the United States, whose identities are verified. The numbers must be entered into the TRS Numbering Directory, and payments to TRS providers are conditional on providers reporting the use of those numbering resources for review by the TRS Fund administrator.

4. Specifically, we propose to extend the robocall-related certification obligations in § 52.15(g)(3)(ii)(C) and (D), to all service providers directly receiving numbering resources from the NANPA, as well as to resellers of telephone numbers, as a one-time obligation, regardless of the means by which they deliver service or the underlying regulatory regime in which they may be authorized to provide service. (By definition, this would, among others, include service providers that have received waivers of the requirement in § 52.15(g)(2) that an applicant for numbering resources is authorized to provide service in the area for which the numbering resources are requested.) Current service providers receiving numbering resources directly from the NANPA, and resellers of telephone numbers operating as of the effective date of any requirement we propose to adopt in this regard, would be required to file these certifications within 30 days of the effective date of the new rule. Service providers intending to obtain numbering resources for the first time from the NANPA, as well as resellers of telephone numbers intending to become operational, would be required to file certifications at least 30 days prior to submitting their first request for numbering resources to the NANPA or to beginning to resell service, respectively. We propose to apply these requirements on the basis of individual Operating Company Numbers (OCNs) for service providers obtaining numbering resources from the NANPA and on the basis of FCC Form 499 Filer IDs for resellers of telephone numbers. (An Operating Company Number (OCN) is a four-character code used to identify telecommunications service providers and is the basis on which numbering resources are assigned. *See* ATIS, Industry Numbering Committee, Thousands-Block and Central Office Code Administration Guidelines (2025–09), (INC TBACOCAG Guidelines), ATIS 0300119, at 177 (Sept. 26, 2025), *https://access.atis.org/higherlogic/ws/public/document?document_id=84025.* The National Exchange Carrier Association assigns all OCNs.) Certifications would be filed in a newly-created intake docket in the Commission's Electronic Comment Filing System (ECFS) similar to that used for the certifications required by the *Direct Access Third Report and Order.* Service providers would also have to submit copies of their certification filings to the NANPA along with already-required qualification information, such as proof of authorization, when requesting initial numbering resources.

5. We seek comment on this proposal. Do commenters agree that robocall certification obligations should be extended as we propose? Is the proposed scope of service providers potentially subject to these obligations appropriate? Specifically with respect to TRS providers, is it necessary to require the direct access robocall certifications? Is there a better approach concerning these providers and robocall-related certification requirements? More generally, is there any reason to distinguish robocall certification obligations between different types of service providers? (Specifically with respect to resellers of telephone numbers, state commissions have observed a pattern of holders of Commission-issued interconnected VoIP direct authorizations losing their access to new numbering resources by failing to comply with state law, and then nonetheless continuing to obtain numbering resources indirectly through wholesale providers. National Association of Regulatory Utility Commissions, Perspectives and Recommendations on How Telephone Number Conservation Can be Enhanced to Extend the Life of the North American Number Plan (NANP) and Reduce Illegal Robocalling Activity at 11 (adopted Feb. 11, 2026) *https://pubs.naruc.org/pub/0CFAB9E5-CC00-D558-D278-2CBA85370EB1.* If accurate, this would seem to indicate potential use of the wholesale market to circumvent legal and regulatory compliance obligations. As such, this suggests the need to extend certain compliance obligations to resellers of telephone numbers.) Should the new certification obligations only be one-time and filed by the method proposed? Would the certification process be overly burdensome? If commenters believe so, they should state with specificity why, and provide cost and time estimates. We also seek comment on our definition of reseller of telephone numbers. Is it sufficiently broad, or perhaps overly broad? Is there greater clarity that we should provide regarding when an entity is an end user and when it is not? In commenting on the definition of reseller of telephone numbers and as a general matter, we request that commenters provide whatever information they deem useful in describing the mechanics of how numbering resale works. In addition, we seek comment on whether wholesale providers should be responsible for ensuring that resellers of their telephone numbers have submitted certifications and whether the failure of any of their resellers to do so should be grounds for suspension of a wholesale provider's right to obtain further numbering resources. (Such resellers could be identified on the wholesale provider's Numbering Resource Utilization/Forecast (NRUF) form.)

6. We acknowledge that § 52.15(g)(3)(ii) of our rules requires interconnected VoIP applicants for direct access authorizations to certify compliance with obligations and information disclosure requirements that are unrelated to robocalls. These are not included in our proposal, with two exceptions—a foreign ownership certification and a general procedural requirement addressing truthful certifications as described below. Those other certifications required of interconnected VoIP providers that we omit from our proposal largely fill potential compliance gaps unique to the regulatory status of interconnected VoIP providers, and do not seem relevant to LECs, CMRS providers, and resellers of telephone numbers.

7. At the same time, we are also mindful of the risks of foreign adversaries engaging in widespread and coordinated efforts to exploit, attack, and otherwise compromise the integrity of U.S. communications networks—risks that the Commission has been working diligently to address. Because of the importance of our foreign ownership rules and their evolving

nature, including as safeguards against illegal robocalls, we propose to require all service providers that receive numbering resources directly from the NANPA, as well as resellers of telephone numbers, to certify compliance with our foreign ownership reporting rules as applicable, specifically §§ 1.80003(a), (j), and (l), 22.5, 24.404(b), 63.18(h) and (i), and 90.115. Under this proposal, these new obligations would also apply to current and future holders of Commission interconnected VoIP direct access authorizations. Holders of such authorizations as of the effective date of any foreign ownership certification requirement would have 30 days to comply.

8. Do commenters agree that we should omit the other non-robocall-related obligations and information disclosure requirements in § 52.15(g)(3)(ii) from those which we would be requiring on an expanded basis? If not, which certifications do commenters suggest we include and why? For example, do commenters believe that we should include 52.15(g)(3)(ii)(I) (relating to filing FCC Forms 477 and 499) or 52.15(g)(3)(ii)(J) (relating to Universal Service Fund, Telecommunications Relay Service and NANP and local number portability administration contribution obligations)? Do commenters support adding a certification regarding foreign ownership in addition to those already required? If not, why not? Should the list of rules referenced in the proposed certification be expanded or contracted?

9. Finally, if we adopt any new certification obligations, we propose that they also include the declaration required in § 52.15(g)(3)(ii)(N), that, as pertinent here, the certifications are true ''under penalty of perjury pursuant to § 1.16'' of the Commission's rules. We seek comment on this proposal.

10. Do commenters agree with our proposed method of implementation? Specifically, is 30 days sufficient time to comply with these new obligations for current providers of record of numbering resources? For service providers that would obtain numbering resources for the first time, or resellers of telephone numbers initiating their businesses, is providing the certification at least 30 days prior to requesting numbering resources overly burdensome? We invite commenters to propose alternatives. In addition, we seek comment on whether we should establish a later implementation deadline for current providers of record that are small entities and, if so, what it should be and how we should define small entities for such purposes.

B. Preventing Resale Practices From Obstructing Robocall Enforcement

1. Enhancing Wholesale Reporting Requirements

11. In this section, we seek comment on new tools for the Commission, state regulators, and the NANPA to better track numbering resource utilization, enhancing the ability to measure numbering resource exhaust, and misuse, including robocalls. In particular, we seek comment on modifying the existing NRUF report form (FCC Form 502) reporting requirements to better support mitigation and enforcement efforts against illegal robocalls, as well as to inform numbering administration and policy development.

12. *Current NRUF Reporting Obligations.* The NANPA, Commission, and state regulators use NRUF reports to track and analyze numbering resource utilization and exhaust for purposes of area code and other planning, and are increasingly using that data to target numbering resource misuse including robocall campaigns. The North American Numbering Council (NANC) accurately observed that ''[t]his reporting enables NANPA and regulators to maintain accurate records of number utilization and anticipate future needs, while assessing trends, therefore ensuring that numbering resources are efficiently allocated and preventing the exhaustion of available numbers.''

13. The Commission's numbering rules require telecommunications carriers, which includes interconnected VoIP providers for purposes of Part 52 of the Commission's rules, to submit numbering resource utilization and forecast data to the NANPA twice per year. Those reporting must do this by submitting a completed NRUF form. For each block of numbers obtained, the reporting provider must submit utilization data in five mutually exclusive categories: *administrative, aging, assigned, intermediate,* and *reserved. Intermediate numbers* are most relevant to this proceeding because they relate to reselling relationships and potentially can provide information about the chain of custody of specific numbers and overall usage patterns. Under our current rules, *intermediate numbers* are defined as ''numbers that are made available for use by another telecommunications carrier or non-carrier entity for the purpose of providing telecommunications service to an end user or customer.'' This is in contrast to *assigned numbers,* which are numbers that ''ha[ve] been assigned to a specific end-user or customer.'' The Commission has made clear that, at least until the pertinent number has been assigned to an end user or is ported, ''numbers provided to carriers, interconnected VoIP providers, or other non-carrier entities by numbering partners should be reported as 'intermediate,' and do not qualify as 'end users' or 'customers.'''

14. Under our rules, during the period in which a number is reported as *intermediate* by the provider of record, the receiving party, if it is itself a reporting provider, is required to report the number on its NRUF form, categorizing such number in the same manner as with any other numbers in its inventory. Thus, a reporting provider that is receiving the *intermediate number* would report the number according to how it is utilizing it, in one of the five categories depending on the circumstances—*administrative, aging, assigned, reserved,* or *intermediate.* On the other hand, *intermediate numbers* received by an entity that is not a reporting provider need only be reported by the reporting provider providing those numbers to such entity (reporting them as *intermediate numbers*).

15. Industry guidelines detail additional information that reporting providers must include when reporting *intermediate numbers,* stating that the reporting provider ''shall provide the name and contact information to the NANPA of the telecommunications carriers that have received the Intermediate numbers.'' Specifically, the NRUF form instructions state that a provider reporting provision of *intermediate numbers* should ''enter the name of the entity to which [it] gave numbers'' in the Notes/Assignee field, and the provider reporting the receipt of the *intermediate numbers* should ''enter the name of the entity from which [it] received numbers.''

16. The NANC and state commissions have raised several concerns regarding NRUF reporting compliance, particularly regarding *intermediate numbers.* They assert that lack of compliance with the Commission's NRUF reporting rules makes it difficult or impossible to know how numbering resources are ultimately being used, or to calculate exhaust, and, ''contribute to the limited visibility into the full scale of number utilization in the secondary market.'' These problems are magnified where ''the wholesale of telephone numbers may be layers deep.''

17. These parties claim that many reporting providers are not following their *intermediate number* reporting obligations for several reasons potentially extending beyond what

might be characterized as deliberate non-compliance, including: (1) not understanding their reporting obligations or interpreting those obligations differently; (2) an inability to know how their numbering resources are being used by the downstream entity; or (3) internal company organization and provisioning systems that may conflict with the way NRUF reports are structured. NARUC claims that many service providers receiving *intermediate numbers* often do not comply with their obligation to file and, even when they do, do not provide the names and contact information of the service providers providing the numbers, in some cases claiming to state commission staff that privacy and legal concerns make them ''reluctant'' to provide this information (and sometimes completely refusing to do so). Further, NARUC argues that state commission staff have observed a ''lack of consistency and adequacy in the completion of the 'Notes/Assignee' field [in FCC Form 502].'' We seek comment on these assertions, any other patterns of NRUF non-compliance, and the effect non-compliance may have on the underlying goals of reporting to track numbering resource utilization and the right to use numbering resources.

18. *Improving NRUF Form Data.* We seek comment on ways in which our collection of data through NRUF reports can be improved to aid detection of, and enforcement efforts against, illegal robocalls, as well as to inform numbering administration and policy development. In addition, we seek comment on ways that FCC Form 502 can be improved, generally, including aspects of the form (and related rules) that may impose significant costs upon private parties that are not outweighed by public benefits. The communications marketplace has substantially evolved since the five mandatory numbering resource use reporting categories were established roughly 26 years ago, at the dawn of thousands-block numbering resource assignment and long-term local number portability solutions, and well before the development of interconnected VoIP service and the proliferation of resale. Therefore, the *intermediate number* category is likely not adequately serving current needs for many of the reasons that the NANC and state commissions have identified.

19. We propose to create a revamped set of obligations regarding *intermediate numbers,* superseding all previous rules, orders, and documents regarding these obligations, including FCC Form 502 and its instructions. Specifically, we propose to split the current *intermediate number* category into three subcategories—*intermediate assigned, intermediate other,* and *intermediate available*—to clearly describe the status of the numbers from the perspectives of both the provider of record (the provider that directly holds the numbering resources in the NANPA system) and the service provider reselling those telephone numbers (categorizing its numbering resources as if it had received them directly) when the provider of record provides its NRUF data.

20. As a foundational matter, we propose to retain a definition of *intermediate numbers,* generally, that refers to numbers that the provider of record has made available to resellers of their telephone numbers for the purpose of provisioning to such resellers' end users (including enterprise customers), regardless of whether the numbers are made available on a just-in-time (as needed/ordered by the end users) basis or allocated to the reseller of telephone numbers as inventory for the latter's exclusive use. (Our proposed rule uses the shorter term ''reseller'' rather than ''reseller of telephone numbers,'' although it reflects this proposed definition.) This definition continues to apply to such numbers until they are no longer being provided by the provider of record to the reseller.

- *Intermediate assigned numbers* are numbers that are *intermediate numbers* and, from the perspective of the reseller, *assigned numbers.*
- *Intermediate other numbers* are numbers that are *intermediate numbers* and, from the perspective of the reseller, either *administrative numbers, aging numbers, intermediate numbers used for further resale,* or *reserved numbers.*
- *Intermediate available numbers* are *intermediate numbers* that, from the perspective of the reseller, are *available numbers.* This category would not need be to reported, just as providers are not required to report *available* numbers—*intermediate available numbers* would be a residual subcategory, that could be derived mathematically from the other subcategories within *intermediate numbers.*

21. We propose that the provider of record bear the burden of determining the status of its *intermediate numbers* by obtaining any necessary information from the service providers reselling its numbers. Providers of record are presumptively fully capable of updating their wholesale contracts to require their receipt of such information from their resellers—particularly on the mere biannual basis that NRUF reporting requires. If providers of record are unable or unwilling to fulfill this requirement, it suggests they may not have sufficient knowledge of their resellers. In such cases, we propose treating their NRUF forms as deficient. We also propose to codify the obligation for reporting providers to identify their resellers (if any) on FCC Form 502 and provide meaningful contact information for such customers.

22. Specifically, we propose to modify FCC Form 502 to create clearly labeled entries for the name and contact information for each reseller which would include the reseller's FCC Form 499 Filer ID and, if available, OCN. We seek comment on the extent to which it is feasible to create a method by which information could be clearly provided when multiple resellers receive numbers in a particular block, such as a means by which individual ranges of numbers within a block could be indicated. We propose to use the same definition of reseller of telephone numbers for the purpose of NRUF reporting as we propose for expanding the certification obligations discussed in Section III, above. Is this definition appropriate for NRUF purposes? Is our presumption correct that providers of record are fully capable of updating their wholesale contracts to require provision of such information from their resellers on a biannual basis?

23. Creating three *intermediate number* subcategories should serve to significantly reduce the potential for confusion and omissions in NRUF reporting of numbering resources provided to resellers, as identified by the NANC and state commissions. Do commenters agree? These differentiated categories should also serve to present useful information to the NANPA and for enforcement efforts and policymaking. Do commenters agree? What suggestions, if any, do commenters have for how this proposal could be improved?

24. Should we adopt additional mandatory reporting subcategories to better track the ways in which numbers are being used? For example, should we adopt a specific subcategory to report numbers offered for a trial period or for numbers used for cycling to ensure that their use is adequately tracked? If so, how should such a subcategory be defined? Should we require providers to file reports on some or all of the subcategories of numbers on which providers currently must only keep internal reports? Should we adopt other reporting subcategories?

25. As part of proposing these new subcategories, we also propose to update the method of calculating the numbering resource utilization level used to determine whether a service provider has met the required 75%

utilization threshold for its existing inventory, that allows it to request additional numbering resources in a geographic area. Today, the 75% threshold only includes *assigned numbers.* We seek comment on whether *intermediate assigned numbers* should also be included in calculating utilization levels.

26. How do commenters suggest that the Commission ensure the NANPA receives information about numbers provided to resellers? Should such resellers be required to identify themselves as resellers and, if so, should they be required to identify the source of particular numbers? Do commenters agree that providers of record should bear the burden of collecting information from their resellers? Are there any facts of which we should be aware regarding particular reseller relationships, such as facilities-based wireless providers with mobile virtual network operators (MVNOs), for which we should account in any reporting requirements we adopt? (Regulatory fees for CMRS providers have traditionally been based on the quantity of numbers reported as assigned numbers.)

27. Further, we seek comment on whether resellers, regardless of whether they already obtain other numbering resources directly from the NANPA, should be required to file their own NRUF reports. Should all resellers of telephone numbers be required to categorize numbers they resell as *intermediate numbers* (by the proposed three *intermediate number* subcategories), just as providers of record report such numbers, regardless of if and how they currently report them? If the NRUF form were adequately revised, it may be possible to cross-check how reporting providers and resellers are reporting the same telephone numbers. This ability to cross-check may have benefits in measuring and increasing the accuracy of usage statistics, enhancing numbering management, and enabling and supporting enforcement actions against those who abuse numbering resources. Do commenters agree with these potential benefits? We acknowledge that our rules envision recipients of *intermediate numbers* to include ''non-carrier entities,'' such as retail dealers and unified messaging providers. If we were to require resellers of telephone numbers to file NRUF reports, should non-carrier entities be included? Does our jurisdiction under Section 251(e)(1) extend to such entities? Would it be more efficient for the Commission to focus its scrutiny and enforcement efforts on LECs, CMRS providers, and interconnected VoIP providers, holding such entities responsible for knowing their customers and gathering adequate data from such customers, rather than to also require non-carrier entities to file NRUF reports?

28. Are there other changes that we should make to NRUF reporting requirements? Is the current reporting cycle of every six months an appropriate interval? Are there additional steps we should take to ensure the veracity and accuracy of NRUF reporting that might also later serve as the basis for numbering audits? Should we create an expedited method by which the NANPA, at the direction of the Wireline Competition Bureau (Bureau), may obtain supporting information for a service provider's usage forecasts? The NANPA, Commission staff, and state commissions have experienced difficulty contacting service providers that only provide one point of contact in the NANPA system. Should all service providers be required to provide a backup point of contact? Currently, the NANPA has the authority to withhold additional numbering resources from service providers that fail to file NRUF reports. The NANPA would not, however, have this remedy available for resellers that fail to file NRUF reports, but do not directly obtain numbering resources. We invite commenters to suggest appropriate remedies. For example, if a reseller of telephone numbers fails to file NRUF reports, would it be reasonable for the NANPA to withhold additional numbering resources from any affiliates under common ownership or control with such reseller that receive numbers directly from the NANPA? Should the service provider supplying the numbering resources to the reseller have additional numbering resources withheld?

29. Finally, we note that the local number portability databases (comprising the National Portability Administration Center or NPAC) enable a parallel reporting scheme for resellers of telephone numbers in which the current service provider for a ported number can enter an identification code for resellers of their service, such as MVNOs. Reporting this code in the ALTSPID data field is currently optional. As part of our proposals to increase visibility into resale relationships, we propose to take the related action of directing the Local Number Portability Administrator to make entries in the ALTSPID field mandatory when a reseller relationship exists for the ported number. Especially with resale now increasingly prevalent, it is important that the Commission be able to determine the manner in which service is provisioned on ported numbers when porting difficulty arises. For example, we are increasingly concerned about scenarios in which an interconnected VoIP reseller fails to pay its wholesale supplier of numbers and the reseller suddenly goes out of business, leaving its retail customers without the usual means of porting their telephone numbers elsewhere, and we seek to use any means at our disposal to aid these consumers. Not only do interconnected VoIP providers reselling the service of numbering partners or other interconnected VoIP providers have obligations to facilitate ports, but so do the facilities-based providers through which they get the numbers.

30. We recognize that our NRUF reporting proposals, if adopted, would not exist in a vacuum. Industry guidelines and procedures would need to be adapted, as would NANPA systems. In light of this, we propose that any changes or clarifications of reporting that we adopt would apply to the first NRUF reporting period starting at least 12 months after the effective date of the order promulgating these rules. (Thus, for example, if the pertinent order were to become effective March 26, 2027, numbers the new categories would apply to the NRUF reporting period of July 1, 2028 through December 31, 2028, for which NRUF reports would be due February 1, 2029.) This will ensure 12 full months of guideline and system development by the NANPA before reporting providers would begin using the new definitions in their systems. We seek comment on this proposed implementation timeline and, in addition, we seek comment on whether we should establish a later implementation deadline for current providers of record that are small entities and, if so, what it should be and how we should define small entities for such purposes.

31. We invite commenters to propose alternatives and other improvements to NRUF reporting requirements. Are there better means of tracking the chain of custody of numbering resources, such as, perhaps, new databases that could be established (perhaps using distributed ledger technology such as blockchain) or changes that could be made to existing databases to improve this? If so, we seek information on these alternatives and other improvements, including the cost of such options and how long they would take to implement. Are there industry efforts already underway that could be useful in this regard? If so, what are they and what is the expected timeline and cost for their development and implementation?

32. Finally, in addition to the proposals and matters on which we seek comment described above, we also propose to make housekeeping edits within § 52.15 of the Commission's rules. These include correcting the definition of the utilization threshold to cross-reference the current location of the definition of how utilization is to be calculated, removing references to events that have already passed, and changing outdated references to the Common Carrier Bureau to reference the Bureau. We seek comment on these proposed edits as well.

2. Limiting Resale of Numbering Resources to a ''Single Level''

33. Numbering resale makes illegal robocall enforcement more difficult because it can mask the parties in interest, as well as the parties with relevant data. This problem is magnified when there are multiple levels of resale. We are also concerned that the more remote the party providing the number to the end user is from the full set of requirements imposed on service providers directly drawing numbering resources, the worse steward it will be of such resources. The former NANC had observed the challenges posed by multiple levels of resale in observing that ''[e]ach layer of resale introduces additional challenges to visibility regarding where multiple providers are in the use of numbers, as secondary providers may not always be required to provide detailed reporting on numbers associated with the wholesale services purchased from upstream providers.''

34. Robocall enforcement actions have often involved multiple layers of resale. For example, Avid Telecom, the collection of entities serving as defendants in an Anti-Robocall Multistate Litigation Task Force action that involved roughly 20 billion unwanted calls in just over a four-year period, was not itself a direct recipient of numbering resources from the NANPA, and, held itself out as a wholesale provider. The Task Force's complaint against Avid Telecom referenced additional levels of resale in the robocalling scheme. Indeed, FCC Enforcement Bureau staff encounters multiple levels of reselling numbers in the majority of its robocall investigations.

35. Above, we propose to create a more robust NRUF reporting system for resale and seek comment on requiring resellers of telephone numbers to file their own reports. Recognizing that the problem of illegal robocalls has been so intractable for Americans, we seek comment on whether we need to affirmatively limit the extended levels of resale that are seemingly contributing to the problem. As a means to ensure visibility into how numbering resources are being used, and to lessen attenuated relationships between the providers of record of numbers and the retail providers of those numbers, we seek comment on whether we should prohibit the resale of numbers beyond a single level, whether in addition, or as an alternative, to expanded NRUF reporting for resellers. That is, resellers of telephone numbers may only provide retail service to their own end users, and may not provide wholesale service. Are service providers directly receiving numbering resources from the NANPA capable of adequately enforcing this limitation contractually through resale restrictions in their wholesale contracts? Do all or virtually all wholesale contracts include change of law clauses that could accelerate implementation if we were to amend our rules to add this limitation? We seek comment on whether to enforce this restriction against both the service provider who received the numbers directly from the NANPA and the entity which received them from the service provider and is reselling in violation of the restriction, and whether to hold both entities jointly and severally responsible in any enforcement actions. Are there other means by which such a restriction could be enforced such as, for example, by state commissions? Also, what would be an appropriate time period for implementing such a restriction?

36. What are the drawbacks of limiting resale to a single level of numbering resources? Do resellers of telephone numbers below the first level perform any uniquely useful and competitive function that is meaningful in the voice communications marketplace? If so, what is it? Is there an alternative way to achieve the same goals that restricting resale to a single level may achieve, assuming that resellers do not have their own NRUF reporting obligations? Could a system in which wholesale providers must register their relationships with resellers of their telephone numbers with the Commission serve to meet at least some of these goals? Should we hold the resellers responsible for all violations of the Commission's rules committed with the numbers they resold? Would that provide the correct incentives to conduct due diligence and only resell numbers to trustworthy numbering partners?

37. We seek comment on whether restricting resale of numbering resources to a single level may conflict with existing statutory obligations. The Commission has previously concluded that restricting resale of fixed common carrier communications services generally is an unjustly discriminatory practice, classification, and regulation under Section 202(a), which is unlawful under Section 201(b). In addition, Section 251(b)(1) of the Act (and § 51.603 of our rules) imposes a duty on all LECs not to ''prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of [their] telecommunications services.'' At the same time, we note that Section 6(a) of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act grants the Commission broad authority to take sufficient steps to reduce access to numbers by potential robocallers. We seek comment on what actions, if any, the Commission may have to take regarding Sections 201(b), 202(a), and 251(b)(1) of the Act, and in potentially modifying § 51.603 of our rules, to effectuate limiting resale of numbering resources to a single level. For example, would such a limitation be reasonable under Section 6(a) of the TRACED Act, and therefore fully compliant with Sections 201(b) and 251(b)(1)?

C. Other Potential Measures To Strengthen Numbering Policies To Combat Robocalls

1. Addressing Number Cycling

38. We seek comment on whether or how the Commission should address robocalling that uses number ''cycling'' (or ''rotation'')—the use of a typically large quantity of telephone numbers, each used on a rotating basis as few as one or two times, often assigned by service providers to end users on a short-term or ''trial'' basis. An illegal robocaller may be motivated to use number cycling as a way to evade provider and third-party analytics that flag numbers commonly used for placing robocalls, causing calls from such numbers to be blocked. The practice of number cycling can be particularly nefarious because calls originating with cycled numbers can receive the highest STIR/SHAKEN attestation level as if they were legitimate calls, as distinguished from caller ID spoofing, which STIR/SHAKEN is capable of identifying and preventing. Although there may be legitimate uses of number cycling, as discussed below, misuse of number cycling is not only bad for consumers, but also detrimental to numbering resource management and conservation efforts.

39. According to data from voice security and intelligence company Hiya, 18% of all reported unwanted calls in

the United States originate from numbers with minimal call history. The scale of some number cycling campaigns can be enormous. In enforcement actions against robocalling operations involving number cycling, robocallers have used millions of numbers for this purpose. The Anti-Robocall Multistate Litigation Task Force noted that one particular operation routed more than 4.5 billion calls in less than two years using 474.8 million different telephone numbers, 72% of which were used to make just one call. Five operations conducted by the same defendant, Avid Telecom, represented billions more calls and used between 71% and 84% of the telephone numbers just once.

40. Services enabling call cycling are readily available. One company, for example, states that its ''Auto Rotate Number'' service can ''[e]nhance your calling strategy with auto rotate number for each call,'' to ''[d]isplay customers a different number each time and avoid spam markings.'' While services enabling number cycling obviously do not overtly advertise their ability to aid in illegal robocall campaigns, their ability to enable them is apparent. Sometimes these services are marketed (or camouflaged) as privacy enhancing, allowing ''you [to] avail [yourself of] ad-free services which mean that they will not call you for showing you their ads, they won't put your name at the online directories and many more,'' or allowing a business engaged in ''legitimate outbound operations'' to not have to rely on a limited quantity of outbound telephone numbers that have presumably been inappropriately tagged by robocall analytics.

41. However, there may be legitimate uses of number cycling. For example, the NANC observed that legitimate callers may engage in number rotation practices based on ''the perception, fueled by call completion metrics, that anti-robocalling analytics are accidentally labeling and blocking their calls to their customers.'' As a result, the NANC observed, these legitimate callers believe that number rotation is an ''effective and warranted countermeasure.'' Hiya has observed that robocallers using rotated numbers must be distinguished from enterprises with large call volumes, small businesses with lower call activity, and personal lines with occasional usage, having reported in 2023 on a survey of 300 business leaders that 60% said they rotate numbers at least multiple times a month, and 29% change their numbers automatically or on a daily basis.

42. We seek information on how frequently number cycling is used for illegal robocalling campaigns. How frequently is it used, not for illegal robocall campaigns, but rather to avoid legitimate calls from being incorrectly tagged as likely illegal robocalls? To what extent is short-term, provisional use of numbers associated with number cycling used for robocall campaigns? To what extent are these numbers provided on a ''trial'' basis? Are there legitimate reasons for a service provider to provide large blocks of numbers on a ''trial'' basis? And even if there are legitimate reasons, should there nonetheless be restrictions on this practice for reasons other than mitigating robocall activity (*e.g.,* preventing number exhaust)?

43. We seek comment on whether and to what extent we should develop rules aimed at prohibiting or limiting number cycling. It seems that in certain cases, potentially legitimate uses of number cycling, if there are any, may be the response by non-robocallers that have a need to avoid their telephone numbers from being incorrectly tagged by data analytics as illegitimate. To what extent do commenters believe this to be the case? We request any further detail, using concrete examples, that commenters are able to provide. Are potentially legitimate uses of number cycling even effective at achieving their goals? Are there ongoing improvements in call analytics that are lessening or obviating any legitimate need for number cycling? Do the harms of allowing number cycling outweigh any potentially legitimate benefits?

44. If we were to develop rules prohibiting number cycling, how should it be defined, particularly if we also want to avoid barring number cycling that is not part of illegal robocall campaigns? What parameters do commenters suggest? Should we prohibit the provision of trial numbers? If so, how would we define the provision and use of trial numbers and how would compliance be monitored? Are there readily-available statistical indicia of number cycling, such as a service provider reporting a large quantity of telephone numbers from the same number blocks as disconnected in the Reassigned Numbers Database? Are trial numbers being aged for the minimum 45 days and being reported in the Reassigned Numbers Database?

45. Should both wholesale providers and their reseller customers bear responsibility for compliance under any number cycling and trial numbers rules that we might adopt? Should responsibility be limited to service providers that receive numbers directly from the NANPA, or to all service providers in the chain? Do multiple layers of resale exacerbate misuse of cycled numbers? We invite suggestions for any similar or alternative approaches to addressing illegal robocall-enabling number cycling and issues with trial numbers. We also seek comment on the appropriate implementation period for any rules that we may adopt regarding these issues. In addition, we seek comment on whether we should establish a later implementation deadline for current providers of record that are small entities and, if so, what it should be and how we should define small entities for such purposes.

2. Removing Administrative Barriers to Stopping Numbering Fraud and Abuse

46. We seek comment on new ways the Commission, with assistance from the state commissions and the NANPA, can better identify fraudulent use and misuse of telephone numbers. As recent state commission filings demonstrate, the state commissions and the NANPA are often the first line monitors and detectors of abuse, and we seek comment on how we can empower them to act.

47. *Increasing State Commission Access to NRUF Data.* First, we seek comment on expanding the numbering data available to state commissions to enable them to better assist our efforts to fight robocalling and other abuses of numbering resources. Since the 2000 *Numbering Resource Optimization First Report and Order* (65 FR 37709) establishing NRUF reporting, state commissions have had access to service provider-specific disaggregated data to ''effectively carry out number administration duties'' delegated to them. The Commission concluded that if state commissions did not have access to numbering data ''their ability to carry out these delegations of authority would be hampered . . . .'' This includes, among other things, deciding whether to affirm a NANPA determination that numbering resources should be withheld because of a failure to file accurate or timely NRUF data. The Commission initially granted state commissions access to this data subject to confidentiality protections. The *Numbering Resource Optimization Third Report and Order* (67 FR 6434) then granted state commissions ''password-protected access to the NANPA database'' again subject to confidentiality protections. The Commission, however, restricted state commission access to data from the rate centers and area codes within that state as ''a further measure of protection for such data . . . .''

48. Given the evolution and complexity of today's numbering marketplace, and the often attenuated

relationship between the geographic location of an area code and the geographic location of the calling party using a number from that area code, we now seek comment on revisiting our decision barring state commission access to out-of-state provider-specific disaggregated NRUF data. We seek comment on whether out-of-state access will allow the state commissions, the NANPA, and the Commission to work better together to identify patterns in the NRUF data to identify bad actors abusing numbering resources, and could provide the necessary tools allowing state commissions to take more direct action to withhold numbering resources, as outlined below. Are there state or federal data protection or privacy laws and rules that would preclude expansion of state commission access to NRUF data? What additional confidentiality protections, if any, should we impose on such expanded access?

49. We seek specific comment on whether and to what extent we should put any limits on state commission access to out-of-state provider-specific disaggregated data. For example, should we allow one state (State A) to obtain NRUF data related to another state (State B) only if the data in State B relates to the same provider or an affiliate of the provider operating in State A? Would any other access limit be appropriate? Does the NANPA currently collect sufficient information on the NRUF form to be able to segregate data in this manner and only display the data that a state commission would be entitled to see? If not, should the Commission modify the NRUF form in some fashion and/or direct the NANPA to change its system to allow for that? (We note that such a change would likely require an increase in the contract price.) What, if any, other data would need to be collected in the NRUF reporting to support appropriate data segregation? Should we instead not impose any limits on state commission access to out-of-state numbering data other than the existing confidentiality requirement? We believe that doing so would make administration of state commission access easier because there would be less need and burden to tailor access by state commission and provider. However, it may raise additional confidentiality and data protection concerns. We seek comment on the balance of the benefits and drawbacks of broad state commission access.

50. Observing that Section 251(e)(1) of the Act states that the Commission has the authority to delegate any portion of its jurisdiction under the provision to ''[s]tate commissions or *other entities,*'' we also seek comment on whether and to what extent we should provide the same access to other state entities, such as state attorneys general. Should state attorneys general have access to provider-specific disaggregated NRUF data only on request and for certain specific purposes? What other restrictions, if any, should be placed on state attorney generals or other state entities' access to numbering data? How much time should we allow for implementation if we expand access in this manner?

51. *Additional Bases for Withholding Numbering Resources for Violation of Commission Rules and Orders.* We next seek comment on whether and under what circumstances we should delegate to state commissions greater authority to restrict access to numbering resources beyond what is currently in our rules. Specifically, we seek comment on delegating to the state commissions the authority to direct the NANPA to deny a service provider access to additional numbering resources in that state for violating our number reporting rules. (Currently, states only have a role in reviewing NANPA's decision to withhold numbering resources.) We seek comment on whether state commissions may, in some cases, be in the best position to determine whether providers are submitting accurate and complete NRUF reports because of their familiarity with the providers and circumstances in their state. If state commissions are granted authority to deny access to numbering resources in the first instance, should we create a specific process that would entail notice in writing by the state commission to the Commission, the NANPA, and the service provider setting forth the grounds for the denial, and allow the provider whose resources are withheld by state commission action to appeal that determination to the Bureau or the full Commission? Should state commissions have to meet a particular burden of proof or make certain showings prior to directing the NANPA to withhold numbering resources in the first instance? How should such decisions to withhold numbering resources be reversed, should the state commission find reason to do so?

52. We also seek comment generally on whether there are any other additional bases under which the Commission or state commissions should have the ability to direct the NANPA to withhold numbering resources. For example, should we adopt a rule providing that adjudicated violations directly related to the use and abuse of numbering resources, such as a violation of the Commission's ''robocall blocking rules,'' will result in withholding of numbering resources? What about other violations or reasons?

53. Should the Commission and, potentially, state commissions have the discretion to direct the NANPA to withhold numbering resources based on indicia of fraud or misuse of numbering resources that may fall short of a final Commission or state commission determination of a rule violation? For example, should the number of tracebacks over a certain period of time serve as grounds for directing the NANPA to withhold numbering resources? We note that the Commission declined to adopt a high number of tracebacks as a trigger for removal from the Robocall Mitigation Database, finding that it is ''not always the case'' that a high number of tracebacks is ''evidence of malfeasance.'' However, tracebacks or similar indicia of fraud may be more appropriate in the context of withholding numbering resources, particularly where the sanction may be temporary and it would not have the same effect as would a removal from the Robocall Mitigation Database. We seek comment on that belief. Should receipt of a ''Notification of Suspected Illegal Traffic'' pursuant to 47 CFR 64.1200(n)(2) be considered an adequate indicium of fraud for these purposes? Are there any other indicia of fraud or number misuse that would be appropriate to serve as a trigger for withholding? Under what circumstances should the targeted entity be able to seek again new numbering resources if they are ''cleared'' of fraud or misuse? To what extent may suspected fraud be attributed to an entire operating company enterprise rather than merely the OCN drawing the numbering resources on which fraud is suspected? If it should be attributed to an entire enterprise, how would this be done? Should this apply at least at the legal-entity level—all OCNs held by the same legal entity are subject to attribution?

54. We seek suggestions for other means of removing administrative barriers to and delays in stopping numbering fraud and abuse. In addition, we seek comment on potential implementation timelines for the matters discussed above, as well as any alternatives that parties may suggest. Are there other matters for which we should consider granting state commissions broader authority in the context of numbering administration, to empower their efforts in combatting robocalls?

C. Other Changes To Numbering Administration Policy

55. Ultimately, bad actors cannot commence illegal robocall activities without access to numbering resources and the bar to obtain such resources may be too low. Are there other changes that we could make to safeguard against abuse of numbering resources for illegal robocall purposes, in light of the massive quantity of numbering resources used by robocallers and the need to promote efficient use of finite numbering resources? Are there any other current numbering rules that we should consider adopting or amending to aid the fight against robocalls? (This is not a general request for suggested amendments to our numbering rules but, rather, suggestions for amendments that would aid the ability of the Commission, the NANPA, and state commissions to safeguard against abuse of numbering resources for illegal robocall purposes.)

IV. Costs and Benefits

56. We seek comment on the costs and benefits associated with the various proposals and other potential actions described in this *NPRM.* Robocalls impose a tremendous cost that could be meaningfully lowered by the proposals and many of the potential actions described in this document. The Commission has previously found that widespread deployment of the STIR/SHAKEN framework will increase its effectiveness for both voice service providers and their subscribers, producing significant annual benefits due to the reduction in nuisance calls and fraud, as well as many non-quantifiable benefits, such as restoring confidence in incoming calls and ensuring reliable access to emergency and healthcare communications. Consistent with the TRACED Act, the rules we propose here are intended to help unlock those benefits.

57. How will the benefits of these proposed rules affect the number of illegal robocalls that target consumers each year? Will these rules address some of the most harmful cases of robocalls? Will these rules potentially allow law enforcement an easier way to track down abusive robocallers and recover victim funds? Are there data sources the Commission can use to track changes in robocall activity? Could the Commission use the number of unwanted call complaints filed with the Consumer Inquiries and Complaints Center as a proxy for the potential effect of the proposed rules? As the Commission has noted, an overall reduction in illegal robocalls will greatly lower network costs by eliminating both the unwanted traffic and the labor costs of handling numerous customer complaints. What is the expected benefit of these lower network costs? What data sources can the Commission use to estimate the effect on traffic on the network from these proposed rule changes?

58. We also believe that the proposals and many of the potential actions described in this document will aid in the conservation of numbering resources. Improving numbering resource conservation efforts is critical to delaying or potentially eliminating the need to incur future costs of improving the current numbering resources. We believe that more accurate data reporting will aid the Commission, state commissions, and the NANPA in managing numbering resources and aid the Commission in developing number resource conservation policy. Similarly, given the quantity of numbering resources consumed in number cycling, deterring or eliminating number cycling should also reduce demand for numbering resources. How should the Commission quantify the benefits of the potential improvement in delaying any need to expand the universe of numbering resources in the NANP?

59. With regard to potential costs, we believe that the certifications and disclosures we propose should place minimal burdens on service providers and resellers of telephone numbers. We estimate one hour of labor for each new certification and disclosure; do providers agree with this estimate? If not, what is a more appropriate estimate for total hours of labor per certification? Staff estimate there are fewer than 2,400 providers that would be affected. Do commentators agree with these estimates? We recognize that the incremental cost of the additional information to be collected as a result of our proposed changes to NRUF reporting to be greater on a per-service provider basis because they likely would require changes to internal systems, devoting resources to collecting information from resellers of telephone numbers, and potential changes to the NANPA contract to accommodate changes to the NANPA's NRUF reporting system. Staff estimates indicate the costs would likely be less than $560,000 cumulatively to providers. Do commentators agree that this is a reasonable estimate of potential costs of updating internal systems, and collecting the necessary information? If commentators disagree, what would be the expected costs to providers of making these changes? Potentially prohibiting number cycling does not appear to have meaningful cost, nor does empowering states to better implement our policies and rules. Are there any additional costs of the proposed rules that the Commission should consider?

60. Certain matters on which we seek comment, but do not make proposals, may have higher costs, such as potential means of improving available data relating to resale beyond modifications to NRUF reporting. Further, limiting resale to a single level has the potential to reduce resale-based competition to a certain degree. Do commenters agree that the benefits of reducing illegal robocalls could still outweigh such potential costs?

V. Legal Authority

61. We tentatively conclude that Section 251(e)(1) of the Act, which grants us ''exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States,'' provides us with authority to adopt our proposals and potentially take action on the vast majority of matters on which we seek comment. We seek comment on this conclusion.

62. We intend to rely on the same Section 251(e)(1) authority on which we relied in the *Second VoIP Direct Access Report and Order* and *Third VoIP Direct Access Report and Order* (66 FR 9532) to initially create and expand the application of robocall certification obligations for our proposed extension of the robocall certification obligations to all direct recipients of numbering resources. The Commission's general NRUF reporting requirements were established in the *Numbering Resource Optimization First Report and Order* pursuant to Section 251(e)(1), and the proposed changes to the substance of the NRUF rules, as well changes to how state commissions may access such data, would be a continuing exercise of this authority. Section 251(e)(1) similarly gives us authority to apply both of these sets of requirements to resellers of telephone numbers in their role as service providers that use numbering resources. Further, Section 251(e)(1) explicitly states that nothing in the subsection ''preclude[s] the Commission from delegating to State commissions or other entities all or any portion of such jurisdiction.'' We propose to rely on this authority for the expansion of state commissions' authority regarding enforcing our numbering rules.

63. We also tentatively conclude that Section 6(a) of the TRACED Act provides us with separate, additional

authority to adopt our proposals related to fighting illegal robocalls. Section 6(a)(1) directed the Commission to ''commence a proceeding to determine how Commission policies regarding access to number resources . . . could be modified, including by establishing registration and compliance obligations,'' and to ''take sufficient steps to know the identity of the customers of such providers [of voice services], to help reduce access to numbers by potential perpetrators of violations of Section 227(b) of the Communications Act of 1934 (47 U.S.C. 227(b)).''

64. The Commission commenced the required proceeding pursuant to the TRACED Act in March 2020. This *NPRM* serves an extension of that inquiry. Section 6(a)(2) of the TRACED Act states that ''[i]f the Commission determines under paragraph (1) that modifying the policies described in that paragraph could help achieve the goal described in that paragraph, the Commission shall prescribe regulations to implement those policy modifications.'' Because the proposals in this *NPRM* and potential actions on which we seek comment seek to reduce access to numbers by potential perpetrators of illegal robocalls, Section 6(a) of the TRACED Act provides an independent basis for the potential rule changes. This includes potentially limiting resale of numbering resources to a single level.

65. We seek comment on these tentative conclusions. We further invite commenters to suggest other potential supplemental or independent sources of authority for any rule changes that we may make in this proceeding.

VI. Initial Regulatory Flexibility Analysis

66. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Federal Communications Commission (Commission) has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the policies and rules proposed in the Notice of Proposed Rulemaking (*NPRM*) assessing the possible significant economic impact on a substantial number of small entities. The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified on the first page of the *NPRM.* The Commission will send a copy of the *NPRM,* including this IRFA, to the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy. In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

67. Combatting illegal robocalls remains paramount among the Commission's consumer protection priorities. As part of its multi-pronged effort to combat the tide of illegal robocalls, the Commission initiates this proceeding to evaluate whether to adopt changes to its numbering policy, particularly in how already-assigned numbers are used by service providers to further combat illegal robocalls. Although wireline, wireless, and interconnected Voice over internet Protocol (VoIP) service providers may receive numbering resources directly from the North American Numbering Plan Administrator (NANPA), the robocall ecosystem is broader because it also includes multiple levels of resellers that indirectly access numbering resources. In the *NPRM,* the Commission explores and proposes a broad array of solutions to strengthen the Commission's numbering requirements and policies, especially as they relate to numbering resource resellers as some of the most extensive illegal robocalling schemes often involve such resellers.

B. Legal Basis

68. The proposed action is authorized pursuant to Sections 1, 2, 4(i), (4)(j), and 251(e) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), and 251(e), and Section 6(a) of the TRACED Act 6(a), 47 U.S.C. 227b–1(a).

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

69. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act (SBA). A ''small business concern'' is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. The SBA establishes small business size standards that agencies are required to use when promulgating regulations relating to small businesses; agencies may establish alternative size standards for use in such programs, but must consult and obtain approval from SBA before doing so.

70. Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe three broad groups of small entities that could be directly affected by our actions. In general, a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses. Next, ''small organizations'' are not-for-profit enterprises that are independently owned and operated and not dominant in their field. While we do not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees. Finally, ''small governmental jurisdictions'' are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand. Based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.

71. The rules proposed in the *NPRM* will apply to small entities in the industries identified in the chart below by their six-digit North American Industry Classification System (NAICS) codes and corresponding SBA size standard. Based on currently available U.S. Census data regarding the estimated number of small firms in each identified industry, we conclude that the proposed rules will impact a substantial number of small entities. Where available, we also provide additional information regarding the number of potentially affected entities in the industries identified below.

TABLE 1—2022 U.S. CENSUS BUREAU DATA BY NAICS CODE

Regulated industry (footnotes specify potentially affected entities within a regulated industry where applicable)	NAICS code	SBA size standard	Total firms	Total small firms	% Small firms
Wired Telecommunications Carriers	517111	1,500 employees ..	3,403	3,027	88.95

TABLE 1—2022 U.S. CENSUS BUREAU DATA BY NAICS CODE—Continued

Regulated industry (footnotes specify potentially affected entities within a regulated industry where applicable)	NAICS code	SBA size standard	Total firms	Total small firms	% Small firms
Wireless Telecommunications Carriers (except Satellite).	517112	1,500 employees ..	1,184	1,081	91.30
Telecommunications Resellers	517121	1,500 employees ..	955	847	88.69
Satellite Telecommunications	517410	$44 million	332	195	58.73
All Other Telecommunications	517810	$40 million	1,673	1,007	60.19

TABLE 2—TELECOMMUNICATIONS SERVICE PROVIDER DATA

2024 Universal service monitoring report telecommunications service provider data (data as of December 2023)	SBA size standard (1,500 employees)		
Affected entity	Total # FCC form 499A filers	Small firms	% Small entities
Competitive Local Exchange Carriers (CLECs)	3,729	3,576	95.90
Incumbent Local Exchange Carriers (Incumbent LECs)	1,175	917	78.04
Interexchange Carriers (IXCs)	113	95	84.07
Local Exchange Carriers (LECs)	4,904	4,493	91.62
Local Resellers	222	217	97.75
Other Toll Carriers	74	71	95.95
Paging & Messaging	59	59	100.00
Prepaid Card Providers	47	47	100.00
Toll Resellers	411	398	96.84
Telecommunications Resellers	633	615	97.16
Wired Telecommunications Carriers	4,682	4,276	91.33
Wireless Telecommunications Carriers (except Satellite)	585	498	85.13
Wireless Telephony	326	247	75.77

D. Description of Economic Impact and Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

72. The RFA directs agencies to describe the economic impact of proposed rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirements and the type of professional skills necessary for preparation of the report or record.

73. In the *NPRM,* we propose to further extend the robocall certification requirements applicable to interconnected VoIP providers seeking direct access to numbering resources to *all* providers receiving numbering resources directly from the NANPA, including local exchange carriers and commercial mobile service providers, and also to all service providers that resell service that includes the provisioning of one or more telephone numbers. This would include interconnected VoIP providers that do not receive numbering resources through direct access, but through resale. We propose that all service providers impacted by these changes would be required to comply within 30 days of the effective date of the rules. Service providers intending to obtain numbering resources for the first time from the NANPA, as well as resellers intending to become operational, would be required to comply at least 30 days prior to submitting their first request for numbering resources to the NANPA or beginning to resell service. We seek comment on whether these compliance dates should be extended for small entities.

In addition, we propose modifications to the number utilization/forecast (NRUF) reporting requirements in the numbering resource utilization/forecast form to obtain more granular information regarding utilization, better detect irregularities, aid robocall enforcement efforts, and inform numbering policy development. We also propose that any changes or clarifications would apply to the first NRUF reporting period starting at least 12 months after the effective date of the order promulgating these rules, and seek comment on whether to establish a later deadline for small entities.

74. In the *NPRM,* the Commission seeks comment on a number of matters in addition to the proposals such as restricting numbering resale to a single level, how our numbering policy can and should address robocallers that rely on number ''cycling''—going through large quantities of telephone numbers on a rotating basis or even just one time; new ways in which the Commission, with assistance from the states and the NANPA, can better identify fraudulent use and misuse of telephone numbers; and other changes that could safeguard against abuse of massive quantities of numbering resources to promote efficient use of finite numbering resources and to further deter robocalling.

75. These proposals and matters on which we seek comment, if adopted, may create new or additional reporting or recordkeeping and/or other compliance obligations on small entities, if adopted. We estimate that the cost to small and other providers would be less than $560,000. We anticipate the information we receive in comments including, where requested, cost and benefit analyses, will help the Commission further identify and evaluate relevant compliance matters for small entities, including additional compliance costs such as whether small entities will have to hire professionals, and other burdens that may result from the inquiries we make in the *NPRM.*

E. Discussion of Significant Alternatives Considered That Minimize the Significant Economic Impact on Small Entities

76. The RFA directs agencies to provide a description of any significant

alternatives to the proposed rules that would accomplish the stated objectives of applicable statutes, and minimize any significant economic impact on small entities. The discussion is required to include alternatives such as: ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

77. The *NPRM* seeks comment on a number of alternatives that may minimize the impact of the proposed rules on small entities. For example, we seek comment on whether to limit certain obligations to service providers that obtain numbering resources directly from the NANPA, as opposed to also including resellers. The Commission does not believe that there will be a significant economic impact on small entities if its proposals were to be adopted but nevertheless seeks comment on whether it should establish a later implementation deadline for small entities and, if so, what it should be and how we should define small entities for such purposes. With respect to matters on which the Commission does not propose action but discusses implementation process, the Commission similarly seeks comment on potential later implementation deadline for small entities.

78. In evaluating the proposals in the *NPRM,* the Commission will fully consider the economic impact on small entities as it evaluates the comments filed, including comments related to costs and benefits. Alternative proposals and approaches from commenters will further develop the record and could help the Commission further minimize the economic impact on small entities. The Commission's evaluation of the comments filed in this proceeding will shape the final conclusions it reaches, the final alternatives it considers, and the actions it ultimately takes to minimize any significant economic impact that may occur on small entities from the final rules.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

79. None.

VII. Ordering Clauses

80. Accordingly, *it is ordered* that, pursuant to Sections 1, 2, 4(i), (4)(j), and 251(e) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), and 251(e), and Section 6(a) of the TRACED Act 6(a), 47 U.S.C. 227b–1(a), this Notice of Proposed Rulemaking *is adopted.*

81. *It is further ordered* that, pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on the Notice of Proposed Rulemaking on or before 30 days after publication in the **Federal Register**, and reply comments on or before 60 days after publication in the **Federal Register**.

82. *It is further ordered* that the Commission's Office of the Secretary, *shall send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy.

List of Subjects in 47 CFR Part 52

Communications common carriers, Telecommunications, Telephone.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 52 as follows:

PART 52—NUMBERING

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 155, 201–205, 207–209, 218, 225–227, 227b–1, 251–252, 271, 303, 332, unless otherwise noted.

Subpart B—Administration

■ 2. Section 52.15 is amended by revising the introductory text of paragraph (f)(1), paragraphs (f)(1)(v), (f)(3)(iii), (f)(5)(i), (f)(6)(i) and (ii), (g)(2), (g)(3)(N) and (O), (h), (k)(3), and adding paragraph (l) to read as follows:

§ 52.15 Central office code administration.

* * * * *

(f) * * *

(1) *Number use categories.* Numbering resources must be classified in one of the following categories and subcategories, for which the reporting provider bears the burden of determining status and designating appropriate categorization and subcategorization:

* * * * *

(v) *Intermediate numbers* are numbers that are made available for use by another telecommunications carrier or non-carrier entity (for purposes of this subparagraph (f), a reseller) for the purpose of providing telecommunications service, or any other service using telephone numbers, to an end user or customer. Numbers ported for the purpose of transferring an established customer's service to another service provider shall not be classified as intermediate numbers. *Intermediate numbers* must be further classified in one of the following subcategories:

(A) *Intermediate assigned numbers* are numbers that are *intermediate* and, from the perspective of the reseller, *assigned numbers.*

(B) *Intermediate other numbers* are numbers that are *intermediate* and, from the perspective of the reseller, either *administrative numbers, aging numbers, intermediate numbers used for further resale,* or *reserved numbers. Intermediate numbers used for further resale* are numbers that are made available for use by another reseller.

(C) *Intermediate available numbers* are numbers that are *intermediate* and, from the perspective of the reseller, are *available numbers.*

* * * * *

(3) * * *

(iii) All data shall be filed electronically in a format approved by the Wireline Competition Bureau.

* * * * *

(5) * * *

(i) Reporting carriers shall submit to the NANPA a utilization report of their current inventory of numbering resources. The report shall classify numbering resources in the following number use categories: *assigned, intermediate* (specified as either *intermediate assigned* or *intermediate other), reserved, aging,* and *administrative.* Further, reporting carriers shall identify the resellers of their telephone numbering resources by legal name and by an identification code or codes specified by the Wireline Competition Bureau.

* * * * *

(6) * * *

(i) Reporting carriers shall file forecast and utilization reports semi-annually on or before February 1 for the preceding reporting period ending on December 31, and on or before August 1 for the preceding reporting period ending on June 30.

(ii) State commissions may reduce the reporting frequency for NPAs in their states to annual. Reporting carriers operating in such NPAs shall file forecast and utilization reports annually

on or before August 1 for the preceding reporting period ending on June 30.

* * * * *

(g) * * *

(2) *Initial numbering resources.* An applicant for initial numbering resources must include in its application:

(i) Evidence that the applicant is authorized to provide service in the area for which the numbering resources are requested;

(ii) Evidence that the applicant is or will be capable of providing service within sixty (60) days of the numbering resources activation date; and

(iii) A copy of its filing made pursuant to paragraph (l) of this section. A provider of VoIP Positioning Center (VPC) services that is unable to demonstrate authorization to provide service in a state may instead demonstrate that the state does not certify VPC service providers in order to request pseudo-Automatic Numbering Identification (p-ANI) codes directly from the Numbering Administrators for purposes of providing 911 and E–911 service.

(3) * * *

(N) A certification that the applicant has fully complied, as applicable, with its obligations under §§ 1.80003(a), (j) and (l), 22.5, and 24.404(b) (and if not applicable, explicitly state so);

(O) A declaration under penalty of perjury pursuant to § 1.16 of this chapter that all statements in the application and any appendices are true and accurate. This declaration shall be executed by an officer or other authorized representative of the applicant.

* * * * *

(h) *National utilization threshold.* All applicants for growth numbering resources shall achieve a 75% utilization threshold, calculated in accordance with paragraph (g)(4)(ii) of this section, for the rate center in which they are requesting growth numbering resources.

* * * * *

(k) * * *

(3) Requests for ''for cause'' audits shall be forwarded to the Chief of the Enforcement Bureau, with a copy to the Chief of the Wireline Competition Bureau. Requests must state the reason for which a ''for cause'' audit is being requested and include documentation of the alleged anomaly, inconsistency, or violation of the Commission rules or orders or applicable industry guidelines. The Chief of the Enforcement Bureau will provide carriers up to 30 days to provide a written response to a request for a ''for cause'' audit.

(l) *Certification obligations applicable to carriers other than those authorized pursuant to paragraph (g)(3) of this section, and to resellers.*

(1) This subparagraph applies to the following:

(A) Carriers, other than those authorized pursuant to paragraph (g)(3) of this section, holding or seeking to hold geographic numbering resources that were, or will be, obtained directly from the NANPA/PA other than p-ANI (for the purposes of this subparagraph, covered carriers);

(B) Telecommunications carriers seeking to resell services that include the provisioning of geographic numbering resources other than p-ANI (for the purposes of this subparagraph, resellers).

(2) Each covered carrier and reseller must file the following:

(A) A certification that the covered carrier or reseller will not use numbers that it obtains to knowingly transmit, encourage, assist, or facilitate illegal robocalls, illegal spoofing, or fraud, in violation of robocall, spoofing, and deceptive telemarketing obligations under §§ 64.1200, 64.1604, and 64.6300 through 64.6308 of this chapter and 16 CFR 310.3(b);

(B) A certification that the applicant has fully complied with all applicable STIR/SHAKEN caller ID authentication and robocall mitigation program requirements and filed a certification in the Robocall Mitigation Database as required by §§ 64.6301 through 64.6305 of this chapter;

(C) A certification that the applicant has fully complied with its obligations under §§ 1.80003(a), (j), and (l), 22.5, 24.404(b), 63.18(h) and (i), and 90.115 (as applicable to the applicant);

(D) A declaration under penalty of perjury pursuant to § 1.16 of this chapter that each certification is true and accurate. This declaration shall be executed by an officer or other authorized representative of the applicant.

(3) Covered carriers not yet holding geographic numbering resources obtained directly from the NANPA other than p-ANI must make the filings required by paragraph (l)(2) no fewer than 30 days prior to its first initial application for numbering resources pursuant to subparagraph (g)(2).

(4) Resellers that are not yet reselling services that include geographic numbering resources other than p-ANI must make the filings required by paragraph (l)(2) no fewer than 30 days prior to beginning to resell such service.

Subpart C—Number Portability

■ 3. Add § 52.38 to read as follows:

§ 52.38 Reporting of Resale Relationships in Number Portability Databases.

Telecommunications carriers creating or maintaining records in the regional SMS databases for the provision of long-term database methods for number portability described in § 52.25 shall populate all pertinent fields relating to resellers of their service.

[FR Doc. 2026–09134 Filed 5–7–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 63

[WC Docket No. 26–82; FCC 26–29; FR ID 345037]

Protecting Against National Security Threats in Domestic Telecommunications Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Secure and Trusted Communications Networks Act of 2019 (Pub. L. 116–124, 134 Stat. 158 (2020) (codified as amended at 47 U.S.C. 1601–1609)) mandates that the Federal Communications Commission (Commission) publish and maintain a list of communications equipment and services (*i.e.,* the Covered List) that have been determined by agencies with national security responsibilities to pose an unacceptable risk to the national security of the United States or the security and safety of U.S. persons. In this document, the Commission adopted a Notice of Proposed Rulemaking (NPRM) that proposes 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 of 1934, as amended (47 U.S.C. 214). The NPRM also seeks comment on other potential exclusions from blanket authority under section 214 and other related measures.

DATES: Comments are due on or before June 8, 2026; reply comments are due on or before July 7, 2026. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before July 7, 2026.

ADDRESSES: Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments. Comments may be filed using the Commission's Electronic Comment

Filing System (ECFS). You may submit comments, identified by WC Docket Nos. 26–82, by the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *https://www.fcc.gov/ecfs.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission.
- Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.
- *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530.

In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act proposed information collection requirements contained herein should be submitted to the Federal Communications Commission via email to *PRA@fcc.gov* and to Nicole Ongele, FCC, via email to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For further information about this proceeding, please contact Melissa Kirkel, Competition Policy Division, Wireline Competition Bureau, at (202) 418–7958, or *melissa.kirkel@fcc.gov.* For additional information concerning the Paperwork Reduction Act proposed information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in WC Docket No. 26–82; FCC 26–29, adopted on April 30, 2026, and released on May 1, 2026. The full text of this document is available for public inspection at the following internet address: *https://docs.fcc.gov/public/attachments/FCC-26-29A1.pdf.*

Paperwork Reduction Act: This document may contain proposed new or revised information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Providing Accountability Through Transparency Act: Consistent with the Providing Accountability Through Transparency Act, a summary of this Notice of Proposed Rulemaking is available at *https://www.fcc.gov/proposed-rulemakings.* To request materials in accessible formats for people with disabilities (*e.g.* Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530.

Ex Parte Rules: The proceeding this document initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

Regulatory Flexibility Act. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' Accordingly, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning potential rule and policy changes contained in this Notice. The IRFA is set forth below. The Commission invites the general public, in particular small businesses, to comment on the IRFA. Comments must be filed by the deadlines for comments on the Notice indicated on the first page of this document and must have a separate and distinct heading designating them as responses to the IRFA.

Synopsis

I. Discussion

A. Excluding Entities Identified on the Covered List From Blanket Authority To Provide Domestic Interstate Telecommunications Services Under Section 214 of the Act

1. We propose to amend § 63.01 of the Commission's rules (47 CFR 63.01(a)) to exclude, on a prospective basis, any entities identified on the Covered List (that is, named entities and their current and future affiliates and subsidiaries and any entity included by reference therein) from being authorized to provide interstate telecommunications services pursuant to blanket domestic section 214 authority. Under this proposed exclusion, such entities would be prohibited from constructing, acquiring, or operating any line, or engaging in transmission over any lines pursuant to blanket authority under section 214. The proposed exclusion

would also apply if an entity on the Covered List is a proposed transferee/assignee of an existing authorization. Sections 214(a) and (c) of the Act require carriers providing domestic interstate telecommunications service to first obtain a certificate from the Commission that ''the present or future public convenience and necessity require or will require'' such services, and confer the Commission with the power to refuse to issue such certificates. The Commission has long recognized that promotion of national security is an integral part of the Commission's public interest responsibility. We tentatively conclude that the present and future public interest, convenience, and necessity would no longer be served by the grant of the Covered List entities' blanket domestic section 214 authority. We also tentatively conclude that excluding these entities, and their current and future affiliates and subsidiaries, from the grant of blanket domestic section 214 authority to provide interstate telecommunications is necessary given prior determinations by the national security agencies that some of the equipment and/or services provided by the named entities pose ''an unacceptable risk to the national security of the United States or the security and safety of United States persons,'' and that similar national security concerns exist with regard to these entities providing interstate telecommunications services. We observe that section 214 generally addresses only common carrier telecommunications services; notwithstanding this limitation, however, we believe that continuing to confer blanket domestic 214 authority on the entities identified on the Covered List will pose a serious threat to the entirety of the nation's communications ecosystem. Do commenters agree with our assessments? In light of the national security agencies' determinations about the equipment and services produced or provided by entities identified on the Covered List, are any additional findings needed to conclude that such entities should be excluded from the grant of blanket domestic section 214 authorization to provide interstate telecommunications services because such blanket authorization would not be in the ''public convenience and necessity''?

2. As the Covered List specifies whether an entity's equipment or services pose a threat to national security, we also seek comment whether the exclusion should apply only to entities whose communications *services* have been identified on the Covered List, and not to service providers whose equipment has been identified on the Covered List. Should it depend on which of an entity's services have been so identified? We tentatively conclude that a broad exclusion of all entities identified on the Covered List is appropriate, and seek comment on that conclusion. In the *Submarine Cable Report and Order* (90 FR 48648, Oct. 27, 2025), the Commission adopted a ''presumptive disqualifying condition'' for Covered List entities applying for submarine cable landing licenses, and explained that an ''applicant can overcome this adverse presumption only by establishing through clear and convincing evidence that the applicant does not fall within the scope of the adverse presumption . . . or that grant of the application would not pose risks to national security or that the national security benefits of granting the application would substantially outweigh any risks.'' We believe a different approach is justified in this context because the Commission has granted blanket authority to telecommunications carriers—there is no application from a provider to the Commission for a section 214 authorization to provide domestic interstate telecommunications services. As such, in the blanket domestic section 214 authorization context, the Commission would not have an opportunity to make a determination regarding Covered List entities, and an exclusion from blanket authorization is warranted. We seek comment on our analysis.

3. We further propose that any entity so excluded should be able to submit an individual application seeking affirmative approval for domestic section 214 authority. Our domestic section 214 rules address transfer of control applications but do not contemplate the filing of initial applications for domestic authority. If we adopt this proposal, we seek comment on whether we should adopt application requirements similar to those required in applications for international section 214 authority pursuant to § 63.18 of our rules, and we would propose to refer any such applications to the Executive Branch agencies (*i.e.* the Committee for the Assessment of Foreign Participation in the U.S. Telecommunications Services Sector, known as Team Telecom) for their review and input. Pursuant to Commission practice, foreign ownership determinations for applications for international section 214 authority are based on the requirements in § 63.18(h), which requires disclosure of ''name, address, citizenship, and principal businesses of any individual or entity that directly or indirectly owns ten percent or more of the equity interests and/or voting interests, or a controlling interest, of the applicant, and the percentage of equity and/or voting interest owned by each of those entities (to the nearest one percent).'' Such applications are referred to the relevant Executive Branch agencies for their views on any national security, law enforcement, foreign policy or trade policy concerns related to the proposed foreign ownership of the applicant. Among other things, the applicant must submit responses to standard questions directly to Team Telecom. Further, each applicant must attest that they will comply with specific laws pertaining to law enforcement. Among other requirements set out in the rule, each applicant is responsible for the continuing accuracy and completeness of all information submitted, and after the application is no longer pending, the applicant must notify the Commission and Team Telecom of any changes in the authorization holder or licensee information and/or contact information within 30 days. Each applicant is also subject to revocation of its authorization. Should the content of applications of any entity excluded from blanket section 214 domestic authority under our proposal differ from applications for international section 214 authorizations, and if so, in what way? We seek comment on whether we should adopt a presumption similar to the presumptive disqualifying condition adopted in the *Submarine Cable Report and Order,* so that denial of an application filed by an entity excluded from blanket section 214 operating authority is warranted unless they can overcome that presumption. Any such applicant that is subject to the foreign adversary presumptive disqualifying condition under § 1.70004(a) (47 CFR 1.70004(a)) can overcome this adverse presumption only by establishing through clear and convincing evidence that the applicant does not fall within the scope of the adverse presumption, or that grant of the application would not pose risks to national security or that the national security benefits of granting the application would substantially outweigh any risks. Any such applicant that is subject to the character presumptive disqualifying condition under § 1.70004(b) can overcome this adverse presumption only by establishing that the applicant has the requisite character, despite its past conduct.

4. In granting blanket domestic section 214 authority to all carriers, the Commission intended to promote competition by deregulating domestic entry, while at the same time retaining the ability to protect the public interest by withdrawing authority from carriers whose continued provision of telecommunications services was no longer in the public interest. The competitive landscape of the domestic telecommunications market has changed significantly in the more than 25 years since the adoption of the 1999 *Domestic 214 Blanket Authority Order.* With the substantial growth in competition throughout nearly three decades and variety of services available to customers, blanket authority has been effective in its stated purpose. At the same time, we are cognizant of changed circumstances in the national security environment, as demonstrated by the Commission's recent actions and establishment of the Covered List. While we recognize the continuing importance of robust market entry, we must also consider Congress's directive that the Commission promote ''the national defense.'' In the *Foreign Participation Order,* the Commission stated that it considers ''national security'' and ''foreign policy'' concerns when granting authorizations to provide international service under section 214 of the Act. Indeed, promotion of national security is an integral part of the Commission's public interest responsibility, including its administration of section 214 of the Act, and is one of the core purposes for which Congress created the Commission. We believe that where the Commission, Congress, or other U.S. government agencies previously determined that the equipment or services produced or provided by an entity pose an unacceptable risk to the national security of the United States and its citizens, the Commission's interests in protecting national security and public safety outweigh any of the potential benefits of unregulated entry into the market for the provision of domestic telecommunications services. Rather, as noted above, we propose that such entities should be required to affirmatively apply for and obtain domestic section 214 authority from the Commission before providing such services. As we do with international section 214 applications, we would expect to seek input from Executive Branch agencies on any such application. We seek comment on this proposed analysis.

5. Should we expand this exclusion to other entities? For example, should we expand the exclusion to entities ''owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary'' as defined in § 1.70001(g)? If we adopted such exclusion, should we adopt the definition we used in several recent proceedings for consistency or use a different definition? Is the exclusion of such entities from blanket domestic section 214 authority justified given the national security concerns presented by foreign adversaries to our nation's communications networks? What are the benefits or drawbacks of excluding such entities from blanket domestic section 214 authority? We expect that, once implemented, the Commission, as well as customers and other telecommunications carriers, will be able to rely on the recently adopted foreign adversary control attestation and disclosure requirements to identify such entities. Should the Commission require entities seeking to provide domestic interstate telecommunications services to submit a foreign adversary control attestation prior to providing service? Should the Commission also consider excluding from blanket domestic section 214 authority any entity that installs any covered communications equipment or service after the adoption of this rule? Would such an exclusion be justified on the basis that such equipment or service has been found to pose an unacceptable risk to the national security of the United States or the safety and security of United States persons? What about excluding any entity that installs communications equipment or services produced or provided by entities ''owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary'' as defined in § 1.70001(g)? What are the benefits or drawbacks of excluding such entities from blanket domestic section 214 authority? Should any exclusion encompass all equipment installed by the entity, or only equipment installed to provide domestic telecommunications service? If the Commission were to adopt a prohibition on the future installation of certain equipment, without requiring the removal of existing equipment, how should the Commission treat repairs of existing equipment or service contracts to maintain or repair that existing equipment?

B. Revocation of Existing Blanket Authority to Provide Domestic Interstate Telecommunications Services for Entities Identified on the Covered List

6. For entities on the Covered List that already currently provide domestic interstate telecommunications services subject to blanket section 214 authority as of the effective date of a rule mandating an exclusion, we seek comment on what the appropriate process would be for revoking their authorizations if we adopt our proposal to exclude Covered List entities from blanket domestic operating authority. We seek comment, for example, on whether we should follow the streamlined procedural framework adopted in the *Foreign Adversary Control Report and Order* that would apply in certain cases involving ''Covered Authorizations,'' as defined therein, deemed to pose national security risks. We believe that doing so would provide a consistent procedural approach to authorization holders that pose national security risks, and would ease administrability for the Commission. Should the affected entities provide notice and other transitional support within a certain timeframe following the date of any revocation action, and what should be the duration of any such notice period? What steps can and should the Commission take to ease the transition for customers of affected service providers if their domestic section 214 operating authority is revoked, and are such determinations best made in revocation proceedings rather than a general rulemaking?

7. In the alternative, we seek comment on whether we should declare that Covered List entities' blanket operating authority is deemed revoked as of a date certain, for example, as of six months after the effective date of adoption of the proposed rule. In other words, should the Commission instead adopt a transition period for Covered List entities to discontinue domestic telecommunications services that they are providing for any affected entity whose blanket domestic section 214 authority is in effect revoked by the adoption of the proposed rule that is currently providing service? If the Commission does declare blanket operating authority deemed revoked after a six-month transition period, should the Commission also allow entities added to the Covered List in the future to have six months prior to their operating authority being deemed revoked? If so, should the Commission require such affected entities to provide notice and other transitional support, such as number porting assistance, to customers of their domestic telecommunications services?

C. Interconnection With Excluded Entities and Other Measures

8. There are significant national security concerns involving telecommunications carriers interconnecting with entities identified

on the Covered List. The Commission has repeatedly found that certain entities identified on the Covered List have the ability to access and/or manipulate data through services provided pursuant to section 214 authority, including by misrouting information and communications traffic, which poses unacceptable national security and law enforcement risks. Based on these previous findings and determinations, we tentatively conclude that similar national security concerns exist with regard to telecommunications carriers interconnecting with entities identified on the Covered List. We seek comment on this tentative conclusion.

9. We seek comment on whether the Commission should address these national security risks by prohibiting telecommunications carriers from interconnecting with entities that we prohibit from providing interstate service under the proposed exclusion to § 63.01 blanket operating authority, unless such entities have applied for and received authorization from the Commission. We also seek comment on whether we should also apply this prohibition to entities that have had their blanket operating authority revoked. Should the Commission take additional actions to address the national security risks of interconnecting with equipment and services that have been added to the Covered List? For example, should the Commission prohibit telecommunications carriers from interconnecting with entities that installed equipment on the Covered List in their networks after such equipment was added to the Covered List? Should the Commission prohibit interconnection with any facilities—including Points of Presence (PoPs) and data centers—that are owned or operated by entities that are identified on the Covered List? What other actions should the Commission take to mitigate the risks posed by telecommunications carriers interconnecting with the entities, equipment, and services identified on the Covered List? If the Commission adopts one or more of the prohibitions proposed in this section, should the Commission simultaneously exempt or waive such prohibitions for specific PoPs to allow Covered List entities to have limited interconnection ability? Alternatively or additionally, should the Commission delegate to the Wireline Competition Bureau (WCB) the ability to waive such prohibitions with respect to certain PoPs?

10. We tentatively conclude that interconnection with an entity that does not have a domestic section 214 authorization due to national security reasons, or whose authorization was revoked, would be an unreasonable practice under section 201(b) of the Act. We further tentatively conclude that this analysis is consistent with section 251(a), which imposes a general duty on all telecommunications carriers ''to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers.'' We would read the term ''other telecommunications carriers'' in the statute to not include entities that have been denied or excluded from blanket domestic 214(a) authority, or whose authority has been revoked, and thus for any such entity there would be no duty to interconnect with them under 251(a). We seek comment on this proposed analysis. Alternatively, is the interplay with section 251(a)(1) resolved by the section 201 savings clause in section 251(i)? Or should the Commission consider targeted forbearance from section 251(a)(1) in this context? We note as an analogy that the Commission's removal of a provider from the Robocall Mitigation Database for non-compliance with Commission regulations subsequently imposes a requirement on all intermediate providers and terminating voice service providers to cease accepting traffic from that entity. Do commenters agree that this approach should similarly be applied here? Do carriers' existing interconnection agreements already allow for termination if one party is no longer authorized by the Commission to provide service? If they do not, what would be the expected cost of renegotiating such agreements? How would a legal ban on such interconnection affect the enforceability of existing interconnection agreements? How many providers would be estimated to be impacted? Are there any network changes that carriers would need to make if the Commission adopted a rule prohibiting interconnection with entities on the Covered List and/or entities ''owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary'' whose blanket domestic section 214 authority was revoked? If so, what would be the costs of these network changes? Would a transition period be necessary for telecommunications carriers and customers to implement such a requirement, and if so, what would be a reasonable time period, given the pressing national security concerns? Are such matters, including any requirements to provide notice to customers and telecommunications carriers, more appropriately addressed in a revocation proceeding?

11. Would such measures be sufficient to protect U.S. telecommunications networks from the threat from Covered List entities that have had their international section 214 authorization revoked or denied on national security grounds? Should the Commission take additional measures regarding this narrower class of entities? For example, beyond interconnection in interstate telecommunications, should the Commission prohibit any holder of a Covered Authorization, as defined in § 1.80001(a), from engaging, in the United States, in any transaction or other dealings with such entities? How narrowly should we apply such a prohibition? For example, should these be limited to certain transactions, *i.e.* those transactions that would generally fall within Commission jurisdiction? Would such action effectively protect U.S. telecommunications networks from the threat these entities pose? What would be the costs of such a prohibition? What are the benefits? Should the Commission grant any exemptions? Does the Commission have legal authority for such a step with respect to some or all such Covered Authorizations? How do Covered Authorization holders contract and deal with any such entities? Since entities must file applications to receive international section 214 authorizations and numerous other Covered Authorizations, could the Commission, as a condition to any approval, prohibit applicants from engaging in such transactions on a going forward basis? How would such a prohibition be feasible for entities that have blanket domestic section 214 authority? Could we independently codify such a prohibition as a condition for obtaining blanket domestic section 214 authority? Should any such prohibition be phased in over time? Could any such prohibitions be applied retroactively? We seek comment on this and other ways the Commission can address the threat from continued operations of Covered List entities that have had their international section 214 authorization revoked or denied on national security grounds.

12. Might the Commission pursue other measures to secure U.S. telecommunications networks from such entities? For example, part 15 of the Commission's rules allows devices employing Radio Frequency (RF) signals to operate without individual licenses, provided that their operation causes no harmful interference to authorized services and the devices do not generate emissions greater than a specified limit.

These RF devices can be used to provide communications services to customers or other third parties. Parties operating under our unlicensed wireless rules—including Covered List entities–could operate in a manner analogous to blanket domestic section 214 authority by offering non-common carrier service without advance review by the Commission so long as they use equipment that meets the criteria in our rules. For example, Covered List entities could begin offering fixed wireless broadband internet access service by relying on equipment authorized by the FCC and that complies with the technical criteria of our part 15 rules. We therefore seek comment on whether we should modify our rules governing unlicensed wireless operation to accomplish the same objectives in our proposals to modify the rules governing any blanket domestic section 214 authority as discussed above.

13. Should we revise our unlicensed wireless rules to exclude Covered List entities from, by default, being able to offer service to the public or other third parties simply by using equipment that complies with the requirements of our unlicensed wireless rules? What would the appropriate scope of such a restriction be? Should it be limited to the provision of certain specified communications services, such as fixed wireless internet access to business customers, or should the restriction apply more broadly or narrowly? How would we incorporate use-based restrictions into the existing part 15 rule framework and what specific rule changes would best effectuate any such exclusion? Are there any additional actions the Commission should take to limit the use of RF devices operating under our part 15 rules to protect U.S. communications networks against national security threats?

D. Legal Authority

14. We tentatively conclude that the Commission has authority under section 214 to exclude Covered List entities or entities ''owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary'' from blanket authorization to provide interstate domestic telecommunications services under section 214. Section 214(a) prohibits any carrier from constructing, acquiring, or operating any line, and from engaging in transmission through any such line, without first obtaining a certificate from the Commission ''that the present or future public convenience and necessity require or will require the construction, or operation, or construction and operation, of such . . . line . . . .'' Thus, the Act requires the Commission to ensure that not only the ''construction'' of the line, but also its ''operation,'' further not only the present, but also the future public convenience and necessity. Section 214(c) of the Act affords the Commission discretion to grant the authority requested or ''refuse'' to do so. Promotion of national security is an integral part of the Commission's public interest responsibility, including its administration of section 214, and one of the core purposes for which Congress created the Commission. Importantly, in prior revocation actions, the Commission has revoked international and domestic section 214 authorization on national security grounds, and such decisions have been upheld. Therefore, we tentatively conclude that national security is a valid basis for the rules we propose, and tentatively find that section 214 gives the Commission authority to exclude from the issuance of blanket domestic section 214 authority those entities identified on the Covered List or entities ''owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary'' and thus prohibit them from providing domestic interstate telecommunications services under section 214 of the Act. We seek comment on this proposed analysis.

15. We also tentatively conclude that section 201(b) provides authority for the Commission to prohibit telecommunications carriers from interconnecting with Covered List entities or entities ''owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary'' that are excluded from blanket section 214 operating authority and/or have had their domestic section 214 operating authority revoked. Section 201(b) requires that all practices in connection with interstate communications services by wire or radio be just and reasonable, and that any such practices that are unjust or unreasonable are unlawful. That provision also states that nothing in the Act ''shall be construed to prevent a common carrier subject to this Act from entering into or operating under any contract with any common carrier not subject to this Act, for the exchange of their services, *if the Commission is of the opinion that such contract is not contrary to the public interest.*'' Where, as here, the Commission would tentatively conclude that interconnection with an entity that lacks operating authority as a result of national security concerns is contrary to the public interest, we tentatively conclude that it would also be an unreasonable practice. As such, we tentatively conclude that section 201(b) provides direct authority for the Commission to prohibit telecommunications carriers from interconnecting with entities on the Covered List or entities ''owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary,'' or that have otherwise had their section 214 operating authority revoked. We believe that the requirement in section 251(a) that telecommunications carriers ''interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers'' would not apply in cases where the provider lacks operating authority, and therefore would not be a telecommunications carrier. Further, section 251(i) specifically explains that nothing in section 251 ''shall be construed to limit or otherwise affect the Commission's authority under section 201.''

16. With respect to possible modifications to our unlicensed wireless rules, we seek comment on our authority under Title III or other provisions of the Act. We recognize that ''[t]he Commission has long interpreted section 301 of the Act to allow the unlicensed operation of a device that emits radio frequency energy as long as it does not 'transmit[ ] enough energy to have a significant potential for causing harmful interference' to licensed radio operators.'' The Commission further possesses authority to regulate wireless equipment with interference potential under section 302(a) of the Act. How does our Title III authority allow us to exclude certain entities from the default ability to offer unlicensed wireless service using equipment authorized pursuant to our existing rules, or to regulate interconnection by licensees with excluded entities? Are there particular risks presented by the entities potentially subject to exclusion that would give rise to concerns about interference caused by their operations that are not likely to arise in the case of operations by other entities under our part 15 rules?

17. Would the contemplated regulation be an action ''to maintain the control of the United States over all the channels of radio transmission'' under section 301 and promote the national defense and safety of life and property under section 1 of the Act? If so, in what ways should that inform how the Commission exercises authority such as sections 302, 303, or other provisions of the Communications Act? Are there any other possible sources of authority for any of the rules contemplated in this Notice?

E. Cost-Benefit Analysis

18. As discussed above, we believe the actions we propose today are necessary to protect the security of our nation's communications networks. By excluding entities that raise national security concerns from blanket authorization to provide domestic interstate telecommunications services, we would enable the Commission to appropriately evaluate whether provision of such services is in the public interest, and whether the benefits to competition are outweighed by national security concerns. We seek comment on the benefits of this proposal. We recognize that prospectively excluding certain entities that raise national security concerns from blanket authorization to provide domestic interstate telecommunications services (or revoking the domestic section 214 authority of such entities that currently provide such services) may affect the nation's communications markets on the whole, as well as affect current and prospective customers of such entities. What customers would be impacted and what costs would they incur in switching carriers? What would be the costs for excluded carriers to refile applications for domestic section 214 authority or to participate in revocation proceedings? Do other carriers currently interconnect with the carriers on the Covered List? If so, what costs would be incurred by carriers that currently interconnect with carriers that may be impacted by the proposed rules? What data sources may the Commission use that would help us understand the costs faced by impacted providers, interconnected carriers, and consumers? We seek comment on methods of quantifying such costs, as well as whether such costs are outweighed by the benefits to national security. We also seek comment on these considerations in the case of other potential actions contemplated by this notice, including the possible exclusion of entities from the default ability to offer unlicensed wireless service absent case-by-case Commission review.

II. Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA) the Federal Communications Commission (Commission) has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the policies and rules proposed in the *Notice of Proposed Rulemaking* (*NPRM*) assessing the possible significant economic impact on a substantial number of small entities. The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified on the first page of the *Notice.* The Commission will send a copy of the *Notice,* including this IRFA, to the Chief Counsel for Small Business Administration (SBA) Office of Advocacy. In addition, the *Notice* and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

2. In the *NPRM,* The Commission seeks to protect our Nation's communications networks against foreign threats and promote national security interests in the administration of section 214 of the Communications Act of 1934, as amended (the Act). Specifically, we propose to exclude entities identified on the ''Covered List'' from blanket Commission authorization to provide domestic interstate telecommunications services under section 214. We seek comment on whether to exclude entities owned by, controlled by, or subject to the jurisdiction or direction of a ''foreign adversary'' from providing domestic interstate telecommunications services pursuant to blanket domestic section 214 authority. Additionally, we seek comment on to the appropriate process to revoke operating authorization for entities identified on the Covered List that currently provide domestic interstate telecommunications services pursuant to blanket section 214 authority. The *NPRM* also seeks comment on whether the Commission should prohibit telecommunications carriers from interconnecting with entities on the Covered List (and/or entities owned by, controlled by, or subject to the jurisdiction or direction of a ''foreign adversary'') that have been prohibited from providing interstate service under the proposed § 63.01 exclusion or have had their blanket operating authority revoked. Finally, the *NPRM* seeks comment on other measures that Commission should take to protect our telecommunications networks from risks posed by entities on the Covered List. For example, the *NPRM* seeks comment on whether the Commission should prohibit any holder of a Covered Authorization, as defined in § 1.80001(a), from engaging, in the United States, in any transaction or other dealings with such entities, and whether it should modify the Commission's rules governing unlicensed wireless operation to accomplish the same objectives in the proposals to modify the rules governing any blanket domestic section 214 authority.

B. Legal Basis

3. The proposed action is authorized pursuant to sections 1–4, 201, 214, 251, and 301–303 of the Communications Act of 1934, as amended, 47 U.S.C. 151–54, 201, 214, 251, 301–303.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

4. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.'' A ''small business concern'' is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. The SBA establishes small business size standards that agencies are required to use when promulgating regulations relating to small businesses; agencies may establish alternative size standards for use in such programs, but must consult and obtain approval from SBA before doing so.

5. Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe three broad groups of small entities that could be directly affected by our actions. In general, a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses. Next, ''small organizations'' are not-for-profit enterprises that are independently owned and operated and not dominant in their field. While we do not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees. Finally, ''small governmental jurisdictions'' are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand. Based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.

6. The rules proposed in the *NPRM* will apply to small entities in the

industries identified in the chart below by their six-digit North American Industry Classification System (NAICS) codes and corresponding SBA size standard. Based on currently available U.S. Census data regarding the estimated number of small firms in each identified industry, we conclude that the proposed rules will impact a substantial number of small entities. Where available, we also provide additional information regarding the number of potentially affected entities in the industries identified below.

TABLE 1—2022 U.S. CENSUS BUREAU DATA BY NAICS CODE

Regulated industry (Footnotes specify potentially affected entities within a regulated industry where applicable)	NAICS Code	SBA size standard	Total firms	Total small firms	% Small firms
Other Communications Equipment Manufacturing.	334290	800 employees	310	294	94.84
Wired Telecommunications Carriers	517111	1,500 employees	3,403	3,027	88.95
Wireless Telecommunications Carriers (except Satellite).	517112	1,500 employees	1,184	1,081	91.30
Telecommunications Resellers	517121	1,500 employees	955	847	88.69
Satellite Telecommunications	517410	$44 million	332	195	58.73
All Other Telecommunications	517810	$40 million	1,673	1,007	60.19

TABLE 2—TELECOMMUNICATIONS SERVICE PROVIDER DATA

2024 Universal service monitoring report telecommunications service provider data (Data as of December 2023)	SBA size standard (1500 Employees)		
Affected entity	Total # FCC Form 499A filers	Small firms	% Small entities
Competitive Local Exchange Carriers (CLECs)	3,729	3,576	95.90
Incumbent Local Exchange Carriers (Incumbent LECs)	1,175	917	78.04
Interexchange Carriers (IXCs)	113	95	84.07
Local Exchange Carriers (LECs)	4,904	4,493	91.62
Other Toll Carriers	74	71	95.95
Toll Resellers	411	398	96.84
Telecommunications Resellers	633	615	97.16
Wired Telecommunications Carriers	4,682	4,276	91.33
Wireless Telecommunications Carriers (except Satellite)	585	498	85.13
Wireless Telephony	326	247	75.77

D. Description of Economic Impact and Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

7. The RFA directs agencies to describe the economic impact of proposed rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirements and the type of professional skills necessary for preparation of the report or record.

8. The *NPRM* seeks comment on proposals that, if adopted, could create new or additional reporting or recordkeeping and/or other compliance obligations on small entities providing domestic interstate telecommunications services. Specifically, in the *NPRM,* we seek comment on proposals to exclude entities on the Covered List and entities that are owned by, controlled by, or subject to the jurisdiction or direction of a ''foreign adversary'' from providing interstate telecommunications services pursuant to blanket domestic section 214 authority. Specifically, we propose to amend § 63.01 of the Commission's rules to exclude entities on the Covered List from being authorized to provide interstate telecommunications services pursuant to blanket domestic section 214 authority. The *NPRM* also seeks comment on the appropriate process to revoke operating authorizations for entities identified on the Covered List that currently provide domestic interstate telecommunications services pursuant to blanket section 214 authority. Additionally, the *NPRM* seeks comment on whether the Commission should prohibit telecommunications carriers from interconnecting with entities on the Covered List and/or those owned by, controlled by, or subject to the jurisdiction or direction of a ''foreign adversary.'' We expect that the proposals in the *NPRM* are necessary to protect the security of the nation's communications networks. We anticipate the information we receive in comments including, where requested, cost and benefit analyses, will help the Commission further identify and evaluate relevant compliance matters for small entities, including compliance costs such as whether small entities will have to hire professionals, and other burdens that may result from the inquiries we make in the *NPRM.*

E. Discussion of Significant Alternatives Considered That Minimize the Significant Economic Impact on Small Entities

9. The RFA directs agencies to provide a description of any significant alternatives to the proposed rules that would accomplish the stated objectives of applicable statutes, and minimize any significant economic impact on small entities. The discussion is required to include alternatives such as: ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design

standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

10. In the *NPRM,* the Commission seeks comment on proposals to strengthen and protect the nation's telecommunications networks against foreign threats. Through these proposals the Commission seeks to exercise appropriate oversight over domestic blanket section 214 authorization holders to safeguard U.S. telecommunications networks. The *NPRM* seeks comment on whether there are any other findings or determinations necessary in the ''public convenience and necessity'' to conclude that such entities should be excluded from blanket domestic section 214 authorizations to provide interstate telecommunications services. The Commission recognizes the potential impact excluding certain entities that raise national security concerns from blanket authorization to provide domestic interstate telecommunications services may have on competition and consumers and seeks comment on methods of quantifying such costs, as well as whether such costs are outweighed by the benefits to national security.

11. The Commission will fully consider the economic impact on small entities as it evaluates the comments filed in response to the *NPRM,* including comments related to costs and benefits. Alternative proposals and approaches from commenters will further develop the record and could help the Commission further minimize the economic impact on small entities. The Commission's evaluation of the comments filed in this proceeding will shape the final conclusions it reaches, the final alternatives it considers, and the actions it ultimately takes to minimize any significant economic impact that may occur on small entities from the final rules.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

12. The FCC has determined there are no rules that are duplicative, overlapping, or conflicting with this proposed rule.

III. Ordering Clauses

1. Accordingly, *it is ordered* that pursuant to sections 1–4, 201, 214, 251, 301, 302, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 151–54, 201, 214, 251, 301–303, the Notice of Proposed Rulemaking hereby *is adopted.*

2. *It is further ordered* that, pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on this Notice of Proposed Rulemaking on or before 30 days after publication in the **Federal Register**, and reply comments on or before 60 days after publication in the **Federal Register**.

3. *It is further ordered* that the Commission's Office of the Secretary, *shall send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy.

List of Subjects in 47 CFR Part 63

Communications, Communications common carriers, Radio, Telephone.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 63 of the Code of Federal Regulations as follows:

PART 63—EXTENSION OF LINES, NEW LINES, AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

■ 1. The authority for part 63 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 160, 201–205, 214, 218, 403, 571, unless otherwise noted.

■ 2. Amend § 63.01 by revising paragraph (a) to read as follows:

§ 63.01 Authority for all domestic common carriers.

(a) Any party that would be a domestic interstate communications common carrier is authorized to provide domestic, interstate services to any domestic point and to construct or operate any domestic transmission line as long as it obtains all necessary authorizations from the Commission for use of radio frequencies. This authorization does not apply to any entities identified on the Covered List (named entities and their affiliates and subsidiaries, as well as entities included by reference therein) published pursuant to § 1.50002 of this chapter available at *https://www.fcc.gov/supplychain/coveredlist.*

* * * * *

[FR Doc. 2026–09190 Filed 5–7–26; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 91, No. 89
Friday, May 8, 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 COMMERCE

Foreign-Trade Zones Board

[B–44–2026]

Foreign-Trade Zone (FTZ) 81, Notification of Proposed Production Activity; Turbocam Inc.; (Turbocharger and Aircraft Engine Compressor Components); Barrington, Dover, and Rochester, New Hampshire

Turbocam Inc. submitted a notification of proposed production activity to the FTZ Board (the Board) for its facilities in Barrington, Dover, and Rochester, New Hampshire within FTZ 81. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on May 1, 2026.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status materials/components and specific finished products described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via *www.trade.gov/ftz.*

The proposed finished products include: titanium heavy-duty turbocharger impellers, nickel-alloy commercial aircraft engine high pressure compressor stage components, aluminum turbocharger compressor impellers, steel automotive turbocharger vaned diffusers, and steel automotive turbocharger exhaust nozzle rings (duty rates are duty free).

The proposed foreign-status materials/components include: titanium-alloy impeller forgings for turbocharger compressor wheels; commercial aircraft engine outer compressor shroud covers; commercial aircraft engine compressor stator vane blanks; commercial aircraft engine compressor nickel-alloy inlet-guide-vane blanks; aluminum impeller forgings for turbocharger compressor wheels; automotive turbocharger compressor backplates; nickel-alloy near-net-shape machined blanks for aircraft engine high-pressure compressor disks; nickel-alloy closed-die forgings for aircraft engine high-pressure compressor spacers; nickel-alloy sheet-metal blanks for aircraft engine compressor casings/shrouds; and, stainless-steel spacer bushings (duty rate ranges from duty-free to 5.5%).

The request indicates that certain materials/components are subject to duties under section 122 of the Trade Act of 1974 (Section 122), section 201 of the Trade Act of 1974 (section 201), section 232 of the Trade Expansion Act of 1962 (section 232), or section 301 of the Trade Act of 1974 (section 301), depending on the country of origin. The applicable section 122, section 201, section 232, and section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is June 17, 2026.

A copy of the notification will be available for public inspection in the ''Online FTZ Information System'' section of the Board's website.

For further information, contact Christopher Williams at *christopher.williams@trade.gov.*

Dated: May 6, 2026.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2026–09222 Filed 5–7–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–836]

Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2024–2025

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that the producers and exporters subject to this administrative review made sales of certain cut-to-length carbon-quality steel plate products (CTL plate) from the Republic of Korea (Korea) at prices below normal value during the period of review (POR) covering February 1, 2024, through January 31, 2025.

DATES: Applicable May 8, 2026.

FOR FURTHER INFORMATION CONTACT: Erin Howard and Mei Bradford, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington DC 20230; telephone: (202) 482–3453 and (202) 482–0197, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 10, 2000, Commerce published in the **Federal Register** the antidumping duty (AD) order on CTL plate from Korea.[1] On February 26, 2026, Commerce published the preliminary results and partial rescission of this administrative review [2] in the **Federal Register** and invited interested parties to comment.[3] We received no comments from interested parties on the *Preliminary Results* and

[1] *See Notice of Amendment of Final Determinations of Sales at Less Than Fair Value and Antidumping Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate Products from France, India, Indonesia, Italy, Japan and the Republic of Korea,* 65 FR 6585 (February 10, 2000) (*Order*).

[2] *See Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Preliminary Results and Rescission of Antidumping Duty Administrative Review, in Part; 2024–2025,* 91 FR 9562 (February 26, 2026) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[3] *Id.*

we made no changes to the *Preliminary Results.* Accordingly, no decision memorandum accompanies this notice, and the *Preliminary Results* are hereby adopted in these final results. Commerce conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). The deadline for these final results is June 26, 2026.

Scope of the Order

The products covered by this *Order* are certain hot-rolled carbon-quality steel: (1) Universal mill plates (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut–to length (not in coils) and without patterns in relief), of iron or non-alloy quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils). Steel products included in the scope of the *Order* are of rectangular, square, circular, or other shape and of rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.,* products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished, or coated with plastic or other non-metallic substances are included within this scope. Also, specifically included in the scope of the *Order* are high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Steel products included in this scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements, (2) the carbon content is two percent or less, by weight, and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent zirconium. All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of the *Order* unless otherwise specifically excluded. The following products are specifically excluded from the *Order:* (1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (*i.e.,* USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

Imports of steel plate are currently classified in the HTSUS under subheadings 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.40.3050, 7225.40.7000, 7225.50.6000, 7225.99.0090, 7226.91.5000, 7226.91.7000, 7226.91.8000, and 7226.99.0000. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the merchandise covered by the *Order* is dispositive.

Final Results of the Review

Commerce determines that the following weighted-average dumping margins exist for the period February 1, 2024, through January 31, 2025:

Producer/exporter	Weighted-average dumping margin (percent)
Dongkuk Steel Mill Co., Ltd	1.18
Hyundai Steel Company	0.94

Disclosure

Normally, Commerce discloses to interested parties the calculations of the final results of an administrative review within five days of a public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because we have made no changes to the *Preliminary Results,* there are no new calculations to disclose.

Assessment Rates

Upon completion of the final results of this administrative review, pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise covered by this review.[4] If a respondent's weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.50 percent) in the final results of this review, we calculate an importer-specific assessment rate based on the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of the sales in accordance with 19 CFR 351.212(b)(1).[5] If the respondent's weighted-average dumping margin or an importer-specific assessment rate is zero or *de minimis* in the final results of this review, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.[6]

For entries of subject merchandise during the POR produced by either of the individually examined respondents for which they did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate those unreviewed entries at the all-others rate (*i.e.,* 0.98 percent) [7] if there is no rate for the intermediate company (or companies) involved in the transaction.[8]

The final results of this administrative review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[9] We intend to issue assessment instructions regarding the individually examined respondents to

[4] *See* 19 CFR 351.212(b)(1).

[5] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[6] *Id.; see also* 19 CFR 351.106(c)(2).

[7] *See Order; see also Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Final Results and Rescission in Part of Antidumping Duty Administrative Review,* 69 FR 26361, 26363 (May 12, 2004) (noting the ''all others'' rate adjustment for the concurrent countervailing duty export subsidy rate).

[8] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[9] *See* section 751(a)(2)(C) of the Act.

CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired, *i.e.,* within 90 days of publication.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication in the **Federal Register** of the notice of the final results of this administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the individually examined respondents listed above will be that established in the final results of this administrative review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for merchandise exported by companies not covered in this review but covered in a prior segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the investigation but the producer is, then the cash deposit rate will be the rate established in the most recently completed segment for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 0.98 percent, the all-others rate established in the investigation.[10] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Administrative Protective Order (APO)

This notice also serves as a final reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(5).

Dated: May 4, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2026–09131 Filed 5–7–26; 8:45 am]

BILLING CODE 3510–DS–P

[10] *See, e.g., Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2023–2024,* 90 FR 45373, 45374 (September 22, 2025).

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Scope Ruling Applications Filed in Antidumping and Countervailing Duty Proceedings

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) received scope ruling applications, requesting that scope inquiries be conducted to determine whether identified products are covered by the scope of antidumping duty (AD) and/or countervailing duty (CVD) orders and that Commerce issue scope rulings pursuant to those inquiries. In accordance with Commerce's regulations, we are notifying the public of the filing of the scope ruling applications listed below in the month of March 2026.

DATES: Applicable May 8, 2026.

FOR FURTHER INFORMATION CONTACT: Yasmin Bordas, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–3813.

Notice of Scope Ruling Applications

In accordance with 19 CFR 351.225(d)(3), we are notifying the public of the following scope ruling applications related to AD and CVD orders and findings filed in or around the month of March 2026. This notification includes, for each scope application: (1) identification of the AD and/or CVD orders at issue (19 CFR 351.225(c)(1)); (2) concise public descriptions of the products at issue, including the physical characteristics (including chemical, dimensional and technical characteristics) of the products (19 CFR 351.225(c)(2)(ii)); (3) the countries where the products are produced and the countries from where the products are exported (19 CFR 351.225(c)(2)(i)(B)); (4) the full names of the applicants; and (5) the dates that the scope applications were filed with Commerce and the name of the ACCESS scope segment where the scope applications can be found.[1] This notice does not include applications which have been rejected and not properly resubmitted. The scope ruling applications listed below are available on Commerce's online e-filing and document management system, Antidumping and Countervailing Duty Electronic Service System (ACCESS), at *https://access.trade.gov.*

Scope Ruling Applications

Corrosion-Resistant Steel Products from the People's Republic of China (China) (A–570–026/C–570–027); Stone-Coated Metal Roofing Tiles; [2] produced in and exported from China; submitted by La Viata Investment Firm LLC; March 16, 2026; ACCESS scope segment ''SCO—La Viata''

Certain Steel Racks and Parts Thereof from China (A–570–088/C–570–089); 4T Ergo Shelf Subassemblies; [3] produced in

[1] *See Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300, 52316 (September 20, 2021) (*Final Rule*) (''It is our expectation that the **Federal Register** list will include, where appropriate, for each scope application the following data: (1) identification of the AD and/or CVD orders at issue; (2) a concise public summary of the product's description, including the physical characteristics (including chemical, dimensional and technical characteristics) of the product; (3) the country(ies) where the product is produced and the country from where the product is exported; (4) the full name of the applicant; and (5) the date that the scope application was filed with Commerce.'').

[2] The products are individual interlocking roofing tiles manufactured from aluminum-zinc coated steel (Galvalume-type substrate) with a thickness of approximately 0.50 mm, factory-formed into roofing-specific profiles. The products are coated with natural stone granules permanently bonded to the surface finished with a protective top seal and dimensions of approximately 1340 mm × 420 mm (installation exposure approx. 1290 mm × 370 mm).

[3] The product is a shelf-installation set for an adjustable height ergonomic shelf. The primary

and exported from China; submitted by K. Hartwall Oy Ab; March 16, 2026; ACCESS scope segment ''SCO—Ergo Shelf''

Wooden Bedroom Furniture from China (A–570–890); Salon Vanity Desks; [4] produced in and exported from China; submitted by Vanity Dreams LLC; March 20, 2026; ACCESS scope segment ''SCO—Vanity Dreams LLC''

Seamless Refined Copper Pipe and Tube from China (A–570–964); MRCOOL® Pre-Charged Line Set Assemblies; [5] produced in and exported from China; submitted by HVAC Distributing, LLC (''HVAC Distributing''); March 23, 2026; ACCESS scope segment ''SCO—HVAC Distributing LLC—MRCOOL Line Set''

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from China (A–570–979/C–570–980); 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; [6] produced in and exported from Vietnam; submitted by JA Solar Vietnam Company Limited, JA Solar USA Inc., and affiliated producers in Vietnam; March 27, 2026; ACCESS scope segment ''SCO—Ja Solar''

Notification to Interested Parties

This list of scope ruling applications is not an identification of scope inquiries that have been initiated. In accordance with 19 CFR 351.225(d)(1), if Commerce has not rejected a scope ruling application nor initiated the scope inquiry within 30 days after the filing of the application, the application will be deemed accepted and a scope inquiry will be deemed initiated the following day—day 31.[7] Commerce's practice generally dictates that where a deadline falls on a weekend, Federal holiday, or other non-business day, the appropriate deadline is the next business day.[8] Accordingly, if the 30th day after the filing of the application falls on a non-business day, the next business day will be considered the ''updated'' 30th day, and if the application is not rejected or a scope inquiry initiated by or on that particular business day, the application will be deemed accepted and a scope inquiry will be deemed initiated on the next business day which follows the ''updated'' 30th day.[9]

In accordance with 19 CFR 351.225(m)(2), if there are companion AD and CVD orders covering the same merchandise from the same country of origin, the scope inquiry will be conducted on the record of the AD proceeding. Further, please note that pursuant to 19 CFR 351.225(m)(1), Commerce may either apply a scope ruling to all products from the same country with the same relevant physical characteristics, (including chemical, dimensional, and technical characteristics) as the product at issue, on a country-wide basis, regardless of the producer, exporter, or importer of those products, or on a company-specific basis.

For further information on procedures for filing information with Commerce through ACCESS and participating in scope inquiries, please refer to the Filing Instructions section of the Scope Ruling Application Guide, at *https://www.trade.gov/sites/default/files/2026-04/Scope_Ruling_Guidance_%284.1.2022%29.pdf?v=1777648789712.* Interested parties, apart from the scope ruling applicant, who wish to participate in a scope inquiry and be added to the public service list for that segment of the proceeding must file an entry of appearance in accordance with 19 CFR 351.103(d)(1) and 19 CFR 351.225(n)(4). Interested parties are advised to refer to the case segment in ACCESS as well as 19 CFR 351.225(f) for further information on the scope inquiry procedures, including the timelines for the submission of comments.

Please note that this notice of scope ruling applications filed in AD and CVD proceedings may be published before any potential initiation, or after the initiation, of a given scope inquiry based on a scope ruling application identified in this notice. Therefore, please refer to the case segment on ACCESS to determine whether a scope ruling application has been accepted or rejected and whether a scope inquiry has been initiated.

Interested parties who wish to be served scope ruling applications for a particular AD or CVD order may file a request to be included on the annual inquiry service list during the anniversary month of the publication of the AD or CVD order in accordance with 19 CFR 351.225(n) and Commerce's procedures.[10]

Interested parties are invited to comment on the completeness of this monthly list of scope ruling applications received by Commerce. Any comments should be submitted to Scot Fullerton, Acting Deputy Assistant Secretary for AD/CVD Operations, Enforcement and Compliance, International Trade Administration, via email to *CommerceCLU@trade.gov.*

This notice of scope ruling applications filed in AD and CVD proceedings is published in accordance with 19 CFR 351.225(d)(3).

Dated: May 1, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2026–09219 Filed 5–7–26; 8:45 am]

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parts of the product include a movable shelf made of steel wire, side holder subassemblies made of steel tubes, rails made of sheet metal components, a strap roll axle assembly, pulley straps, plastic rollers, nuts and bolts. When fully assembled the product measures 790 mm (31.1 inches) wide by 667 mm (26.3 inches) deep by 1434 mm (56.4 inches) high.

[4] The products are salon vanity desks and salon vanity desk mirrors, made from high-tensile wood, have numerous large drawers for salon equipment, and, when used with the mirror as designed, incorporate bright lighting and power outlets designed for salon equipment.

[5] The products are a pre-charged line set assembly is a finished, factory-prepared HVAC component. Each assembly contains two insulated copper refrigerant tubes, a smaller-diameter liquid line (typically ¼ or ⅜ inch, depending on system capacity) and a larger-diameter suction line (often ½-inch, ⅝ inch, or larger), along with proprietary patented quick-connect valves, regulated refrigerant (R–454B), and other non-copper elements.

[6] The products are crystalline silicon photovoltaic cells, whether or not assembled into modules using Vietnamese-origin wafers manufactured from polysilicon sourced from the United States.

[7] In accordance with 19 CFR 351.225(d)(2), within 30 days after the filing of a scope ruling application, if Commerce determines that it intends to address the scope issue raised in the application in another segment of the proceeding (such as a circumvention inquiry under 19 CFR 351.226 or a covered merchandise inquiry under 19 CFR 351.227), it will notify the applicant that it will not initiate a scope inquiry, but will instead determine if the product is covered by the scope at issue in that alternative segment.

[8] *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

[9] This structure maintains the intent of the applicable regulation, 19 CFR 351.225(d)(1), to allow day 30 and day 31 to be separate business days.

[10] *See Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions,* 86 FR 53205 (September 27, 2021).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–911]

Thermal Paper From the Republic of Korea: Final Results and Rescission, in Part, of Antidumping Duty Administrative Review; 2023–2024

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that

the sole producer/exporter thermal paper from the Republic of Korea (Korea) subject to this administrative review did not makes sales of subject merchandise at less than normal value (NV) during the period of review (POR) November 1, 2023, through October 31, 2024.

DATES: Applicable May 8, 2026.

FOR FURTHER INFORMATION CONTACT: Elizabeth Beuley, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3269.

SUPPLEMENTARY INFORMATION:

Background

On January 27, 2026, Commerce published the *Preliminary Results* and invited comments from interested parties.[1] On February 17, 2026, Domtar Corporation and Appvion, LLC (collectively, the petitioners), submitted a case brief.[2] The only issue the petitioners raised is the treatment of Tele-Paper (M) Sdn. Bhd. (Tele-Paper) in this review, which is discussed below. Because the petitioners did not raise any issues regarding Hansol Paper Company (Hansol), the sole mandatory respondent, the final results remain unchanged from the *Preliminary Results,* and there is no decision memorandum accompanying this notice. Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Rescission of Administrative Review, in Part

In the *Preliminary Results,* Commerce preliminarily assigned a rate to Tele-Paper, the company not selected for individual examination in this review, based on the rate calculated for Hansol (*i.e.,* zero percent).[3] However, the petitioners noted in their comments that, because they had timely withdrawn their review request for Tele-Paper on March 18, 2025, Commerce erred in preliminarily assigning a rate to this company.[4] In accordance with 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if all parties that requested the review withdraw their requests within 90 days of the date of publication of the notice of initiation of the requested review. Because the petitioners timely withdrew their request for administrative review with respect to Tele-Paper, and no other party requested a review of this company, Commerce is rescinding this review with respect to Tele-Paper, in accordance with 19 CFR 351.213(d)(1).

Scope of the Order [5]

The merchandise subject to the *Order* is thermal paper from Korea. For a complete description of the scope of the *Order, see* the *Preliminary Results*.[6]

Final Results of Review

For these final results, we determine that the following estimated weighted-average dumping margin exists for the period November 1, 2023, through October 31, 2024:

Producer or exporter	Weighted-average dumping margin (percent)
Hansol Paper Company	0.00

Disclosure

Normally, Commerce will disclose to the parties in a proceeding the calculations performed in connection with the final results of review within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because we have made no changes from the *Preliminary Results,* there are no new calculations to disclose.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

Because the weighted-average dumping margin for Hansol is zero, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. Commerce's ''automatic assessment'' practice will apply to entries of subject merchandise during the POR produced by Hansol for which it did not know that the merchandise it sold to the intermediary (*e.g.,* a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate (*i.e.,* 6.19 percent),[7] if there is no rate for the intermediate company(ies) involved in the transaction.[8]

For Tele-Paper, we will instruct CBP to assess antidumping duties on all appropriate entries at a rate equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, in accordance with 19 CFR 351.212(c)(1)(i).

Commerce intends to issue these assessment instructions to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication in the **Federal Register** of these final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate established for Hansol in the final results of this review will be zero; (2) for previously reviewed or investigated companies not covered by this review, the cash deposit will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value (LTFV) investigation, but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers and exporters will continue to be 6.19 percent, the all-others rate established in the LTFV investigation.[9] These cash deposit requirements, when

[1] *See Thermal Paper from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2023–2024,* 91 FR 3428 (January 27, 2026) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See* Petitioners' Letter, ''Petitioner's Case Brief,'' dated February 17, 2026 (Petitioners' Case Brief).

[3] *See Preliminary Results,* 91 FR at 3429.

[4] *See* Petitioners' Case Brief at 1; *see also* Petitioners' Letter, ''Partial Withdrawal of Request For Administrative Review,'' dated March 18, 2025.

[5] *See Thermal Paper from Germany, Japan, the Republic of Korea, and Spain: Antidumping Duty Order,* 86 FR 66284 (November 22, 2021) (*Order*).

[6] *See Preliminary Results* PDM at 2–3.

[7] *See Order,* 86 FR at 66286.

[8] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[9] *See Order,* 86 FR at 66286.

imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(5).

Dated: May 4, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2026–09132 Filed 5–7–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–830]

Strontium Chromate From France: Preliminary Results of Antidumping Duty Administrative Review; 2023–2024

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that Société Nouvelle des Couleurs Zinciques (SNCZ) did not make sales of strontium chromate from France in the United States at less than normal value (NV) during the period of review (POR), November 1, 2023, through October 31, 2024. Interested parties are invited to comment on these preliminary results of review.

DATES: Applicable May 8, 2026.

FOR FURTHER INFORMATION CONTACT: Jonathan Schueler or Rachel Accorsi, 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) 482–3149, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 27, 2019, Commerce published in the **Federal Register** the AD order on strontium chromate from France.[1] On November 1, 2024, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the *Order* for the POR.[2] Pursuant to section 751(a)(l) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b)(l), Commerce received a timely request to conduct an administrative review of the *Order* from the petitioner[3] with respect to SNCZ.[4] On December 18, 2025, based on the timely request for an administrative review, in accordance with 19 CFR 351.221(c)(l)(i), Commerce initiated an administrative review of the *Order* with respect to SNCZ.[5]

On December 9, 2024, Commerce tolled the deadline to issue the preliminary results in administrative reviews for which the opportunity to request the review was published in November or December 2024, by 90 days.[6] On September 24, 2025, Commerce extended the deadline for the preliminary results of this review until February 27, 2026.[7] Additionally, due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days,[8] 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.[9] Accordingly, the deadline for these preliminary results is now May 6, 2026.

For a detailed description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[10] A list of the topics discussed in the Preliminary Decision Memorandum is attached as an appendix 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 on the internet at *https://access.trade.gov/frnotices.*

Scope of the Order

The product covered by the *Order* is strontium chromate from France. For a complete description of the scope of this *Order, see* the Preliminary Decision Memorandum.[11]

Methodology

Commerce is conducting this review in accordance with sections 751(a)(1)(B) and (2) of the Act. The export price is calculated in accordance with section 772(a) of the Act. NV is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying these preliminary results, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

We preliminarily determine the following estimated weighted-average dumping margin exists for the period November 1, 2023, through October 31, 2024:

[1] *See Strontium Chromate from Austria and France: Antidumping Duty Orders,* 84 FR 65349 (November 27, 2019) (*Order*).

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review and Join Annual Inquiry Service List,* 89 FR 87338 (November 1, 2024).

[3] The petitioner is Lumimove Inc. d/b/a WPC Technologies.

[4] *See* Petitioner's Letter, ''Request for Administrative Review,'' dated November 18, 2024.

[5] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 89 FR 102856, 102859 (December 18, 2024).

[6] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,'' dated December 9, 2024.

[7] *See* Memorandum, ''Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated September 24, 2025.

[8] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated November 14, 2025.

[9] *See* Memorandum, ''Tolling of all Case Deadlines,'' dated November 24, 2025.

[10] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review of Strontium Chromate from France; 2023–2024,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[11] *Id.* at ''Scope of the *Order.*''

Producer and/or exporter	Weighted-average dumping margin (percent)
Société Nouvelle des Couleurs Zinciques	0.00

Disclosure

Commerce intends to disclose the calculations and analyses performed to interested parties for the preliminary results of review within five days of public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register** in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(3) of the Act, Commerce intends to verify the information reported by companies in this administrative review for consideration in the final results.

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), interested parties may submit case briefs to Commerce no later than seven days after the date of the last verification report issued in this administrative review.[12] 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.[13] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; (2) a brief summary of the argument; and (3) a table of authorities.[14] All briefs must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline.

As provided under 19 CFR 351.309(c)(2) and (d)(2), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[15] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[16]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. An electronically-filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.[17] Hearing requests should contain information regarding: (1) the party's name, address, and telephone number; (2) the number of individuals from the requesting party that will attend the hearing and whether any of those individuals is a foreign national; and (3) a list of the issues the party intends to discuss at the hearing. Issues raised in the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined.[18] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Final Results of Review

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised in written case briefs, no later than 120 days after the date of publication of this notice in the **Federal Register**, pursuant to 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Assessment Rates

Upon completion of this administrative review, pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise covered by this review.

If SNCZ's weighted-average dumping margin is not zero or *de minimis,* (*i.e.,* less than 0.50 percent) in the final results of this review, Commerce intends to calculate importer-specific assessment rates for antidumping duties. As there are no entered values on the record for SNCZ's sales, pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific per-unit duty assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total quantity of those sales. If either SNCZ's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c), or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. To determine whether an importer-specific, per-unit assessment rate is *de minimis,* in accordance with 19 CFR 351.106(c)(2), we also will calculate an importer-specific *ad valorem* ratio based on estimated entered values.

In accordance with Commerce's ''automatic assessment'' practice, for entries of subject merchandise during the POR produced by SNCZ for which it did not know that the merchandise was destined for the United States, we intend to instruct CBP to liquidate those entries at the all-others rate in the original less-than-fair-value investigation if there is no rate for the intermediate company(ies) involved in the transaction.[19]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) the company-specific cash deposit rate for SNCZ will be equal to the weighted-average dumping margin established in the final results of this review (except, if that rate is *de minimis* within the

[12] *See* 19 CFR 351.303 for general filing requirements.

[13] *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*).

[14] *See* 19 CFR 351.309(c)(2) and (d)(2).

[15] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[16] *See APO and Service Procedures.*

[17] *See* 19 CFR 351.310(c).

[18] *Id.*

[19] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

meaning of 19 CFR 351.106(c)(1), then the cash deposit rate will be zero); (2) for producers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which they were reviewed; (3) if the exporter is not a firm covered in this review or a prior segment of this proceeding, but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 32.16 percent, the all-others rate established in the less-than-fair-value investigation.[20] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213(h)(2) and 351.221(b)(4).

Dated: May 5, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Discussion of the Methodology
V. Currency Conversion
VI. Recommendation

[FR Doc. 2026–09220 Filed 5–7–26; 8:45 am]

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[20] *See Order,* 84 FR at 65350.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–118]

Wood Mouldings and Millwork Products From the People's Republic of China: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review; 2024

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily finds that countervailable subsidies were provided to certain producers and exporters of wood mouldings and millwork products (millwork products) from the People's Republic of China (China). The period of review (POR) is January 1, 2024, through December 31, 2024. In addition, Commerce is rescinding this review with respect to 22 companies. Interested parties are invited to comment on these preliminary results of review.

DATES: Applicable May 8, 2026.

FOR FURTHER INFORMATION CONTACT: Brandon James or Joshua Nixon, 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) 482–2429 or (202) 482–1537, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 28, 2025, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the countervailing duty order on millwork products from China.[1] On May 2, 2025, Commerce selected Fujian Yinfeng Imp & Exp Trading Co., Ltd. (Yinfeng) and Nanping Huatai Wood and Bamboo Co., Ltd. (Huatai) as the mandatory respondents in this administrative review.[2] On May 9, 2025, Tim Feng Manufacturing Co., Ltd. (Tim Feng) timely withdrew its request for review.[3] On May 20, 2025, Weston Wood Solutions timely withdrew its request for review of Putian Yihong Wood Industry Co., Ltd (Yihong).[4] On June 26, 2025, Fujian Yinfeng Imp & Exp Trading Co., Ltd. (Yinfeng), withdrew its participation in the administrative review.[5] On August 5, 2025, Commerce selected Fujian Hongjia Craft Products Co., Ltd. (Hongjia) as an additional mandatory respondent.[6]

On September 23, 2025, Commerce extended the deadline for issuing the preliminary results by 118 days, until February 26, 2026.[7] Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.[8] 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.[9] Accordingly, the deadline for these preliminary results is now May 5, 2026.

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[10] A list of topics included in the Preliminary Decision Memorandum is provided as the appendix 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 Order

The products covered by the *Order* are millwork products from China. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 90 FR 14081–101 (March 28, 2025) (*Initiation Notice*).

[2] *See* Memorandum, ''Respondent Selection,'' dated May 2, 2025.

[3] *See* Tim Feng's Letter, ''Withdrawal of Request for Administrative Review,'' dated May 9, 2025.

[4] *See* Weston Wood Solutions' Letter, ''Request for Administrative Review,'' dated May 20, 2025.

[5] *See* Yinfeng's Letter, ''Withdrawal of Request for Administrative Review,'' dated June 26, 2025.

[6] *See* Memorandum, ''Selection of Additional Mandatory Respondent,'' dated August 5, 2025.

[7] *See* Memorandum, ''Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review,'' dated September 23, 2025 (Extension of Preliminary Results).

[8] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated November 14, 2025.

[9] *See* Memorandum, ''Tolling of All Case Deadlines,'' dated November 24, 2025.

[10] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Administrative Review of the Countervailing Duty Order on Wood Mouldings and Millwork Products from the People's Republic of China; 2024,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if all parties that requested the review withdraw their requests within 90 days of the date of publication of notice of initiation. As noted above, Commerce received timely-filed withdrawal requests with respect to Tim Feng, and no other parties requested a review of Tim Feng.[11] The remaining companies have an outstanding request for review and Commerce is not rescinding the administrative review with respect to these companies.

On March 2, 2026, Commerce notified interested parties that it intended to rescind this administrative review with respect to certain companies, in the absence of suspended entries during the POR, according to data obtained from U.S. Customs and Border Protection (CBP).[12] No interested party commented on the Intent to Rescind Memorandum. We find that there were no reviewable entries of subject merchandise during the POR with respect to 21 companies listed in our Intent to Rescind Memorandum and for which all review requests were not timely withdrawn.[13] As a result, we are rescinding this review for the companies listed in Appendix III, pursuant to 19 CFR 351.213(d)(3).

Methodology

Commerce is conducting this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that confers a benefit to the recipient, and that the subsidy is specific.[14] For a full description of the methodology underlying our conclusions, including our reliance, in part, on adverse facts available pursuant to sections 776(a) and (b) of the Act, *see* the Preliminary Decision Memorandum.

Rate for Non-Individually Examined Companies

The Act and Commerce's regulations do not address the establishment of a rate to apply to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(e)(2) of the Act. Generally, Commerce looks to section 705(c)(5) of the Act, which provides instructions for calculating the all-others rate in a CVD investigation. Section 777A(e)(2) of the Act provides that ''the individual countervailable subsidy rates determined under subparagraph (A) shall be used to determine the all-others rate under section 705(c)(5) {of the Act}.''

Under section 705(c)(5)(A)(i) of the Act, the all-others rate is normally an amount equal to the weighted average countervailable subsidy rates established for each of the companies individually investigated, excluding any rates that are zero, *de minimis* (*i.e.,* less than 0.5 percent), or determined entirely on the basis of facts available. Where the countervailable subsidy rates for each of the individually examined companies is zero, *de minimis,* or based entirely on facts available, section 705(c)(5)(A)(ii) of the Act provides that Commerce may use ''any reasonable method to establish an all-others rate for exporters and producers not individually investigated, including averaging the weighted average countervailable subsidy rates determined for the exporters and producers individually investigated.''

In this administrative review, we preliminarily calculated countervailable subsidy rates for the mandatory respondents, Hongjia and Huatai, that are not zero, *de minimis,* or based entirely on facts otherwise available. Accordingly, we are preliminarily assigning to the companies under review that were not selected for individual examination a countervailable subsidy rate equal to the weighted average of the countervailable subsidy rates calculated for Huatai and Hongjia, weighted by the mandatory respondents' publicly ranged sales values for the merchandise under consideration, consistent with the guidance in section 705(c)(5)(A)(i) of the Act.[15]

Preliminary Results of Review

As a result of this review, we preliminarily determine the following net countervailable subsidy rates exist for the POR, January 1, 2024, through December 31, 2024:

Company	Subsidy rate (percent *ad valorem*)
Fujian Hongjia Craft Products Co., Ltd	49.65
Nanping Huatai Wood and Bamboo Co., Ltd	51.81
Rate for Non-Selected Companies Under Review[16]	50.67
Fujian Yinfeng Imp & Exp Trading Co., Ltd.[17]	200.00

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties for these preliminary results 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).

[11] *See* Appendix II for a list of companies for which we are rescinding the review due to the timely withdrawal of the requests for review.

[12] *See* Memorandum, ''Notice of Intent to Rescind Review, In Part,'' dated March 2, 2026 (Intent to Rescind Memorandum). In the Intent to Rescind Memorandum, we included 21 companies.

[13] *See* Appendix III for a list of these 21 companies.

[14] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[15] With two respondents under examination, Commerce normally calculates: (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sales values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53662 (September 1, 2010), and accompanying Issues and Decision Memorandum at Comment 1. *See also* Memorandum, ''Calculation of the Weighted-Average Subsidy Rate for the Companies Not Selected for Individual Examination,'' dated concurrently with this notice.

[16] *See* Appendix IV for a list of the non-selected companies under review.

[17] In past reviews, Commerce has found the following company to be cross-owned with Yinfeng: Fujian Province Youxi City Mangrove Wood Machining Co., Ltd. and Fujian Province Youxi City Mangrove Wood Machining Co., Ltd. Youxi Xicheng Branch. *See Wood Mouldings and Millwork Products from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2023,* 91 FR 8408 (February 23, 2026) (*Final Results*). Absent information to the contrary, we intend to continue to treat these entities as cross-owned for the purpose of this administrative review.

Verification

As provided in section 782(i)(3) of the Act, Commerce intends to verify the information relied upon in making its final results.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this review. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[18] 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.[19] All briefs must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline.

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public executive summary for each issue raised in their briefs.[20] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[21]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.[22]

Assessment Rates

Consistent with section 751(a)(1) of the Act and 19 CFR 351.212(b)(2), Commerce shall determine, and CBP shall assess, countervailing duties on all appropriate entries covered by this review.

For the companies for which this review is rescinded, Commerce will instruct CBP to assess countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(l)(i). Commerce intends to issue assessment instructions to CBP for these companies no earlier than 35 days after the publication of this notice in the **Federal Register**.

Commerce intends to issue assessment instructions to CBP regarding Hongjia, Huatai, and the companies listed in Appendix II no earlier than 35 days after the date of the publication of the final results of this review in the **Federal Register**.

Cash Deposit Requirements

Pursuant to section 751(a)(2)(C) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown for each of the respective companies listed above and in Appendix IV on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as follows: (1) the cash deposit rate for the companies listed above will be equal to the company-specific estimated individual countervailable subsidy rates determined in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) if both the producer and exporter of the subject merchandise have company-specific estimated subsidy rates assigned, and their rates differ, then the applicable cash deposit rate will be the higher of these two rates; (3) if either the producer or the exporter, but not both, of the subject merchandise has a company-specific estimated subsidy rate assigned, the applicable cash deposit rate will be that company's company-specific rate; and (4) the cash deposit rate for all other producers and exporters will be continue to be 20.56 percent, the all-others subsidy rate established in the investigation.[23] These cash deposit instructions, when imposed, shall remain in effect until further notice.

Notification to Interested Parties

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: May 5, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Diversification of China's Economy
V. Use of Facts Otherwise Available and Application of Adverse Inferences
VI. Subsidies Valuation
VII. Interest Rate Benchmarks, Discount Rates, Inputs, Land-Use and Electricity Benchmarks
VIII. Analysis of Programs
IX. Recommendation

Appendix II

Companies for Which All Review Requests Were Timely Withdrawn

1. Tim Feng Manufacturing Co., Ltd.

Appendix III

Companies for Which the Review Is Rescinded Due to No Reviewable Entries

1. Aventra Inc.
2. Baixing Import and Export Trading Co., Ltd Youxi Fujian
3. Cao County Hengda Wood Products Co., Ltd.
4. China Cornici Co. Ltd.
5. Fujian Shunchang Shengsheng Wood Industry Limited Company
6. Fujian Youxi Best Arts & Crafts Co. Ltd.
7. Fujian Zhangping Kimura Forestry Products Co., Ltd.
8. Homebuild Industries Co., Ltd.
9. Huaan Longda Wood Industry Co., Ltd.
10. Jiangsu Chensheng Forestry Development Co., Ltd.
11. Jiangsu Wenfeng Wood Co., Ltd.
12. Omni One Co., Limited
13. Raoping HongRong Handicrafts Co., Ltd. (d.b.a. Chen Chui Global Corp.)
14. Shandong Miting Household Co., Ltd.
15. Shaxian Hengtong Wood Industry Co.,

[18] *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*).

[19] *See* 19 CFR 351.309(c)(2) and (d)(2).

[20] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[21] *See APO and Service Final Rule.*

[22] *See* 19 CFR 351.310(d).

[23] *See Wood Mouldings and Millwork Products from the People's Republic of China: Countervailing Duty Order,* 86 FR 9484 (February 16, 2021) (*Order*).

Ltd.
16. Shaxian Shiyiwood, Ltd.
17. Shenzhen Xinjintai Industrial Co., Ltd.
18. Suqian Sulu Import & Export Trading Co., Ltd.
19. Wuxi Boda Bamboo & Wood Industrial Co., Ltd.
20. Xiamen Zihua Industry & Trade Co., Ltd.
21. Zhangzhou Yihong Industrial Co., Ltd.

Appendix IV

Non-Selected Companies under Review

1. Anji Huaxin Bamboo & Wood Products Co., Ltd.
2. Bel Trade Wood Industrial Co.
3. Bel Trade Wood Industrial Co., Ltd. Youxi Fujian.
4. Fotiou Frames Limited
5. Fujian Jinquan Trade Co., Ltd.; Fujian Province Youxi County Baiyuan Wood Machining Co., Ltd.[24]
6. Fujian Wangbin Decorative Material Co., Ltd.
7. Longquan Jiefeng Trade Co., Ltd; Zhejiang Senya Board Industry Co., Ltd.[25]
8. Putian Yihong Wood Industry Co., Ltd.
9. Sanming Lintong Trading Co., Ltd
10. Shuyang Kevin International Co., Ltd.
11. Zhangzhou Wangjiamei Industry & Trade Co., Ltd.

[FR Doc. 2026–09218 Filed 5–7–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF737]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) will convene an online meeting of its Ecosystem Workgroup (EWG), which is open to the public.

DATES: The online meeting will be held on Monday, June 1, 2026, from 1 p.m. to 4 p.m. Pacific Time, or until business for the day is completed.

ADDRESSES: This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see *https://www.pcouncil.org*). You may send an email to Mr. Hayden York *(Hayden.York@pcouncil.org*) or contact him at (503) 820–2424 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Gilly Lyons, Staff Officer, Pacific Council; telephone: (503) 820–2427.

SUPPLEMENTARY INFORMATION: The EWG will meet via webinar to discuss items relevant to ecosystem management and cross-fishery management planning in advance of the Pacific Council's June 10–15, 2026, meeting. A detailed meeting agenda will be available on the Pacific Council's website prior to the meeting.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Hayden York (*Hayden.York@pcouncil.org;* (503) 820–2424) at least 10 days prior to the meeting date.

Dated: May 5, 2026.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026–09205 Filed 5–7–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF726]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Bluefish Advisory Panel will hold a public meeting, jointly with the Atlantic States Marine Fisheries Commission Bluefish Advisory Panel.

DATES: The meeting will be held on Tuesday, June 9, 2026, from 4 p.m. to 5:30 p.m. EST. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held via webinar. Webinar connection information, agenda items, and any additional information will be available at *https://www.mafmc.org/council-events.*

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *https://www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to discuss recent performance of the bluefish commercial and recreational fisheries and develop the 2026 Fishery Performance Report. This report will be considered by the Scientific and Statistical Committee, the Monitoring Committee, the Mid-Atlantic Fishery Management Council, and the Atlantic States Marine Fisheries Commission when reviewing the previously implemented 2027 bluefish catch and landings limits as well as commercial or recreational management measures.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shelley Spedden at the Council Office, (302) 526–5251, at least 5 days prior to the meeting date.

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

[24] In past reviews, Commerce has found these entities to be cross-owned. *See Wood Mouldings and Millwork Products from the People's Republic of China: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2020–2021,* 88 FR 62319 (September 11, 2023) and *Wood Mouldings and Millwork Products from the People's Republic of China: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review; 2022,* 89 FR 15816 (March 5, 2024). Absent information to the contrary, we intend to continue to treat these entities as cross-owned for the purpose of this administrative review.

[25] In past reviews, Commerce has found these entities to be cross-owned. *See Wood Mouldings and Millwork Products from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2023,* 91 FR 8408 (February 23, 2026) (*Final Results*). Absent information to the contrary, we intend to continue to treat these entities as cross-owned for the purpose of this administrative review.

Dated: May 5, 2026.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026–09206 Filed 5–7–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF725]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Habitat Advisory Panel via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). This meeting will be held in-person with a webinar option. Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This webinar will be held on Friday, May 29, 2026, at 9 a.m. Webinar registration URL information: *https://nefmc-org.zoom.us/meeting/register/ytzdupHcTOK9MZxDp_rAcg*.

ADDRESSES:

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Cate O'Keefe, Ph.D., Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Habitat Advisory Panel will meet to review Advisory Panel policies and procedures. They will consider how past and potential future scientific surveys and studies within two Dedicated Habitat Research Areas (Stellwagen DHRA, Georges Bank DHRA) address habitat research questions posed by the Council via Omnibus Habitat Amendment 2 and develop a recommendation to the Habitat Committee as to whether to request administrative removal of either designation. The Advisory Panel will also discuss scope, structure, and information sources for a review of the clam dredge exemption program within the Great South Channel Habitat Management Area and suggest refinements to the approach. They also plan to review draft essential fish habitat designations for groundfish, small mesh, and Atlantic sea scallops, and comment on spatial coverage of maps, key descriptions of habitat use to include in text, and additional information sources or experts that could be considered/consulted to improve each designation. Species list: Acadian redfish, American plaice, Atlantic halibut, Atlantic sea scallop, Atlantic wolffish, haddock, ocean pout, offshore hake, pollock, red hake, silver hake, white hake, windowpane flounder, winter flounder, witch flounder, and yellowtail flounder. At least 12 of the 16 species in the 2026 framework will be available for review at this meeting. Other business will be discussed, if necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Cate O'Keefe, Ph.D., Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: May 5, 2026.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026–09210 Filed 5–7–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF766]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) will convene an online meeting of its Ecosystem Advisory Subpanel (EAS), which is open to the public.

DATES: The online meeting will be held on Monday, June 8, 2026, from 1 p.m. to 4 p.m. Pacific Time, or until business for the day is completed.

ADDRESSES: This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see *https://www.pcouncil.org*). You may send an email to Mr. Hayden York (*Hayden.York@pcouncil.org*) or contact him at (503) 820–2424 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Gilly Lyons, Staff Officer, Pacific Council; telephone: (503) 820–2427.

SUPPLEMENTARY INFORMATION: The EAS will meet via webinar to discuss items relevant to ecosystem management and cross-fishery management planning in advance of the Pacific Council's June 10–15, 2026, meeting. A detailed meeting agenda will be available on the Pacific Council's website prior to the meeting.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Hayden York (*Hayden.York@pcouncil.org*; (503) 820–2424) at least 10 days prior to the meeting date.

Dated: May 5, 2026.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026–09209 Filed 5–7–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Designation of Fishery Management Council Members and Application for Reinstatement of State Authority

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Information Collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before July 7, 2026.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *NOAA.PRA@noaa.gov.* Please reference OMB Control Number 0648–0314 in the subject line of your comments. All comments received are part of the public record and will generally be posted on *https://www.regulations.gov* without change. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Sean Lawler, Policy Analyst (Contractor), 1315 East West Hwy. Silver Spring, MD 20910–3282, (301) 427–8561, and *sean.lawler@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information collection. The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) authorizes the establishment of eight Regional Fishery Management Councils to manage fisheries within regional jurisdictions. This collection pertains to several sections of the Magnuson-Stevens Act related to the Councils. Section 302(b) provides for appointment of Council members nominated by State Governors, Territorial Governors, or Tribal Governments and for designation of a principal state fishery official for the purposes of the Magnuson-Stevens Act. Section 306(b)(2) provides for a request by a state for reinstatement of state authority over a managed fishery. Nominees for Council membership must provide their State Governor, Territorial Governor, or Tribal Government leadership with background documentation, which is then submitted to NOAA, on behalf of the Secretary of Commerce to review qualifications for Council membership. The information collected with these actions is used to ensure that the requirements of the Magnuson-Stevens Act are being met in regard to Council membership and state authority.

II. Method of Collection

State Governors, Territorial Governors, and Tribal Governments submit written or electronic nominations to the Secretary of Commerce, together with recommendations and statements of candidates' qualifications. Designations of state officials and requests for reinstatement of state authority are made in writing in response to regulations. NMFS provides guidance on what information to include in order to comply with current regulations. *See 50 CFR 600.215.* No forms are used.

III. Data

OMB Control Number: 0648–0314.

Form Number(s): None.

Type of Review: Regular submission (extension of a currently approved collection).

Affected Public: State, Local, or Tribal Government.

Estimated Number of Respondents: 275 respondents.

Estimated Time per Response: 80 hours for a nomination for Council appointment; 16 hours for background documentation for nominees; 1 hour to designate a principal state fishery official(s) or for a request to reinstate authority.

Estimated Total Annual Burden Hours: 4,607 hours.

Estimated Total Annual Cost to Public: $0.00.

Respondent's Obligation: Mandatory.

Legal Authority: MSA Section 302 and 50 CFR 600.215.

IV. Request for Comments

We are soliciting public comments to permit the Department to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this information collection request. 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 may 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.

Sheleen Dumas,

Departmental PRA Compliance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2026–09200 Filed 5–7–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Department of Defense Federal Advisory Committees—U.S. Army Science Board

AGENCY: Department of Defense (DoD).

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The Department of War (DoW) is publishing this notice to announce it is renewing the U.S. Army Science Board (ASB) as a discretionary Federal advisory committee.

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the DoW, 703–692–5952.

SUPPLEMENTARY INFORMATION: The DoW is renewing the ASB in accordance with chapter 10 of title 5, United States Code ((U.S.C.,) (commonly known as the ''Federal Advisory Committee Act'' or

''FACA'') and 41 Code of Federal Regulations (CFR) 102–3.50(d), and DoW policies and procedures. The public or interested organizations may submit written statements about the ASB mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meetings of the ASB. All written statements shall be submitted to the ASB Designated Federal Officer (DFO), and this individual will ensure that all written statements are provided to the membership for their consideration. The ASB's DFO is Ms. Ellen Holthoff, and she may be contact at (703) 697–0427, or *ellen.l.holthoff.civ@army.mil.* Consistent with 41 CFR 102–3.65(a), the DoW is publishing the ASB's Public Interest Determination.

Pursuant to 41 U.S.C. 102–3.60(a), to establish, renew, reestablish, or merge a discretionary (agency discretion) advisory committee, an agency must first consult with the General Services Administration's Committee Management Secretariat (the Secretariat) and, as part of the consultation, provide a written public interest determination approved by the head of the agency to the Secretariat with a copy to the Office of Management and Budget. In addition, pursuant to 41 U.S.C. 102–3.35, an agency shall follow the same consultation process and document in writing the same determination of need before creating a subcommittee under a discretionary committee that is not made up entirely of members of a parent advisory committee.

Information on the following factors for the committee is provided to the Secretariat to demonstrate that merging the committee is in the public interest:

1. *Annual Budget:* The estimated annual operating cost of the ASB, to include personnel, travel, meetings, and contract support, is approximately $3,300,624.00.

a. Federal personnel on a full-time equivalent basis: The estimated ASB's annual fully burdened personnel cost to the DoW are 5.0 full-time equivalents at $953,990.00, which includes basic pay with cost-of-living allowances.

b. Other Federal internal Costs: Estimated program elements to support ASB parent committee administration, operations, meeting support, contractor costs, and contracted services is $299,846. Estimated meeting space, facility support, and FRN notices are $71,362. Estimated program elements to support the following subcommittee administration, operations, meeting support, and contract support costs:

(1) Basic Sciences and Enabling and Disruptive Technologies Subcommittee: $200,000.00.

(2) C5ISR and Digital (Information Technologies) Subcommittee: $230,000.00.

(3) Environmental Advisory Subcommittee: $180,000.00.

(4) Intelligence and Assessment Subcommittee: $150,000.00.

(5) Medical Operations Subcommittee: $220,000.00.

(6) Systems Engineering and Sustainment: $200,000.00.

(7) Weapons Systems Subcommittee: $150,000.00.

c. Proposed payments to members: Consistent with 10 U.S.C. 173, members of the ASB are not compensated for their services, except for travel and per diem reimbursement for official ASB-related business.

d. Proposed number of members: As authorized by the Secretary of War (SecWar), the ASB will be composed of not more than 20 members and subcommittees, if authorized, will be composed of not more than 15 members.

e. Reimbursable costs: The estimated reimbursement costs, to include travel, for ASB staff and members are $645,426.00.

2. *If applicable, the total dollar value of grants is expected to be recommended during the fiscal year:* N/A.

3. *Criteria for selecting members to ensure the committee has the necessary expertise and fairly balanced membership:* As described in its proposed charter and membership balance plan, the ASB will be composed of members who are eminent authorities in the fields of science; technology; manufacturing; acquisition; logistics; science-related business management functions, natural (*e.g.,* biology, ecology, etc.), social (*e.g.,* anthropology, community planning, etc.), and related sciences; and other matters of special interest to the DoW, germane to DoW scientific, technological, and innovation matters. Membership will consist of talented private and public sector leaders possessing a multiplicity of experience, background, and thought in support of the ASB's mission.

In selecting members, the DoW seeks to capitalize on recognized talented, innovative private and public sector leaders to provide the broadest knowledge and expertise base in a balanced ASB membership composition. The ASB's membership balance is not static, and the SecWar may change the membership based upon work assigned to the ASB by the SecWar and Deputy Secretary of War (''the DoW Appointing Authority'') or the Secretary of the Army, as the ASB's DoW Sponsor.

4. *List of all other DoW Federal Advisory Committees:* A complete listing of DoW Federal advisory committees can be located at: *https://www.facadatabase.gov/FACA/s/account/001t000000DCAooAAH/department-of-defense.*

5. *Justification that the information or advice provided by the Federal advisory committee or subcommittee is not available from another Federal advisory committee, another Federal Government source, or any other more cost-effective and less burdensome source:* The ASB was initially established by the Department of the Army in August 1954, and subsequent to the enactment of the FACA, it was re-established as a DoD Federal advisory committee. As described in the ASB's charter, the ASB provides independent advice and recommendations on matters pertaining to the Department of the Army scientific, technological, and innovation enterprises by focusing on matters concerning science, technology, and innovation as they pertain to the United States Army's clear mission: to protect the American people and the homeland as the world's most lethal and effective fighting force. In addressing these matters, the ASB will support the administration's priorities of rebuilding the U.S. Army, prioritizing the protection of the sovereignty and territorial integrity of the U.S., and reestablishing deterrence as envisioned by: Executive Order (E.O.) 14167, ''Clarifying the Military's Role in Protecting the Territorial Integrity of the United States,'' dated January 20, 2025; E.O. 14179, ''Removing Barriers to American Leadership in Artificial Intelligence,'' dated January 23, 2025; E.O. 14186, ''The Iron Dome for America,'' dated January 27, 2025; E.O. 14307, ''Unleashing American Drone Dominance,'' dated June 6, 2025; SecWar Address, Marine Corps Base Quantico, Virginia, September 30, 2025; and SecWar Memorandum, ''The Warrior Ethos and Standards at the War Department,'' dated October 6, 2025.

As currently structured, the ASB focuses on injecting fresh perspectives from the private sector into DoW and Department of the Army practices, emphasizing rapid innovation, software acquisition, leveraging emergent technologies, and ways the Department can align structures, processes, incentives, and human capital best practices to accelerate and scale innovation adoption to catalyze a Department-wide innovation and experimentation mindset. This provides the strategic and tactical advantage

options needed to compete and overmatch in the technology- and innovation-driven environments that define modern competition and conflict; as well as enhance national security efforts, maximize lethality, and boost warfighting capabilities. The ASB serves as a key advisory body tackling some of the most complex technical challenges in science and technology (S&T), innovation to provide advice and recommendations to inform the SecWar and Secretary of the Army on achieving national strategic priorities through increased lethality. The ASB's work is driven by an emphasis on making America's warfighter successful in any mission on any battlefield. Its value is reflected in DoW stakeholder adoption of advice and recommendations resulting in the creation of significant new capabilities, policies, architectures, and investments. The ASB focuses on prioritizing the revival of our defense industrial base, leveraging low-cost and agile commercial opportunities, reforming acquisition processes, rapidly prototyping and fielding emerging technologies, as well as establishing S&T options to reenforce deterrence in the face of any opponent. Because the ASB acts as a specialized, independent conduit for agile commercial innovation directly focused on maximizing U.S. Army lethality and modernizing the defense industrial base, no other existing Federal advisory committee or internal government source can provide this specific expertise as effectively or efficiently.

6. *If the consultation is a committee renewal, a summary of the previous accomplishments of the committee and the reasons it needs to continue:* In Fiscal Year (FY) 2025, the ASB deliberated on the findings and advanced its recommendations to DoW stakeholders from its ''Transformation of Intelligence Processing, Exploitation, and Dissemination (PED)'' study. The Army adopted 75% of the Board's recommendations, as outlined in ''HQDA EXORD 033–25 CONTINUOUS TRANSFORMATION–TRANSFORMING PED'' (21 May 2025). The Board deliberated on the findings and advanced its recommendations to DoW stakeholders from its ''Data-Centric Command and Control (C2)'' that informed CG AFC (GEN Rainey) memo ''Next Generation Command and Control (NGC2) Capability Characteristics of Need'' (2 December 2024). The Chief of Staff of the Army (GEN George) endorsed the memo and used study data to refine key elements of the Decision Optimization CONOPS 2024. Finally, the ASB's Medical Operations Subcommittee completed the final draft of its ''Assessment of Combat Ready Medical Forces'' for submission to and deliberation by the ASB. The study's findings informed ''The Surgeon General's (TSG) Initial Assessment and Strategic Direction'' (8 July 2024) which stated, ''I assess we are unable to meet the medical demands predicted in LSCO.'' In FY2023 the ''Surge Capacity in the Defense Munitions Industrial Base'' study provided findings and recommendations regarding munitions requirements, governance, sustainable procurement, capital investment, contracting while the ASB's report ''An Independent Assessment of the Army Implementation of Digital Engineering (DE)'' examined progress, challenges, and opportunities to enable successful adoption of digital engineering by the Army.

Prior to the suspension of its operations in March 2025 the ASB was engaged in five studies. ''Army Technology Adoption'' was examining the ways in which Army requirements, testing, and acquisition communities can support ongoing changes as operations exploit the advantages of emerging technologies. For the Army to take advantage of robots, automated target recognition, and other software-dependent technologies (which require continuous updating), the acquisition and sustainment become more like DEVOPS, with testing, experimentation, training, fielding, and Soldier feedback all in a rapidly refreshing cycle. ''Data-Centric Command and Control'' was assessing the Army's strategies and obstacles associated with implementing a dynamic, data-centric command and control (C2) framework. The assessment focused on Army capabilities in a Multi-Domain Operations (MDO) environment. The objective was to ensure that the Army is properly aligning Science and Technology acquisition to support C2 Systems, meeting MDO mission command needs, and using 'best practices' across government, industry, and academia. ''Transformation of Intelligence Processing, Exploitation, and Dissemination (PED), Phase II'' was analyzing the Army PED requirements and resources, identifying gaps between the two, and determining how best to mitigate any shortfalls and assess risk. ''Training Opportunities Related to Nature-Based Solutions (NBS) for Staff at U.S. Army Corps of Engineers (USACE)'' was to provide a summary of training and professional development opportunities relevant to different Communities of Practice within USACE that address aspects of NBS and hybrid approaches across different systems and applications. ''Recommendation for Evaluation to Streamline USACE Planning Model Approval and Review Process for use in Civil Works Water Resource Development Projects'' was working to provide recommendations on how to improve the efficiency and effectiveness of USACE planning model review and certification process.

A full list of ASB accomplishments can be found here: *https://asb.army.mil.*

7. *Explanation of why the committee/subcommittee is essential to the conduct of agency business:* As described by the SecWar, the DoW mission is ''warfighting, preparing for war and preparing to win'' the Nation's wars with ''victory our only acceptable end state.'' A strong, viable military is essential to the defense of the U.S. homeland and hemispheric security. The ASB provides the SecWar, Secretary of the Army, and other senior DoW officials key advice and recommendations on strategies, capabilities, technologies, and innovations to win the Nation's wars, protect the sovereignty and territorial integrity of the homeland and our access to key terrain throughout the region, restore American military dominance in the Western Hemisphere, deny adversaries' ability to position forces or other threatening capabilities in our hemisphere, maintain a favorable balance of military power in the Indo-Pacific, support commitment to allies and international partners, and ensure the lethality and readiness of America's fighting force to further the goal of peace through strength.

The increasing threat of attack by ballistic, hypersonic, and cruise missiles, and other advanced aerial attacks, remains the most catastrophic threat facing the U.S. As described in this memorandum, the ASB's independent advice or recommendations to the SecWar, Secretary of the Army, and other senior DoW officials cannot be duplicated, whether inside the DoW or the Executive Branch. Its advice is tailored toward broad aspects of the Department of the Army's S&T enterprise to ensure we have the strongest, most powerful, most lethal, and most prepared military on the planet. It will provide a force multiplier for Army innovation that bolsters national security. This office is unaware of any U.S. government or non-government entity that could provide the same level of national security S&T enterprise expertise necessary ''to ensure the American military remains the most lethal and dominant on the planet, not merely for a few years, but

for the decades and generations to come.''

Dated: May 5, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026–09112 Filed 5–7–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–0267]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Report of the Randolph-Sheppard Vending Facility Program

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before June 8, 2026.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Jesse Hartle, 202–245–6411.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Report of the Randolph-Sheppard Vending Facility Program.

OMB Control Number: 1820–0009.

Type of Review: A revision of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 51.

Total Estimated Number of Annual Burden Hours: 1,199.

Abstract: The Randolph-Sheppard Act (Act) provides persons who are blind with remunerative employment and self-support through the operation of vending facilities on Federal and other property. The program, enacted into law in 1936, was intended to enhance employment opportunities for trained, licensed blind persons to operate vending facilities. At the outset, the program placed sundry stands in the lobbies of Federal office buildings and post offices, selling such items as newspapers, magazines, candies, and tobacco products. The law was subsequently amended in 1954 and again in 1974 to ensure individuals who are blind a priority in the operation of vending facilities, which now include cafeterias, military dining facilities, snack bars, interstate highway rest areas, and automatic vending machines on Federal property. Most States also have programs that include State, county, municipal, and private installations.

The licensing and operation of vending facilities by blind vendors under the Act is supported by a combination of VR program funds, State appropriations, Federal vending machine income, and levied set asides from vendors. As required by 20 U.S.C. 107a(6)(a), the Secretary of Education, through the Commissioner of the Rehabilitation Services Administration (RSA), conducts periodic evaluations of the programs authorized under the Act. In addition, section 107b(4) requires entities designated as the State licensing agency (SLA) to ''make such reports in such form and containing such information as the Secretary may from time to time require. . . .'' The information to be collected is a necessary component of the evaluation process and forms the basis for reporting to the Department. The data are also used to understand the distribution type and profitability of vending facilities throughout the country. Such information is useful in providing technical assistance to SLAs and property managers and in monitoring the implementation of the program. The Code of Federal Regulations, at 34 CFR 395.8, specifies that vending machine income received by the State from Federal property managers can be distributed to blind vendors in an amount not to exceed the national average income for blind vendors. This amount is determined through data collected by the RSA–15: Report of Randolph-Sheppard Vending Facility Program. In addition, the collection of information ensures the provision and transparency of activities referenced in 34 CFR 395.12 related to disclosure of program and financial information and assists with the requirement in 34 CFR 395.11 regarding the provision of training.

This information collection (IC) will be implemented upon the expiration of the current IC on October 31, 2026; however, it is requested to begin the use of this form and the new instructions for the FY 2026 data collection beginning on October 1, 2026. The 51 SLAs will submit their data through the RSAMIS on the *rsa.ed.gov* website during the 90-day data collection period (10/1/2026–12/30/2026).

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–09198 Filed 5–7–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an in-person/virtual meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, June 10, 2026; 6—8 p.m. EDT.

ADDRESSES: Department of Energy (DOE) Information Center, Office of Science and Technical Information, 1 Science.gov Way, Oak Ridge, Tennessee 37831. This meeting will be held in-person at the DOE Information Center

and virtually. To receive the virtual access information, please send an email to: *orssab@orem.doe.gov* at least two days prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Melyssa P. Noe, Deputy Designated Federal Officer, U.S. Department of Energy, Oak Ridge Office of Environmental Management (OREM), P.O. Box 4067, EM–94, Oak Ridge, TN 37831; Phone (865) 241–3315; or Email: *Melyssa.Noe@orem.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: At the request of the Assistant Secretary or Field Managers, the Board may provide community-based advice and recommendations concerning any EM program activities, such as clean-up activities and environmental restoration; waste management and disposition; excess facilities; future land use and long-term stewardship; communications; and budget priorities. The Board also provides an avenue to fulfill public participation requirements outlined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERLA), the Resource Conservation and Recovery Act (RCRA), Federal Facility Agreements, Consent Orders, Consent Decrees and Settlement Agreements.

Tentative Agenda: (agenda topics are subject to change; please email *orssab@orem.doe.gov* for the most current agenda).

- OREM Presentation to the Board
- Discussion
- Public Comment Period
- Board Business

Public Participation: The meeting is open to the public and public comment can be given orally or in writing. Fifteen minutes are allocated during the meeting for public comment and those wishing to make oral comment will be given a minimum of two minutes to speak. Written comments received at least two working days prior to the meeting will be provided to the members and included in the meeting minutes. Written comments received within two working days after the meeting will be included in the minutes. For additional information on public comment and to submit written comment, please email *orssab@orem.doe.gov.* The EM SSAB, Oak Ridge, welcomes the attendance of the public at its meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Melyssa P. Noe at least seven days in advance of the meeting.

Meeting Conduct: The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Questioning of board members or presenters by the public is not permitted.

Minutes: Minutes will be available at the following website: *https://www.energy.gov/orem/listings/oak-ridge-site-specific-advisory-board-meetings.*

Signing Authority: This document of the Department of Energy was signed on May 6, 2026, by David Borak, Committee Management Officer, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC on May 6, 2026.

Jennifer Hartzell,

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

[FR Doc. 2026–09226 Filed 5–7–26; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF26–4–000]

WBI Energy Transmission, Inc.; Notice of Scoping Period Requesting Comments on Environmental Issues for the Planned Bakken East Pipeline Project, and Notice of Public Scoping Sessions

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental document that will discuss the environmental effects of the Bakken East Pipeline Project involving construction and operation of facilities by WBI Energy Transmission, Inc. (WBI Energy) in McKenzie, Dunn, Mercer, Oliver, Burleigh, Kidder, Stutsman, Barnes, and Cass Counties, North Dakota. The Commission will use this environmental document in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies regarding the project. As part of the National Environmental Policy Act (NEPA) review process, the Commission takes into account concerns the public may have about proposals and the environmental effects that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. This gathering of public input is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the environmental document on the important environmental issues. Additional information about the Commission's NEPA process is described below in the *NEPA Process and Environmental Document* section of this notice.

By this notice, the Commission requests public comments on the scope of issues to address in the environmental document. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on June 4, 2026. Comments may be submitted in written or oral form. Further details on how to submit comments are provided in the *Public Participation* section of this notice.

Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental effects. Your input will help the Commission staff determine what issues they need to evaluate in the environmental document. Commission staff will consider all written or oral comments during the preparation of the environmental document.

If you submitted comments on this project to the Commission before the opening of this docket on December 23, 2025, you will need to file those comments in Docket No. PF26–4–000 to ensure they are considered.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this planned project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the planned facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not

required to enter into an agreement. However, if the Commission approves the project, the Natural Gas Act conveys the right of eminent domain to the company. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law. The Commission does not subsequently grant, exercise, or oversee the exercise of that eminent domain authority. The courts have exclusive authority to handle eminent domain cases; the Commission has no jurisdiction over these matters.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' addresses typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. This fact sheet along with other landowner topics of interest are available for viewing on the FERC website (*www.ferc.gov*) under the Natural Gas, Landowner Topics link.

Public Participation

There are four methods you can use to submit your comments to the Commission. Please carefully follow these instructions so that your comments are properly recorded. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.*

(1) You can file your comments electronically using the eComment feature, which is on the Commission's website (*www.ferc.gov*) under the link to FERC Online. Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature, which is also on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing'';

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (PF26–4–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852; or

(4) In lieu of sending written comments, the Commission invites you to attend one of the public scoping sessions its staff will conduct in the project area, scheduled as follows:

Date and time	Location
May 19, 2026, 5:00–7:00 p.m. Central Time (CT)	McKenzie County Ag Expo, Exhibit Hall 2, 12880 25th Street NW, Watford City, ND 58854, (701) 842–3976.
May 20, 2026, 5:00–7:00 p.m. CT	Hazen City Hall, 146 Main Street East, Hazen, ND 58545, (701) 748–2550.
May 21, 2026, 5:00–7:00 p.m. CT	Lady J's Club and Catering, 930 N Griffin St., Bismarck, ND 58501, (701) 221–6836.
June 2, 2026, 5:00–7:00 p.m. CT	Bunker Hill Venue, 1530 3rd St. SE, Jamestown, ND 58401, (701) 252–3982.
June 4, 2026, 5:00–7:00 p.m. CT	@602 Venue, 602 2nd St. N, Casselton, ND 58012, (701) 347–1622.

The primary goal of these scoping sessions is to have you identify the specific environmental issues and concerns that should be considered in the environmental document. Individual oral comments will be taken on a one-on-one basis with a court reporter. This format is designed to receive the maximum amount of oral comments in a convenient way during the timeframe allotted.

Each scoping session is scheduled from 5:00 p.m. to 7:00 p.m. CT. You may arrive at any time after 5:00 p.m. There will not be a formal presentation by Commission staff when the session opens. If you wish to speak, the Commission staff will hand out numbers in the order of your arrival. Comments will be taken until 7:00 p.m. However, if no additional numbers have been handed out and all individuals who wish to provide comments have had an opportunity to do so, staff may conclude the session at 6:30 p.m. Please see appendix 1 for additional information on the session format and conduct.[1]

Your scoping comments will be recorded by a court reporter (with FERC staff or representative present) and become part of the public record for this proceeding. Transcripts will be publicly available on FERC's eLibrary system (see the last page of this notice for instructions on using eLibrary). If a significant number of people are interested in providing oral comments in the one-on-one settings, a time limit of 5 minutes may be implemented for each commentor.

It is important to note that the Commission provides equal consideration to all comments received, whether filed in written form or provided orally at a scoping session. Although there will not be a formal presentation, Commission staff will be available throughout the scoping session to answer your questions about the environmental review process. Representatives from WBI Energy will also be present to answer project-specific questions.

It is important to note that the Commission provides equal consideration to all comments received, whether filed in written form or provided orally at a virtual scoping session.

Additionally, the Commission offers a free service called eSubscription, which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary.'' For instructions on connecting to eLibrary, refer to the last page of this notice. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll free, (886) 208–3676 or TTY (202) 502–8659.

Participation at (202)502–6595 or *OPP@ferc.gov*.

Summary of the Planned Project

According to WBI Energy, the Bakken East Pipeline Project would provide incremental firm natural gas transportation service connecting North Dakota supply to new power generation, industrial facilities, and local distribution companies in central and eastern North Dakota. The project would interconnect with WBI Energy's existing natural gas pipeline system and other interstate pipelines along the proposed route to also serve the Midwestern United States.

The Bakken East Pipeline Project would consist of the following facilities:

- 353.1 miles of new 42-inch, 36-inch, and 30-inch-diameter greenfield natural gas pipeline;
- eight new 30-inch, 24-inch, and 20-inch-diameter greenfield natural gas pipeline laterals totaling 21.2 miles;
- additional compression at the existing Spring Creek, Elkhorn Creek, and Mapleton Compressor Stations;
- construction of three new compressor stations (Beulah Compressor Station, Center Compressor Station, and Alliance Compressor Station);
- construction of 6 new receipt stations, 10 new delivery stations, and 8 new interconnect/transfer stations; and
- twenty-eight new mainline valves.

The general location of the project facilities is shown in appendix 2.

Land Requirements for Construction

Construction of the planned facilities would disturb about 8,500 acres of land for the aboveground facilities and the pipeline. Following construction, WBI Energy would maintain about 2,700 acres for permanent operation of the project's facilities; the remaining acreage would be restored and revert to former uses. Further refinements to the route proposed by WBI Energy as a result of the pre-filing process will likely affect the proposed project acreage. WBI Energy states it will attempt to parallel existing pipeline, utility, or road right-of-way of the planned pipeline route to the extent practicable.

NEPA Process and the Environmental Document

Any environmental document issued by Commission staff will discuss affects that could occur as a result of the construction and operation of the planned project under the relevant general resource areas:

- geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- socioeconomics;
- land use;
- air quality and noise; and
- reliability and safety.

Commission staff have already identified several issues that deserve attention based on a preliminary review of the planned facilities and the environmental information provided by WBI Energy. This preliminary list of issues may change based on your comments and our analysis:

- crossing lands owned or maintained by federal and state agencies; and
- crossing navigable rivers and flood control structures.

Commission staff will also evaluate reasonable alternatives to the planned project or portions of the project and make recommendations on how to lessen or avoid effects on the various resource areas. Your comments will help Commission staff identify and focus on the issues that might have an effect on the human environment and potentially eliminate others from further study and discussion in the environmental document.

Although no formal application has been filed, Commission staff have already initiated a NEPA review under the Commission's pre-filing process. The purpose of the pre-filing process is to encourage early involvement of interested stakeholders and to identify and resolve issues before the Commission receives an application. As part of the pre-filing review, Commission staff will contact federal and state agencies to discuss their involvement in the scoping process and the preparation of the environmental document.

If a formal application is filed, Commission staff will then determine whether to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The EA or the EIS will present Commission staff's independent analysis of the environmental issues. If Commission staff prepares an EA, a *Notice of Schedule for the Preparation of an Environmental Assessment* will be issued. The EA may be issued for an allotted public comment period. The Commission would consider timely comments on the EA before making its determination on the proposed project. If Commission staff prepares an EIS, a *Notice of Intent to Prepare an EIS/Notice of Schedule* will be issued once an application is filed, which will open an additional public comment period. Staff will then prepare a draft EIS that will be issued for public comment. Commission staff will consider all timely comments received during the comment period on the draft EIS, and revise the document, as necessary, before issuing a final EIS. Any EA or draft and final EIS will be available in electronic format in the public record through eLibrary [2] and the Commission's natural gas environmental documents web page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). If eSubscribed, you will receive instant email notification when the environmental document is issued.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues related to this project to formally cooperate in the preparation of the environmental document.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the *Public Participation* section of this notice. Currently, the Bureau of Land Management will participate as a cooperating agency in the preparation of the environmental document to satisfy its NEPA responsibilities related to this project. Other federal and state agencies are participating in pre-filing activities and may also act as cooperating agencies once WBI Energy files it's application.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office, and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] The environmental document for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

[2] For instructions on connecting to eLibrary, refer to the last page of this notice.

[3] Cooperating agency responsibilities are addressed in Section 107(a)(3) of NEPA (42 U.S. Code 4336(a)(3)).

[4] The Advisory Council on Historic Preservation regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project and includes a mailing address with their comments. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the planned project.

If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please complete one of the following steps:

(1) Send an email to *GasProjectAddressChange@ferc.gov* stating your request. You must include the docket number PF26–4–000 in your request. If you are requesting a change to your address, please be sure to include your name and the correct address. If you are requesting to delete your address from the mailing list, please include your name and address as it appeared on this notice. This email address is unable to accept comments.

OR

(2) Return the attached ''Mailing List Update Form'' (appendix 3).

Becoming an Intervenor

Once WBI Energy files its application with the Commission, you may want to become an ''intervenor,'' which is an official party to the Commission's proceeding. Only intervenors have the right to seek rehearing of the Commission's decision and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214). Motions to intervene are more fully described at *https://www.ferc.gov/how-intervene.* Please note that the Commission will not accept requests for intervenor status at this time. You must wait until the Commission receives a formal application for the project, after which the Commission will issue a public notice that establishes an intervention deadline.

Additional Information

Additional information about the project is available on the FERC website (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number in the ''Docket Number'' field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *https://www.ferc.gov/news-events/events* along with other related information.

(Authority: 18 CFR 2.1)

Dated: May 5, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–09197 Filed 5–7–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM23–9–000; Docket No. ER02–2001–000]

Filing Process and Data Collection for the Electric Quarterly Report; Electric Quarterly Reports; Notice of New web page and Staff Guidance on Initial Implementation of Order No. 917

On March 19, 2026, the Commission issued Order No. 917,[1] which adopts eXtensible Business Reporting Language-Comma-Separated Values as the standard for filing the Electric Quarterly Report (EQR) and modifies and clarifies EQR reporting requirements. Among other things, Order No. 917 set forth that, as of the May 26, 2026 effective date of the final rule, the Commission will no longer require reporting of information about transmission capacity reassignments, index price publisher(s) and exchange/brokerage services in the EQR.[2] In addition, Order No. 917 stated that the additional process contemplated in the final rule, including a future technical conference(s), will inform the compliance timeline.[3]

To help inform filers about how to implement the initial changes to the EQR reporting requirements set forth in Order No. 917, Commission staff has developed a new web page with filing guidance.[4] Going forward, this web page will also help inform filers and other interested parties of future changes to the EQR filing process and reporting requirements under Order No. 917.

To stay up-to-date with developments in this rulemaking proceeding, you may join our contact list. To subscribe to Docket No. RM23–9–000 in eLibrary, follow instructions posted on the Commission's website.[5]

(Authority: 18 CFR 2.1)

Dated: May 5, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–09191 Filed 5–7–26; 8:45 am]

BILLING CODE 6717–01–P

[1] *Filing Process and Data Collection for the Electric Quarterly Report,* Order No. 917, 194 FERC ¶ 61,195 (2026).

[2] *Id.* P 118.

[3] *See id.* PP 35–39.

[4] The web page is available at *https://www.ferc.gov/order-917.*

[5] The instructions are available at *https://www.ferc.gov/how-to-esubscribe.*

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15230–002]

Pike Island Hydroelectric Corporation; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380, the Office of Energy Projects has reviewed the application for an original license to construct, operate, and maintain the Pike Island Hydroelectric Project No. 15230 (project). The proposed project would be located at the United States Army Corps of Engineer's (Corps) Pike Island Locks and Dam on the Ohio River in Belmont County, Ohio and Ohio County, West Virginia. Commission staff has prepared an Environmental Assessment (EA) for the proposed project.[1] The proposed project would

[1] For tracking purposes under the National Environmental Policy Act, the unique identification number for documents relating to this environmental review is EAXX–019–20–000–1756911771.

affect 4.35 acres of federal land administered the Corps.

The EA contains staff's analysis of the potential environmental impacts of the proposed project and concludes that the original licensing of the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

The Commission provides all interested persons with an opportunity to view and/or print the EA via the internet through the Commission's Home Page (*http://www.ferc.gov/*), using the ''eLibrary'' link. Enter the docket number (P–15230), excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* or at (866) 208–3676 (toll-free), or (202) 502–8659 (TTY).

You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Any comments should be filed on or before 5:00 p.m. Eastern Time on June 4, 2026.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 10,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* For assistance, please contact FERC Online Support. In lieu of electronic filing, you may submit a paper copy via the U.S. Postal Service to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–15230–002.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595, or at *OPP@ferc.gov.*

For further information, contact Colleen Corballis at (202) 502–8598 or by email *colleen.corballis@ferc.gov*.

(Authority: 18 CFR 2.1.)

Dated: May 5, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–09186 Filed 5–7–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1818–041.

Applicants: Public Service Company of Colorado.

Description: Notice of Non-Material Change in Status of Public Service Company of Colorado.

Filed Date: 4/30/26.

Accession Number: 20260430–5607.

Comment Date: 5 p.m. ET 5/21/26.

Docket Numbers: ER15–793–007.

Applicants: Southern Indiana Gas and Electric Company, Inc.

Description: Notice of Change in Status of Southern Indiana Gas and Electric Company, Inc.

Filed Date: 4/30/26.

Accession Number: 20260430–5608.

Comment Date: 5 p.m. ET 5/21/26.

Docket Numbers: ER16–1878–003; ER15–2135–003.

Applicants: Alexander Wind Farm, LLC, Ringer Hill Wind, LLC.

Description: Notice of Non-Material Change in Status of Ringer Hill Wind, LLC, et al.

Filed Date: 4/30/26.

Accession Number: 20260430–5609.

Comment Date: 5 p.m. ET 5/21/26.

Docket Numbers: ER19–115–006; ER25–2682–002.

Applicants: FL Solar 8, LLC, FL Solar 5, LLC.

Description: Notice of Change in Status of FL Solar 5, LLC, et al.

Filed Date: 4/30/26.

Accession Number: 20260430–5610.

Comment Date: 5 p.m. ET 5/21/26.

Docket Numbers: ER23–113–005; ER25–3039–002; ER25–3360–001; ER24–773–005; ER24–2220–005; ER26–40–002; ER24–619–005; ER23–2899–004; ER25–1446–003.

Applicants: MS Solar 7, LLC, MS Solar 6, LLC, MS Solar 5, LLC, IN Solar 1, LLC, FL Solar 7, LLC, Escalante Solar, LLC, AL Solar H, LLC, AL Solar G, LLC, AL Solar D, LLC.

Description: Notice of Change in Status of AL Solar D, LLC, et al.

Filed Date: 4/30/26.

Accession Number: 20260430–5611.

Comment Date: 5 p.m. ET 5/21/26.

Docket Numbers: ER24–1281–002; ER22–2424–006; ER23–2513–004; ER22–2426–006; ER22–2428–006; ER19–53–009; ER25–3013–002; ER23–2512–004.

Applicants: SR Canadaville, LLC, SR Millington II, LLC, SR Millington, LLC, SR McKellar Lessee, LLC, SR McKellar, LLC, SR Canadaville Lessee, LLC, SR Bell Buckle, LLC, Russellville Solar LLC.

Description: Notice of Non-Material Change in Status of Russellville Solar LLC, et al.

Filed Date: 4/29/26.

Accession Number: 20260429–5375.

Comment Date: 5 p.m. ET 5/20/26.

Docket Numbers: ER25–2168–002; ER26–481–001; ER25–2169–002; ER24–2833–004.

Applicants: Silver Peak Solar, LLC, Atlas IX, LLC, Atlas VIII, LLC, Atlas VII, LLC.

Description: Notice of Non-Material Change in Status of Atlas VII, LLC, et al.

Filed Date: 4/30/26.

Accession Number: 20260430–5606.

Comment Date: 5 p.m. ET 5/21/26.

Docket Numbers: ER26–2458–000.

Applicants: Braided Creek Wind, LLC.

Description: Request for Limited and Prospective Waiver, et al. of Braided Creek Wind, LLC.

Filed Date: 5/4/26.

Accession Number: 20260504–5399.

Comment Date: 5 p.m. ET 5/26/26.

Docket Numbers: ER26–2459–000.

Applicants: Winchester Transmission, LLC.

Description: § 205(d) Rate Filing: WinchesterT—Shared Facilities Common Ownership Agreement to be effective 5/5/2026.

Filed Date: 5/5/26.

Accession Number: 20260505–5067.

Comment Date: 5 p.m. ET 5/26/26.

Docket Numbers: ER26–2460–000.

Applicants: Juliet Energy Project, LLC.

Description: Initial Rate Filing: Application for MBR Authorization with Waivers and Expedited Treatment to be effective 5/6/2026.

Filed Date: 5/5/26.

Accession Number: 20260505–5069.

Comment Date: 5 p.m. ET 5/26/26.

Docket Numbers: ER26–2461–000.

Applicants: Northern States Power Company, a Minnesota corporation.

Description: § 205(d) Rate Filing: 2026–05–05 Plum Creek E&P–793–0.0.0 to be effective 4/28/2026.

Filed Date: 5/5/26.

Accession Number: 20260505–5077.

Comment Date: 5 p.m. ET 5/26/26.

Docket Numbers: ER26–2462–000.

Applicants: Babacomari Solar North LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 7/5/2026.

Filed Date: 5/5/26.

Accession Number: 20260505–5092.

Comment Date: 5 p.m. ET 5/26/26.

Docket Numbers: ER26–2463–000.

Applicants: 311SV 8me LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 7/5/2026.

Filed Date: 5/5/26.

Accession Number: 20260505–5094.

Comment Date: 5 p.m. ET 5/26/26.

Docket Numbers: ER26–2464–000.

Applicants: Santa Teresa Solar, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 7/5/2026.

Filed Date: 5/5/26.

Accession Number: 20260505–5095.

Comment Date: 5 p.m. ET 5/26/26.

Docket Numbers: ER26–2465–000.

Applicants: Carne Energy Storage, LLC.

Description: § 205(d) Rate Filing: Carne Energy Storage, LLC to be effective 7/5/2026.

Filed Date: 5/5/26.

Accession Number: 20260505–5096.

Comment Date: 5 p.m. ET 5/26/26.

Docket Numbers: ER26–2466–000.

Applicants: El Paso Electric Company.

Description: § 205(d) Rate Filing: Open Access Transmission Tariff Provisions—Attachment M to be effective 7/6/2026.

Filed Date: 5/5/26.

Accession Number: 20260505–5118.

Comment Date: 5 p.m. ET 5/26/26.

Docket Numbers: ER26–2467–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Membership Agreement Amendments for Tri-State Generation and Transmission Assoc. to be effective 4/1/2026.

Filed Date: 5/5/26.

Accession Number: 20260505–5119.

Comment Date: 5 p.m. ET 5/26/26.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number. Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding. eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

Dated: May 5, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–09188 Filed 5–7–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15045–002]

Current Hydro Project 19, LLC; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380, the Office of Energy Projects has reviewed the application for an original license to construct, operate, and maintain the New Cumberland Hydroelectric Project No. 15045 (project). The proposed project would be located at the United States Army Corps of Engineer's (Corps) New Cumberland Locks and Dam on the Ohio River in Hancock County, West Virginia. Commission staff has prepared an Environmental Assessment (EA) for the proposed project.[1] The proposed project would affect 2.82 acres of federal land administered by the Corps.

The EA contains staff's analysis of the potential environmental impacts of the proposed project and concludes that the original licensing of the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

The Commission provides all interested persons with an opportunity to view and/or print the EA via the internet through the Commission's Home Page (*http://www.ferc.gov/*), using the ''eLibrary'' link. Enter the docket number (P–15045), excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* or at (866) 208–3676 (toll-free), or (202) 502–8659 (TTY).

You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Any comments should be filed on or before 5:00 p.m. Eastern Time on June 4, 2026.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 10,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* For assistance, please contact FERC Online Support. In lieu of electronic filing, you may submit a paper copy via the U.S. Postal Service to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–15045–002.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595, or at *OPP@ferc.gov.*

For further information, contact Colleen Corballis at (202) 502–8598 or by email at *colleen.corballis@ferc.gov.*

(Authority: 18 CFR 2.1.)

Dated: May 5, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–09187 Filed 5–7–26; 8:45 am]

BILLING CODE 6717–01–P

[1] For tracking purposes under the National Environmental Policy Act, the unique identification number for documents relating to this environmental review is EAXX–019–20–000–1756991414.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP25–35–002]

Columbia Gas Transmission, LLC; Notice of Request for Extension of Time

Columbia states that following issuance of the March 3 Approval, construction was further delayed due to contractor availability constraints, as the originally planned contractor was no longer immediately available. Columbia asserts that it has since worked to rearrange construction activities and secure contractor resources; however, intermittent weather-related delays have also affected the Project schedule. Collectively, these factors have resulted in the need for additional time to complete the remaining construction activities. To date, Columbia has completed drilling Well 12653. The remaining work includes installing the connecting pipeline to ensure full integration with the storage field and readiness for service. Columbia's anticipated in-service date, based on the Project's current progress, is June 1, 2026.

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to comment on Columbia's request for an extension of time may do so. No reply comments or answers will be considered. If you wish to obtain legal status by becoming a party to the proceedings for this request, you should, on or before the comment date stated below, file a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (NGA) (18 CFR 157.10).

As a matter of practice, the Commission itself generally acts on requests for extensions of time to complete construction for NGA facilities when such requests are contested before order issuance. For those extension requests that are contested,[1] the Commission will aim to issue an order acting on the request within 45 days.[2] The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension.[3] The Commission will not consider arguments that re-litigate the issuance of the certificate order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission's environmental analysis for the certificate complied with the National Environmental Policy Act (NEPA).[4] At the time a pipeline requests an extension of time, orders on certificates of public convenience and necessity are final and the Commission will not re-litigate their issuance.[5] The Director of the Office of Energy Projects, or his or her designee, will act on all of those extension requests that are uncontested.

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*.

The Commission strongly encourages electronic filings of comments in lieu of paper using the ''eFile'' link at *http://www.ferc.gov*. In lieu of electronic filing, you may submit a paper copy which must reference the Project docket number.

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 courier: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

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*.

Comment Date: 5:00 p.m. Eastern Time on May 20, 2026.

(Authority: 18 CFR 2.1)

Dated: May 5, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–09207 Filed 5–7–26; 8:45 am]

BILLING CODE 6717–01–P

[1] Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 CFR 385.2201(c)(1).

[2] *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 40 (2020).

[3] *Id.* at P 40.

[4] Similarly, the Commission will not re-litigate the issuance of an NGA section 3 authorization, including whether a proposed project is not inconsistent with the public interest and whether the Commission's environmental analysis for the permit order complied with NEPA.

[5] *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 40 (2020).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–2387–012.

Applicants: Duke Energy Florida, Inc.

Description: Notice of Non-Material Change in Status of Duke Energy Florida, Inc.

Filed Date: 4/29/26.

Accession Number: 20260429–5357.

Comment Date: 5 p.m. ET 5/20/26.

Docket Numbers: ER19–2822–005; ER23–326–005; ER23–327–005; ER20–1996–010; ER21–1370–010; ER21–1916–008; ER26–168–001; ER15–1676–007; ER15–1065–007; ER24–1386–004; ER21–1961–008; ER24–2657–005; ER26–241–001; ER23–2813–006; ER20–1014–006; ER20–1015–006; ER25–2974–001; ER17–2318–007; ER21–1187–009; ER21–2911–005; ER21–2912–005; ER19–2460–005; ER23–2814–004; ER24–2534–004; ER24–2535–004; ER18–697–006; ER26–242–001; ER22–123–006; ER25–1056–004; ER25–1057–004; ER23–2815–004; ER20–2458–006; ER23–2732–004; ER21–1217–009; ER24–2986–006; ER17–962–004; ER16–1990–010; ER17–43–007; ER17–44–007; ER21–1188–009; ER20–2472–005; ER21–207–005; ER16–892–007; ER15–1066–008; ER24–482–006; ER23–2816–005; ER24–3150–004; ER24–719–005; ER26–1142–001; ER21–285–006; ER24–720–005; ER25–1107–004; ER26–7–002; ER24–3151–004; ER21–1218–009; ER23–2684–004; ER24–847–006; ER17–239–008; ER25–1910–003; ER18–2516–006; ER26–1139–001; ER16–893–008; ER16–1371–009.

Applicants: 63SU 8ME LLC,62SK 8ME LLC,311SV 8me LLC, Willow Springs Solar, LLC, White Tail Solar, LLC, TPE Alta Luna, LLC, Sunlight Road Solar, L.L.C., Steel Solar, LLC, St.

James Solar, LLC, Speedway Solar, LLC, Solar PV Development NM 18 II LLC, SloughHouse Solar, LLC, SJS 1 Storage, LLC, Sigurd Solar LLC, Santa Teresa Solar, LLC, San Juan Solar 1, LLC, Rocking R Solar, LLC, Rocket Solar, LLC, River Fork Solar, LLC, Red Horse Wind 2, LLC, Red Horse III, LLC, Rancho Seco Solar, LLC, Rancho Seco Solar II LLC, Prairie State Solar, LLC, Portal Ridge Solar C, LLC, Portal Ridge Solar B, LLC, North Star Solar PV LLC, MS Solar 2, LLC, Long Lake Solar, LLC, Iris Solar, LLC, Hunter Solar, LLC, Hunter Solar LLC, Horseshoe Solar, LLC, Hornshadow Solar 2, LLC, Hornshadow Solar, LLC, Hecate Energy Highland LLC, Heartwood Solar, LLC, Gray Hawk Solar, LLC, Gravel Pit Solar IV, LLC, Gravel Pit Solar III, LLC, Elektron Solar, LLC, DWW Solar II, LLC, Drew Solar-CA, LLC, Drew Solar, LLC, Dressor Plains Solar, LLC, Cuyama Solar, LLC, Crossroads Solar, LLC, Cove Mountain Solar 2, LLC, Cove Mountain Solar, LLC, Castle Solar, LLC, Carne Energy Storage, LLC, Blue Bird Solar, LLC, Big River Solar, LLC, Bartonsville Energy Facility, LLC, Balko Wind, LLC, Balko Wind Transmission, LLC, Babacomari Solar North LLC, Assembly Solar III, LLC, Assembly Solar II, LLC, Assembly Solar I, LLC, Arroyo Energy Storage LLC, Arroyo Solar LLC, Airport Solar LLC.

Description: Notice of Change in Status of Airport Solar LLC, et al.

Filed Date: 4/28/26.

Accession Number: 20260428–5321.

Comment Date: 5 p.m. ET 5/19/26.

Docket Numbers: ER20–391–017; ER24–72–004; ER24–1275–003; ER24–2857–004; ER25–941–002.

Applicants: Aron Energy Prepay 54 LLC, Aron Energy Prepay 47 LLC, Aron Energy Prepay 34 LLC, Aron Energy Prepay 29 LLC, J. Aron & Company LLC.

Description: Notice of Non-Material Change in Status of J. Aron & Company LLC, et al.

Filed Date: 4/29/26.

Accession Number: 20260429–5360.

Comment Date: 5 p.m. ET 5/20/26.

Docket Numbers: ER21–2557–014; ER22–2662–014; ER22–2663–014; ER22–2664–014; ER23–1275–012; ER23–1276–012; ER24–2249–010; ER24–2251–009; ER24–2854–008; ER24–2855–008; ER24–2856–008; ER25–939–006; ER25–940–006.

Applicants: Aron Energy Prepay 53 LLC, Aron Energy Prepay 52 LLC, Aron Energy Prepay 46 LLC, Aron Energy Prepay 45 LLC, Aron Energy Prepay 44 LLC, Aron Energy Prepay 43 LLC, Aron Energy Prepay 41 LLC, Aron Energy Prepay 22 LLC, Aron Energy Prepay 21 LLC, Aron Energy Prepay 16 LLC, Aron Energy Prepay 15 LLC, Aron Energy Prepay 14 LLC, Aron Energy Prepay 5 LLC.

Description: Notice of Non-Material Change in Status of Aron Energy Prepay 5 LLC, et al.

Filed Date: 4/29/26.

Accession Number: 20260429–5361.

Comment Date: 5 p.m. ET 5/20/26.

Docket Numbers: ER22–7–003; ER22–14–004; ER22–15–004; ER22–9–004; ER22–11–004; ER23–31–004; ER22–12–003; ER22–13–004; ER22–2784–015.

Applicants: MN8 Energy Marketing LLC, Regan Solar, LLC, Puckett Solar, LLC, Pattersonville Solar Facility LLC, Janis Solar, LLC, Grissom Solar, LLC, ELP Stillwater Solar, LLC, Darby Solar, LLC, Branscomb Solar, LLC.

Description: Notice of Non-Material Change in Status of Branscomb Solar, LLC, et al.

Filed Date: 4/29/26.

Accession Number: 20260429–5358.

Comment Date: 5 p.m. ET 5/20/26.

Docket Numbers: ER25–441–003.

Applicants: Richland Township Solar II, LLC.

Description: Compliance filing: Richland Township Solar II, LLC Change in Status to be effective 5/5/2026.

Filed Date: 5/4/26.

Accession Number: 20260504–5363.

Comment Date: 5 p.m. ET 5/26/26.

Docket Numbers: ER25–1319–003.

Applicants: Cadence Solar Energy LLC.

Description: Notice of Non-Material Change in Status of Cadence Solar Energy LLC.

Filed Date: 4/30/26.

Accession Number: 20260430–5605.

Comment Date: 5 p.m. ET 5/21/26.

Docket Numbers: ER25–1321–002.

Applicants: Trade Post Solar LLC.

Description: Notice of Non-Material Change in Status of Trade Post Solar LLC.

Filed Date: 4/30/26.

Accession Number: 20260430–5604.

Comment Date: 5 p.m. ET 5/21/26.

Docket Numbers: ER25–2308–004; ER21–445–006; ER17–1821–014.

Applicants: Panda Stonewall LLC, Hill Top Energy Center LLC, Magnolia Power LLC.

Description: Notice of Non-Material Change in Status of Magnolia Power LLC, et al.

Filed Date: 4/29/26.

Accession Number: 20260429–5359.

Comment Date: 5 p.m. ET 5/20/26.

Docket Numbers: ER26–2455–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Revised SA No. 03746, NITSA Among PJM and ODEC to be effective 7/4/2026.

Filed Date: 5/4/26.

Accession Number: 20260504–5359.

Comment Date: 5 p.m. ET 5/26/26.

Docket Numbers: ER26–2456–000.

Applicants: ARM Energy Power, LLC.

Description: Initial Rate Filing: Baseline new to be effective 5/5/2026.

Filed Date: 5/4/26.

Accession Number: 20260504–5380.

Comment Date: 5 p.m. ET 5/26/26.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number. Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding. eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

Dated: May 5, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–09194 Filed 5–7–26; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OPRM–FAD–221]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–993–3272 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed April 27, 2026 10 a.m. EST

Through May 4, 2026 10 a.m. EST

Pursuant to CEQ Guidance on 42 U.S.C. 4332.

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://*

cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search.

EIS No. 20260052, Draft, NRCS, UT, Logan River Watershed Project, Comment Period Ends: 06/22/2026, Contact: Ammon Boswell 435–459–1621.

EIS No. 20260053, Draft, BLM, NV, North Bullfrog Mine Project, Comment Period Ends: 06/08/2026, Contact: Melissa Jennings 775–482–4747.

EIS No. 20260054, Final Supplement, USN, HI, Surveillance Towed Array Sensor System Low Frequency Active Sonar Training and Testing in the Western North Pacific and Indian Oceans, Review Period Ends: 06/08/2026, Contact: John Burke 808–471–1714.

EIS No. 20260055, Draft, USCG, PRO, Shipping Safety Fairways Along the Atlantic Coast, Comment Period Ends: 06/22/2026, Contact: Gabrielle Cantor 206–827–5397.

Dated: May 4, 2026.

Nancy Abrams,

Deputy Director, Federal Activities Division.

[FR Doc. 2026–09180 Filed 5–7–26; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0031; FR ID 344726]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on ho3060-w it can further reduce the information collection burden for small business concerns with fewer than 25 employees.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before June 8, 2026.

ADDRESSES: Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

Control Number: 3060–0031.

Title: Form 2100, Schedule 314—Application for Consent to Assignment of Broadcast Station Construction Permit or License; Form 2100, Schedule 315—Application for Consent to Transfer Control of Entity Holding Broadcast Station Construction Permit or License.

Form Number: FCC Form 2100, Schedules 314 and 315.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; State, local or Tribal government.

Number of Respondents and Responses: 4,920 respondents and 13,160 responses.

Estimated Time per Response: 0.075 to 7 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in Sections 154(i), 303(b) and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 17,159 hours.

Total Annual Cost: $52,976,959.

Needs and Uses: Upon adoption, submission was made to the Office of Management and Budget (OMB) for the approval of information collection requirements contained in the Commission's Reexamination of the Comparative Standards and Procedures for Licensing Noncommercial Educational Broadcast Stations and Low Power FM Stations, Report and Order, FCC 19–127, 34 FCC Rcd 12519 (2019) (NCE LPFM Report and Order), adopted December 10, 2019, and released on December 11, 2019. In the NCE LPFM Report and Order the Commission revised its rules and procedures for considering competing applications for new and major modifications to noncommercial educational full-service FM and full-power television (NCE), and low power FM (LPFM) broadcast stations. The changes were designed to improve the comparative selection and licensing procedures, expedite the initiation of new service to the public, eliminate unnecessary applicant

burdens, and reduce the number of appeals of NCE comparative licensing decisions.

First, to improve the NCE comparative process, the NCE LPFM Report and Order: (1) Eliminated the governing document requirements for established local applicants and applicants claiming diversity points; (2) established a uniform divestiture pledge policy; (3) expanded the tie-breaker criteria and revises the procedures for allocating time in mandatory time-sharing situations; and (4) clarified and modified the ''holding period'' rule.

Second, the NCE LPFM Report and Order adopted the following changes to the LPFM comparative process: (1) Prohibited amendments that attempt to cure past unauthorized station violations; (2) authorized time-sharing discussions prior to tentative selectee designations; and (3) established procedures for remaining tentative selectees following dismissal of point aggregation time-share agreements.

Third, the NCE LPFM Report and Order adopted the following general changes: (1) Defined which applicant board changes are major changes; (2) clarified the reasonable site assurance requirements; (3) streamlined construction deadline tolling procedures and notification requirements; (4) lengthened the LPFM construction period; and (5) eliminated restrictions on the assignment and transfer of LPFM authorizations.

Specifically, pertaining to this Information Collection and NCE and LPFM stations, the Commission removed the restrictive LPFM station three-year ''holding period'' certification from CDBS Forms 314 and 315, and revised the relevant rules, 47 CFR 73.865 and 73.7005, the forms, and corresponding instructions, as follows:

(1) Changed all references to ''holding period'' to ''maintenance of comparative qualifications,'' and requiring NCE stations awarded by the point system to certify satisfying the four-year ''maintenance of comparative qualifications'' period;

(2) required LPFM applicants to certify that it has been at least 18 months since the station's initial construction permit was granted in accordance with 47 CFR 73.865(c);

(3) required LPFM applicants to certify that the assignment/transfer of the LPFM authorization satisfies the consideration restrictions of 47 CFR 73.865(a)(1);

(4) required LPFM authorizations awarded by the LPFM comparative point system, to indicate whether the LPFM station has operated on-air for at least four years since grant;

(5) required NCE applicants to certify that the proposed acquisition comports with 47 CFR 73.7005(c) diversity requirements, based on any ''diversity of ownership'' points awarded in an NCE points system analysis.

Moreover, the NCE LPFM Report and Order will increase the number of applicants eligible to file Schedules 314 and 315 by eliminating both the absolute prohibition on the assignment/transfer of LPFM construction permits and the three-year holding period restriction on assigning LPFM licenses. The elimination of these restrictions will benefit the LPFM service by increasing the likelihood that LPFM permits will be constructed, provide new service to communities, and help make the LPFM stations more viable.

Upon adoption, the Commission, submitted to OMB for the approval of information collection requirements contained in the Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580, Second Report and Order, MB Docket Nos. 17–254, 17–105, & 05–6, FCC 20–65 (adopted May 12, 2020, rel. May 13, 2020) (2020 Public Notice Second Report and Order). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Stations, including commercial stations filing assignment and transfer applications, that were previously required to post public notice in a local newspaper, must now post notice online either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing. Stations, including those filing assignment and transfer applications, that are required to make on-air announcements of the filing of certain applications, must continue to do so, but the announcements are shorter and direct viewers and listeners to the application as filed and displayed in either the station's Online Public Inspection File or another Commission database. A total of six on-air announcements are required, at least one per week and no more than one per day or two per week, to be broadcast between 7:00 a.m. and 11:00 p.m. local time, Monday through Friday, beginning after the application is accepted for filing.

The changes pertaining to this Information Collection and to 47 CFR 73.3580 adopted in the 2020 Public Notice Second Report and Order, did not necessitate changes to Schedules 314 or 315, nor did they affect the substance, burden hours, or costs of completing the forms. The rule changes did, however, reduce burdens and costs associated with filing the application.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–09135 Filed 5–7–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1247; FR ID 345123]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

DATES: Written PRA comments should be submitted on or before July 7, 2026. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the

information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION: The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

OMB Control Number: 3060–1247.

Title: Part 32 Uniform System of Accounts.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 854 respondents; 1,696 responses.

Estimated Time per Response: 20–40 hours.

Frequency of Response: On occasion, and annual reporting requirements; recordkeeping requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 10, 201, 219–220, 224, and 403 of the Communications Act of 1934, as amended; *47 U.S.C. 160, 201, 219–220, 224,* and *403.*

Total Annual Burden: 51,360 hours.

Total Annual Cost: No cost.

Needs and Uses: On February 24, 2017, the Commission released the Part 32 Order, WC Docket No. 14–130, CC Docket No. 80–286, FCC 17–15, which minimized the compliance burdens imposed by the Uniform System of Accounts (USOA) on price cap and rate-of-return telephone companies, while ensuring that the Commission retains access to the information it needs to fulfill its regulatory duties. The Commission consolidated Class A and Class B accounts by eliminating the current classification of carriers, which divides incumbent LECS into two classes for accounting purposes based on annual revenues. Carriers subject to Part 32's USOA are now only required to keep Class B accounts.

Pursuant to the Part 32 Order, price cap carriers may elect to use generally accepted accounting principles (GAAP) for all regulatory accounting purposes if they: (1) Establish an ''Implementation Rate Difference'' (IRD) which is the difference between pole attachment rates calculated under Part 32 and under GAAP as of the last full year preceding the carrier's initial opting out of Part 32 accounting requirements; and (2) adjust their annually-computed GAAP-based pole attachment rates by the IRD for a period of 12 years after the election. Alternatively, price cap carriers may elect to use GAAP accounting for all purposes other than those associated with pole attachment rates and continue to use the Part 32 accounts and procedures applicable to pole attachment rates for up to 12 years. A price cap carrier may be required to submit pole attachment accounting data to the Commission for three years following the effective date of the rule permitting a price cap carrier to elect GAAP accounting. If a pole attacher informs the Commission of a suspected problem with pole attachment rates, the Commission will require the price cap carrier to file its pole attachment data for the state in question. This requirement may be extended for an additional three years, if necessary.

The Commission reduced the accounting requirements for telephone companies with a continuing obligation to comply with Part 32 in a number of areas. Telephone companies may: (1) Carry an asset at its purchase price when it was acquired, even if its value has increased or declined when it goes into regulated service; (2) reprice an asset at market value after a merger or acquisition consistent with GAAP; (3) use GAAP principles to determine Allowance-for-Funds-Used-During Construction; and (4) employ the GAAP standard of materiality. Rate-of-return carriers receiving cost-based support must determine materiality consistent with the general materiality guidelines promulgated by the Auditing Standards Board. Price cap carriers with a continuing Part 32 accounting obligation must maintain continuing property records necessary to track substantial assets and investments in an accurate, auditable manner. The carriers must make such property information available to the Commission upon request. Carriers subject to Part 32 must continue to comply with the USOA's depreciation procedures and its rules for cost of removal-and-salvage accounting.

Pursuant to the October 24, 2018 Rate-of-Return Business Data Services Report and Order, WC Docket No. 17–144, FCC 18–146, rate-of-return carriers currently receiving model-based or other fixed high-cost support may voluntarily elect to transition their business services offerings from rate-of-return to incentive regulation. Thus, electing carriers that choose to use GAAP instead of the Uniform System of Accounts are relieved of virtually all of the filing and recordkeeping requirements of the Uniform System of Accounts, with the sole exception of the same data provisioning requirements for the calculation of pole attachment rates as price cap carriers.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–09211 Filed 5–7–26; 8:45 am]

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 June 8, 2026.

A. Federal Reserve Bank of Dallas (Lindsey Wieck, Director, Mergers & Acquisitions) 2200 North Pearl Street,

Dallas, Texas 75201–2272. Comments can also be sent electronically to *Comments.applications@dal.frb.org:*

1. *Carpenter Bank Holdings LLC, Dallas, Texas;* to become a bank holding company by acquiring Security State Bank, Pearsall, Texas.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2026–09202 Filed 5–7–26; 8:45 am]

BILLING CODE;P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10943]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by June 8, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing*

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment.

Information Collection

1. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* CMS Meeting Request Public Portal; *Use:* CMS is seeking approval to streamline the process for entities requesting external meetings. The proposed CMS Meeting Request Portal will gather only necessary information for representatives of the organization to meet with a representative of the federal government. This simplified approach aims to reduce administrative burden while enhancing transparency and accountability in meeting requests. By focusing on essential information, CMS ensures that the evaluation and screening process for private requests remains efficient and centered on logistics, scheduling, and conflict of interest. The proposed information collection aligns with CMS's commitment to stakeholder engagement while ensuring compliance with all applicable federal laws, regulations, and security protocols.

The information will be collected solely from organizations and third-party requestors, such as law firms or other entities acting on behalf of organizations, that seek a meeting with the Administrator. The implementation of an online portal will facilitate the ease and efficiency of submitting requests. Requestors will have the capability to securely enter their requests electronically through this portal. Information collection is voluntary, whether or not it is provided through the portal or via a letter, but no matter how it is submitted to CMS, failure to provide the requested information will result in CMS's inability to review, process, and/or act on the request.

Subsequent to submitting the 60-day notice, we decided to add the organization's mailing address to the list of data elements. Similarly, we also updated the projected number of respondents from 427 to 465 based on updated data. These changes will not have an effect on the original burden estimate of 20 minutes per request; however, we adjusted the total annual burden from 142 hours to 155 hours. *Form Number:* CMS–10943 (OMB control number: 0938–New); *Frequency:* Occasionally; *Affected Public:* Individuals, Private Sector—Business or other for-profits, Not-for-profit institutions; *Number of Respondents:* 465; *Total Annual Responses:* 465; *Total Annual Hours:* 155 hours. (For policy questions regarding this collection contact Erin Palmer at (202) 690–5943.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2026–09167 Filed 5–7–26; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–P–0749]

Determination That Leucovorin Calcium, Oral Solution, Equivalent to 60 Milligrams Base/Vial, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has

determined that leucovorin calcium, oral solution, equivalent to (EQ) 60 milligrams (mg) base/vial, was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for leucovorin calcium, oral solution, EQ 60 mg, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Alexander Poonai, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6213, Silver Spring, MD 20993–0002, 301–796–3600, *Alexander.Poonai@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(j)) allows the submission of an ANDA to market a generic version of a previously approved drug product. To obtain approval, the ANDA applicant must show, among other things, that the generic drug product: (1) has the same active ingredient(s), dosage form, route of administration, strength, conditions of use, and (with certain exceptions) labeling as the listed drug, which is a version of the drug that was previously approved, and (2) is bioequivalent to the listed drug. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

Section 505(j)(7) of the FD&C Act requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

Leucovorin calcium, oral solution, EQ 60 mg base/vial, is the subject of NDA 008107, held by Hospira Inc., and initially approved on January 30, 1987. Leucovorin calcium is indicated after high-dose methotrexate therapy in osteosarcoma; to diminish the toxicity and counteract the effects of impaired methotrexate elimination and of inadvertent overdosages of folic acid antagonists; and for use in combination with 5-fluorouracil to prolong survival in the palliative treatment of patients with advanced colorectal cancer

Leucovorin calcium, oral solution, EQ 60 mg base/vial is currently listed in the ''Discontinued Drug Product List'' section of the Orange Book.

Apotex, Inc. submitted a citizen petition dated January 23, 2026 (Docket No. FDA–2026–P–0749), under 21 CFR 10.30, requesting that the Agency determine whether leucovorin calcium, oral solution, EQ 60 mg base/vial, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that leucovorin calcium, oral solution, EQ 60 mg base/vial, was not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that this drug product was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of leucovorin calcium, oral solution, EQ 60 mg base/vial from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have reviewed the available evidence and determined that this drug product was not withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list leucovorin calcium, oral solution, EQ 60 mg base/vial, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to this drug product may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–09199 Filed 5–7–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topics in Biochemistry and Biophysics.

Date: May 22, 2026.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Eduardo Emilio Chufan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 276–7975, *chufanee@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special: Cardiovascular and Pulmonary Research Career Development Awards.

Date: June 10, 2026.

Time: 9:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD, 20892.

Meeting Format: Virtual Meeting.

Contact Person: Dan Yu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–1081, *dan.yu@nih.gov*.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Oral, Dental and Craniofacial Sciences Study Section.

Date: June 11, 2026.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
Meeting Format: Virtual Meeting.
Contact Person: Yun Mei, MD, Scientific Review Officer, Scientific Review Branch, National Institutes of Health, 6701 Democracy Boulevard, Suite #672, Bethesda, MD 20892, 301–827–4639, *yun.mei@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cancer Therapeutics (R21).
Date: June 11, 2026.
Time: 9:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
Meeting Format: Virtual Meeting.
Contact Person: Shree Ram Singh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 672–6175 *singhshr@mail.nih.gov*.

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Innovations in Nanosystems and Nanotechnology Study Section.
Date: June 11, 2026.
Time: 9:00 a.m. to 6:30 p.m.
Agenda: To review and evaluate grant applications.
Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
Meeting Format: Virtual Meeting.
Contact Person: Yingli Fu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–0840 *yingli.fu@nih.gov*.

Name of Committee: Applied Immunology and Disease Control Integrated Review Group; Anti-Infective Resistance and Targets Study Section.
Date: June 11, 2026.
Time: 9:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
Meeting Format: Virtual Meeting.
Contact Person: Jui Pandhare, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–7735 *pandharej2@csr.nih.gov*.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Genomics, Computational Biology and Technology Study Section.
Date: June 11, 2026.
Time: 9:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
Meeting Format: Virtual Meeting.
Contact Person: Methode Bacanamwo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2200, Bethesda, MD 20892, 301–827–7088, *methode.bacanamwo@nih.gov*.

Name of Committee: Infectious Diseases and Immunology B Integrated Review Group; Mechanisms of Autoimmunity Study Section.
Date: June 11, 2026.
Time: 9:30 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
Meeting Format: Virtual Meeting.
Contact Person: Maria Chiara G. Monaco-Kushner, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Bethesda, MD 20892, (301) 555–1212, *monaco@csr.nih.gov*.

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Interdisciplinary Clinical Care in Specialty Care Settings Study Section.
Date: June 11–12, 2026.
Time: 9:30 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
Meeting Format: Virtual Meeting.
Contact Person: Abu Saleh Mohammad Abdullah, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–4043, *abuabdullah.abdullah@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 5, 2026.

Rosalind M. Niamke,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–09117 Filed 5–7–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, National Cancer Institute.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocast at the following link: *http://videocast.nih.gov/*.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Cancer Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Cancer Institute.
Date: July 6–7, 2026.
Open: July 06, 2026, 10:00 a.m. to 10:40 a.m.
Agenda: Call to Order and the Opening Remarks.
Closed: July 06, 2026, 11:00 a.m. to 3:00 p.m., July 07, 2026, 11:00 a.m. to 2:00 p.m.
Agenda: Personnel qualifications and performance, and competence of individual investigators.
Address: National Institutes of Health, National Cancer Institute, 9609 Medical Center Drive, Rockville, MD 20850, Virtual Meeting.
Contact Person: Mehrdad M. Tondravi, Ph.D., Chief, Institute Review Office, National Cancer Institute, National Institutes of Health, 9609 Medical Center Drive, Room 2W–464 MSC 9711, Rockville, MD 20852, 240–276–5664, *tondravim@mail.nih.gov*.

Information is also available on the Institute's/Center's home page: *https://deainfo.nci.nih.gov/advisory/bsc/index.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support Grants; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 6, 2026.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–09223 Filed 5–7–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Molecular Neurogenetics Study Section, June 11, 2026, 08:00 a.m. to June 12, 2026, 07:00 p.m., National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on April 30, 2026, 91 FR 23291.

This meeting is being amended to change the date from June 11, 2026—June 12, 2026, to June 12, 2026 (one day). The meeting time remains the same. The meeting is closed to the public.

Dated: May 4, 2026.

Sterlyn H. Gibson,

Program Specialist, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–09118 Filed 5–7–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651–0086]

Agency Information Collection Activities; Extension; Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers (CBP Form 7401)

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

ACTION: 60-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than July 7, 2026) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0086 in the subject line and the agency name. Please submit written comments and/or suggestions in English. Please use the following method to submit comments:

Email. Submit comments to: *CBP_PRA@cbp.dhs.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov*. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/*.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) 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) 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) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers.

OMB Number: 1651–0086.

Form Number: 7401.

Current Actions: Extension with a decrease in burden hours. No change to the information collected or method of collection.

Type of Review: Extension (with change).

Affected Public: Businesses.

Abstract: This collection of information is used by CBP to make distributions of funds pursuant to the Continued Dumping and Subsidy Offset Act of 2000 (CDSOA). 19 U.S.C. 1675c (repealed by the Deficit Reduction Act of 2005, Pub. L. 109–171, title VII, § 7601(a) (Feb. 8, 2006)). This Act prescribes the administrative procedures under which antidumping and countervailing duties assessed on imported products are distributed to affected domestic producers (ADPs) that petitioned for or supported the issuance of the order under which the duties were assessed. The amount of any distribution afforded to these domestic producers is based on certain qualifying expenditures that they incur after the issuance of the order or finding up to the effective date of the CDSOA's repeal, October 1, 2007. This distribution is known as the continued dumping and subsidy offset. The claims process for the CDSOA program is provided for in 19 CFR 159.61 and 159.63.

In order to make a claim under the CDSOA, CBP Form 7401 may be used. This form is accessible at: *https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=8776895*.

Type of Information Collection: CBP Form 7401.

Estimated Number of Respondents: 300.

Estimated Number of Annual Responses per Respondent: 2.

Estimated Number of Total Annual Responses: 600.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 600.

Dated: April 30, 2026.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2026–09214 Filed 5–7–26; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651–0077]

Agency Information Collection Activities; Reinstatement; Customs-Trade Partnership Against Terrorism (CTPAT) and Trade Compliance

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

ACTION: 30-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than June 8, 2026) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Please submit written comments and/or suggestions in English. 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: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (90 FR 47786) on October 02, 2025, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) 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) 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) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Customs-Trade Partnership against Terrorism (CTPAT) and Trade Compliance.

OMB Number: 1651–0077.

Form Number: N/A.

Current Actions: Reinstatement with change.

Type of Review: Reinstatement (with change).

Affected Public: Businesses.

Abstract: The CTPAT Program is comprised of two different program divisions, CTPAT Security and CTPAT Trade Compliance. The CTPAT Security program is designed to safeguard the world's trade industry from terrorists and smugglers by prescreening its participants. The CTPAT Security program applies to United States and nonresident Canadian importers, United States exporters, customs brokers, consolidators, ports and terminal operators, carriers of cargo in air, sea and land, third party logistics providers, Mexican long haul highway carriers, and Canadian and Mexican manufacturers. The Trade Compliance program division is only available for U.S. and nonresident Canadian importers.

The CTPAT Security program application requests the following information from an applicant for the program: an applicant's contact and business information, including the number of company employees, the number of years in business, and a list of company officers.

This collection of information is authorized by the SAFE Port Act (Pub. L. 109–347).

The CTPAT Trade Compliance program is an optional component of the CTPAT program and adds trade compliance aspects to the supply chain security aspects of the CTPAT Security program. The CTPAT Security program is a prerequisite to applying to the CTPAT Trade Compliance program. Current CTPAT importers are given the opportunity to receive additional benefits in exchange for a commitment to assume responsibility for monitoring their own compliance by applying to the CTPAT Trade Compliance program. After a company has completed the security aspects of the CTPAT Security program and is in good standing, it may opt to apply to the CTPAT Trade Compliance component. The CTPAT Trade Compliance program strengthens security by leveraging the CTPAT supply chain requirements, identifying low-risk trade entities for supply chain security, and increasing the overall efficiency of trade by segmenting risk and processing by account.

The CTPAT Trade Compliance program is open to U.S. and non-resident Canadian importers that have satisfied both the CTPAT supply chain security and trade compliance requirements.

The CTPAT Trade Compliance program application includes questions about the following:

- Primary Point of Contact including name, title, email address, and phone number
- Business information including Company Name, Company Address, Company phone number, Company website, Company type (private or public), CBP Bond information, Importer of Record Number, and number of employees
- Information about the applicant's Supply Chain Security Profile
- Trade Compliance Profile and Internal Control Operating Procedures of the applicant
- Broker information
- Training material for Supply Chain Security and Trade Compliance
- Risk Assessment documentation and results
- Period testing documentation and results

- Prior disclosure history
- Partner Government Agency affiliation information

After an importer obtains CTPAT Trade Compliance membership, the importer will be required to submit an Annual Notification Letter to CBP confirming that they are continuing to meet the requirements of the program. This letter should include: personnel changes that impact the CTPAT Trade Compliance program; organizational and procedural changes; a summary of risk assessment and self-testing results; a summary of post-entry amendments and/or disclosures made to CBP; and any importer activity changes within the last 12-month period.

Proposed Changes

CBP is adding the following data elements for all CTPAT partners:

- Date of Birth (DOB) (optional)
- Registro Federal de Contribuventes (RFC) (Optional)

Additionally, CBP is establishing a pilot program pursuant to the Customs Trade Partnership Against Terrorism Pilot Program Act of 2023 passed into law on October 1, 2024. (Pub. L. 118–98 118th Congress). This pilot will allow 10 non-asset based and 10 asset based Third Party Logistics Providers (3PLS) to participate in the CTPAT program. This pilot will help CBP to assess whether allowing non-asset-based 3PLs and asset-based 3PLs to participate in CTPAT would enhance port security, combat terrorism, prevent supply chain security breaches, or otherwise meet the goals of CTPAT. To participate in the pilot, applicants will email CTPAT with their intent to participate as an asset based or non-asset based 3PL in the pilot program. Applicants from each group will be selected on a first-come first-serve basis. Approved applicants will then submit an application to include a Company profile and a Security profile and, if selected, will be assigned a supply chain security specialist who determines whether the applicant meets all of the eligibility requirements of either the asset based 3PL or non-asset based 3PL. If the application is approved, the applicant becomes certified and subject to the same requirements and benefits as other C–TPAT members.

Type of Information Collection: CTPAT Application.

Estimated Number of Respondents: 770.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 770.

Estimated Time per Response: 20 hours.

Estimated Total Annual Burden Hours: 15,400.

Type of Information Collection: Trade Compliance Application.

Estimated Number of Respondents: 50.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 50.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 100.

Type of Information Collection: CTPAT Trade Compliance Notification Letter.

Estimated Number of Respondents: 50.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 50.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 100.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2026–09216 Filed 5–7–26; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651–0057]

Agency Information Collection Activities; Extension; Country of Origin Marking Requirements for Containers or Holders

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

ACTION: 30-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than June 8, 2026) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Please submit written comments and/or suggestions in English. 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: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov*. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/*.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (90 FR 46622) on September 29, 2025, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) 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) 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)

suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Country of Origin Marking Requirements for Containers or Holders.

OMB Number: 1651–0057.

Form Number: N/A.

Current Actions: Extension.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: Section 304 of the Tariff Act of 1930, as amended, 19 U.S.C. 1304, requires each imported article of foreign origin, or its container, to be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article or container permits, with the English name of the country of origin. The marking informs the ultimate purchaser in the United States of the country in which the contents was manufactured or produced. The marking requirements for containers or holders of imported merchandise are provided for by 19 CFR 134.22(b).

The respondents to this information collection are members of the trade community who are familiar with CBP requirements and regulations.

Type of Information Collection: Country of Origin Marking.

Estimated Number of Respondents: 250.

Estimated Number of Annual Responses per Respondent: 40.

Estimated Number of Total Annual Responses: 10,000.

Estimated Time per Response: 15 seconds.

Estimated Total Annual Burden Hours: 41.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2026–09217 Filed 5–7–26; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651–0023]

Agency Information Collection Activities; Reinstatement; Request for Information (CBP Form 28)

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

ACTION: 30-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than June 8, 2026) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Please submit written comments and/or suggestions in English. 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: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (90 FR 35709) on July 29, 2025, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) 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) 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) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Request for Information.

OMB Number: 1651–0023.

Form Number: CBP Form 28.

Current Actions: Extension without change.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: U.S. Customs and Border Protection (CBP) is authorized to collect the information requested on this form pursuant to 19 CFR 151.11.

Under 19 U.S.C. 1500 and 1401a, Customs and Border Protection (CBP) is responsible for appraising imported merchandise by ascertaining its value; classifying the merchandise under the tariff schedule; and assessing a rate and amount of duty to be paid. On occasions when the invoice or other documentation does not provide sufficient information for appraisement or classification, including for import compliance with trade agreements, preference treatment, or special provisions, CBP may request additional information using CBP Form 28, *Request for Information.* This form is sent by CBP personnel to importers, exporters, producers, or their agents, as applicable, requesting additional

information. CBP Form 28 is provided for by 19 CFR 151.11.

Type of Information Collection: CBP Form 28.

Estimated Number of Respondents: 13,415.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 13,415.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 26,830.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2026–09221 Filed 5–7–26; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651–0007]

Agency Information Collection Activities; Reinstatement; Application for Allowance in Duties

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

ACTION: 30-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than June 8, 2026) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Please submit written comments and/or suggestions in English. 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: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov*. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/*.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (90 FR 25067) on June 13, 2025, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) 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) 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) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Application for Allowance in Duties.

Form Number: 4315.

Current Actions: Reinstatement without a change in burden hours, information collected or method of collection.

Type of Review: Reinstatement (without change).

Affected Public: Businesses.

Abstract: CBP Form 4315, ''*Application for Allowance in Duties,*'' is submitted to CBP in instances of claims of damaged or defective imported merchandise on which an allowance in duty is made in the liquidation of the entry. The information on this form is used to substantiate an importer's claim for such duty allowances. CBP Form 4315 is authorized by 19 U.S.C. 1506 and provided for by 19 CFR 158.11, 158.13, and 158.23. This form is accessible at: *http://www.cbp.gov/sites/default/files/documents/CBP%20Form%204315_0.pdf.*

This collection of information applies to the importing and trade community who are familiar with import procedures and with the CBP regulations.

19 CFR 158.11—Merchandise completely worthless at time of importation. The allowance in duties may be made to nonperishable merchandise if found without commercial value at the time the importation by reason of damage or deterioration and complete worthless at the time of importation. For perishable merchandise an allowance in duties may be made if application filed within 96 hours after the unlading of the merchandise and before any of the shipment involved has been removed from the pier, merchandise involved shall thereafter be released upon presentation of an appropriate permit, and allowance in duty shall be made in the liquidation of the entry on such of the merchandise covered by the application as is found to be entirely without commercial value by reason of damage or deterioration.

19 CFR 158.13—Allowance for moisture and impurities.

An application for allowance in duties under is made by the importer on Customs Form 4315, or its electronic equivalent for all detectable moisture and impurities present in or upon imported petroleum or petroleum products. For other products other than petroleum or petroleum products for excessive moisture or other impurities, an application for an allowance in duties shall be made by the importer on Customs Form 4315, or its electronic equivalent. If the port director is satisfied after any necessary investigation that the merchandise contains moisture or impurities, the Center director will make allowance for the amount thereof in the liquidation of the entry.

19 CFR 158.23—Filing of application and evidence by importer.

Within 30 days from the date of his discovery of loss, theft, injury, or

destruction, the importer shall file an application on Customs Form 4315, or its electronic equivalent and within 90 days from the date of discovery shall file any evidence required by § 158.26 or § 158.27.

Type of Information Collection: Form 4315.

Estimated Number of Respondents: 12,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 12,000.

Estimated Time per Response: 8 minutes.

Estimated Total Annual Burden Hours: 1,600.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2026–09215 Filed 5–7–26; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA 2026–0100.; OMB No. 1660–0140]

Agency Information Collection Activities: Proposed Collection; Comment Request; Integrated Public Alert and Warning Systems (IPAWS) Memorandum of Agreement Applications.

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 60-Day Notice of Extension and Request for Comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on a extension, without change, of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning Integrated Public Alert and Warning Systems (IPAWS) Memorandum of Agreement Applications.

DATES: Comments must be submitted on or before July 7, 2026.

ADDRESSES: To avoid duplicate submissions to the docket, please submit comments at *www.regulations.gov* under Docket ID FEMA–2026–0100. Follow the instructions for submitting comments.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide.

Therefore, submitting this information makes it public. You may wish to read the Privacy and Security Notice that is available via a link on the homepage of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Alfred Kenyon, Customer Support Branch Chief, FEMA ONCP IPAWS, 202–212–3308, and *Alfred.Kenyon@fema.dhs.gov.* You may contact the Information Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: Public Law 114–143, the Integrated Public Alert and Warning System Modernization Act of 2015, and Presidential Executive Order 13407, Public Alert Warning System, require FEMA to implement the public alert and warning system to disseminate timely and effective warnings to people in situations of war, terrorist attack, natural disaster, or other hazards to public safety and wellbeing. The Integrated Public Alert and Warning System (IPAWS) is the Department of Homeland Security's (DHS) response to the Executive Order. The Stafford Act (42 U.S.C. 5121, *et. seq.,* Pub. L. 93–288, as amended) requires that FEMA make IPAWS available to Federal, State, Tribal, territorial, and local agencies for the purpose of providing warning to governmental authorities and the civilian population in areas endangered by disasters. The information collected is used to create a Memorandum of Agreement (MOA) with FEMA that establishes rules regarding the management, operations, and security of a connection between Federal, State, Tribal, territorial, and local alerting authorities and IPAWS–OPEN (Open Platform for Emergency Notifications).

Collection of Information

Title: Integrated Public Alert and Warning Systems (IPAWS) Memorandum of Agreement Applications.

Type of Information Collection: Extension, without change, of a currently approved information collection.

OMB Number: 1660–0140.

FEMA Forms: IPAWS Memorandum of Agreement Application, FEMA Form FF–302–FY–22–102 (formerly 007–0–25): The information collected is utilized by FEMA to identify the identity of the alerting authority and the software being used to connect to IPAWS–OPEN. The information is only shared with the FEMA Office of the Chief Information Officer to generate a digital certificate for the State/Tribal/territorial/local alerting authority which authenticates the user and the software to connect with IPAWS–OPEN and deliver life-saving public alerts and warnings within their jurisdiction.

IPAWS Public Alerting Authority (PAA) Application, FEMA Form FF–302–FY–22–103 (formerly 007–0–26a/b): This information collection captures information detailing which types of events the local jurisdiction is approved to use IPAWS for and which primary dissemination channels should be available. For example, if a community wants to be able to send a Civil Emergency Message (CEM) to broadcast across radio, television, and cable, they will request ''CEM'' for ''EAS''—the Emergency Alert System. These requested permissions are reviewed by either the State or Tribal authorities for compliance with established overall alerting policies and plans. IPAWS uses the approved information to configure permissions in IPAWS–OPEN.

Abstract: The information requested is required to provide FEMA with required information to issue a digital certificate for the alerting authority and its software that authenticates the user's identity to establish secure access to IPAWS–OPEN. Failure to obtain this information will negatively impact the number of jurisdictions that can access IPAWS–OPEN and their ability to warn the American people in a timely manner of emergencies that may be a threat to life and property.

Affected Public: Federal, State, local, Tribal and territorial Governments.

Estimated Number of Respondents: 1,006.

Estimated Number of Responses: 1,006.

Estimated Total Annual Burden Hours: 232.

Estimated Total Annual Respondent Cost: $17,653.

Estimated Respondents' Operation and Maintenance Costs: $0.

Estimated Respondents' Capital and Start-Up Costs: $0.

Estimated Total Annual Cost to the Federal Government: $140,422.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above.

Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the Agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Nigel S. Allicock,

Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2026–09136 Filed 5–7–26; 8:45 am]

BILLING CODE 9111–AB–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7103–N–06; OMB Control No.: 2528–0337]

60-Day Notice of Proposed Information Collection: Evaluation of the Community Choice Demonstration

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* July 7, 2026.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal.

Written comments and recommendations for the proposed information collection can be sent within 60 days of publication of this notice to *www.regulations.gov*. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Teresa Souza, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410. Comments may also be submitted via email to *PDRPublicComments@hud.gov*.

FOR FURTHER INFORMATION CONTACT: Teresa Souza, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email *PDRPublicComments@hud.gov,* telephone (202) 402–5540. 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 available documents submitted to OMB may be obtained from Ms. Souza.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Evaluation of the Community Choice Demonstration (formerly known as the Evaluation of the Housing Choice Voucher Mobility Demonstration).

OMB Approval Number: 2528–0337.

Type of Request: Revision of a currently approved collection.

Form Number: N/A

Description of the need for the information and proposed use: The U.S. Department of Housing and Urban Development (HUD) has contracted with Abt Global to conduct an evaluation of the Community Choice Demonstration (formerly the Housing Choice Voucher Mobility Demonstration). The primary purpose of the Demonstration is to provide voucher assistance and mobility-related services to families with children to encourage families to move to lower-poverty areas and expand their access to opportunity areas. The evaluation is studying whether the program helps families with children access and remain in opportunity areas and exploring which services appear to be most effective and cost-effective in achieving the goals of the program.

This proposed information collection includes 3 instruments administered in all demonstration sites; and 20 instruments administered in a subset of demonstration sites participating in the Child Assessment and the Obesity and Diabetes Risk Assessment studies.

The core evaluation of the Demonstration and the Child Assessments study are funded by HUD and conducted by Abt Global. HUD's contract with Abt Global provides the flexibility to explore collaborations with other researchers and funders to support additional knowledge-building efforts that build on the foundation laid by the demonstration. Research collaborations need to advance important research objectives, not interfere with the core Demonstration and evaluation, and be structured to minimize overall respondent burden. The Obesity and Diabetes Risk Assessment represents such collaboration; it is funded by the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) and led by Johns Hopkins University (JHU) as part of a study called the Mobility Opportunity Vouchers for Eliminating Diabetes and Obesity (MOVED) study. The data collection for the Child Assessment and the MOVED studies will be conducted by JHU. While NIH-funded studies do not normally require the submission of an information collection request for compliance with the Paperwork Reduction Act, we included the Obesity and Diabetes Risk Assessment as part of this information collection request because it will be administered to a subset of households participating in the HUD-funded Demonstration. In addition, the Child Assessment will be administered during the same visit, to the same households, and by the same interviewers as the Obesity and Diabetes Risk Assessment.

On May 31, 2022, and June 9, 2022, OMB approved the administration of a series of data collection instruments as part of the core Demonstration. On October 6, 2022, OMB approved non-substantive changes to this information collection; on December 18, 2023, OMB approved a revision to the collection to add three studies: the Home Assessment, the Child Assessment, and the Obesity and Diabetes Risk Assessment; on March 27, 2024, October 22, 2024, and May 28, 2025, OMB approved additional non-substantive changes to select instruments.

Through this revised information collection request, HUD is seeking approval to continue the information collection using a subset of the previously approved instruments, outlined in the table below. No new instruments are being added to this collection.

Respondents: There are two categories of respondents. (1) Adults and children who have enrolled in the Demonstration and are either (a) offered comprehensive mobility-related services along with

their voucher or (b) offered standard PHA services along with their voucher; and (2) Service Delivery staff providing Demonstration services at eight Demonstration sites.

Estimated Number of Respondents: The number of respondents varies based on the information collection instrument. See table for more details.

Estimated Number of Responses: The number of responses varies based on the information collection instrument. See table for more details.

Frequency of Response: The frequency of response varies based on the information collection instrument. See table for more details.

Average Hours per Response: The average hours per response varies based on the information collection instrument. See table for more details.

Total Estimated Burdens: The estimated total annual burden hours for this information collection is 96,437.26. The estimated total annual cost for this information collection is $1,219,998.90. Three hourly rates are used in this estimate:

- For Family Respondents, the hourly cost of response of $12.08 is based on the average 2026 hourly minimum wage rate for workers in the 8 study sites (Los Angeles, Louisiana, Minnesota, New York State, New York City, Ohio, Pennsylvania, and Tennessee).
- For Service Delivery staff, the hourly cost of response of $30.28 is based on the average wage for counselors, social workers, and career counselors (as of May 2024, accessed March 30, 2026, at *https://data.bls.gov/oes/#/industry/000000*).

Annualized cost estimates were not calculated for the child sample. The child sample eligible to participate in the study will be under the age of 18. Most, if not all, will be enrolled in school and working part-time at the most. Thus, we did not calculate an hourly wage for the child sample. The estimated total annual cost is calculated by multiplying the total number of respondent hours by the applicable hourly cost.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Mobility Service Delivery Tool							
Mobility Service Delivery Tool	30	504.00	15,120.00	0.2	3,024.00	$30.28	$91,566.72
Child Assessment							
Child Assessment & Obesity and Type II Diabetes Risk Assessment : Assent	837	0.67	560.79	0.13	72.90	12.08	880.63
Survey about child (asked of parent/guardian) and parent/guardian's presence during direct Child Assessment	837	0.67	560.79	0.75	420.59	12.08	5,080.73
Direct Child Assessment	837	0.67	560.79	0.53	297.22	12.08	3,590.42
The Obesity and Type II Diabetes Risk Assessment							
Advance Letter	1,285	0.67	860.95	0.08	68.88	12.08	832.07
Email Reminder	1,285	0.67	860.95	0.02	17.22	12.08	208.02
Follow-up Call Phone Script	1,285	0.67	860.95	0.13	111.92	12.08	1,351.99
Consent for Assessment	900	0.67	603.00	0.25	150.75	12.08	1,821.06
Adult Survey	900	0.67	603.00	1.17	705.51	12.08	8,522.56
Anthropometric assessments (adult)	900	0.67	603.00	0.17	102.51	12.08	1,238.32
Anthropometric assessments (child)	900	0.67	603.00	0.17	102.51	12.08	1,238.32
Anthropometric assessments (child, but accounting for parent's time)	900	0.67	603.00	0.17	102.51	12.08	1,238.32
Blood Spot Samples (adult)	900	0.67	603.00	0.17	102.51	12.08	1,238.32
Home Observations/Housing Assessment	900	0.67	603.00	0.25	150.75	12.08	1,821.06
Accelerometers (adult)	400	0.67	268.00	169	45,292.00	12.08	547,127.36
Accelerometers (child)	400	0.67	268.00	169	45,292.00	12.08	547,127.36
Blood Pressure Reading (adult)	900	0.67	603.00	0.25	150.75	12.08	1,821.06
Consent for Semi-Structured Interviews	75	0.33	24.75	0.17	4.21	12.08	50.86
Semi-Structured Interviews	75	0.33	24.75	1.5	37.13	12.08	448.53
Tracking Emails/Texts	900	0.67	603.00	0.13	78.39	12.08	946.95
Tracking Calls	900	1.00	900.00	0.17	153.00	12.08	1,848.24
Total			26,297.72		96,437.26		1,219,998.90

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) 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) The accuracy of the agency's estimate of the burden 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 those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 2 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

Todd M. Richardson,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 2026–09138 Filed 5–7–26; 8:45 am]

BILLING CODE 4210–67–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled Certain Smart Devices, *DN 3905;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (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 United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Cerence Operating Company on May 6, 2026. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain smart devices. The complaint names as respondents: *Amazon.com, Inc.* of Seattle, WA; and *Amazon.com Services, LLC* of Seattle, WA. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, members of the public, and interested government agencies are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing.

Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due, notwithstanding § 201.14(a) of the Commission's Rules of Practice and Procedure. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3905'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

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[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

Issued: May 6, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–09204 Filed 5–7–26; 8:45 am]

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DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Open Group, L.L.C.

Notice is hereby given that, on November 13, 2025, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The Open Group, L.L.C. (''TOG'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Automation Solutions, LP, Houston, TX; BDAT Solutions Korlátolt Felelősségu Társaság, Budapest, REPUBLIC OF HUNGARY; Bruhati Solutions Ltd, Maidenhead, UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND; Databricks, Inc., San Francisco, CA; DeltaXML Limited trading as DeltaXignia, Malvern, UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND; Dexian, LLC, McLean, VA; Expert Vision Consulting Company, Riyadh, KINGDOM OF SAUDI ARABIA; Firestorm Labs, Inc., San Diego, CA; Govplace, LLC; Bethesda, MD; Interatti, S.A. de C.V., Villahermosa, UNITED MEXICAN STATES; Laversab, Inc., Sugar Land, TX; Lyster AB, Stockholm, KINGDOM OF SWEDEN; Molex LLC, Lisle, IL; MS Technologies, Inc., Edmonton, CANADA; Omny AS, Lysaker, NORWAY; PM Training School Limited, Auckland, NEW ZEALAND; QUBEdocs, Salem, OR; Qumulo, Inc., Seattle, WA; Revotech JSC, Hanoi City, SOCIALIST REPUBLIC OF VIETNAM; Science Application International Corporation SAIC, Reston, VA; Sopra Steria AS, Oslo, KINGDOM OF NORWAY; Strategic Transformation SAC, Lima, REPUBLIC OF PERU; Tietoevry Norway AS, Fornebu, KINGDOM OF NORWAY; Tipp Focus Holdings (Pty), Johannesburg, REPUBLIC OF SOUTH AFRICA; VerifyAI, Inc., Sammamish, WA; VIAVI Solutions LLC, Wichita, KS; and WBISCT Pty Ltd, Pullenvale, COMMONWEALTH OF AUSTRALIA, have been added as parties to this venture.

Also, AirBorn, Inc., Georgetown, TX; Belken Consulting LLC, Knoxville, TN; CISO Coach Pty Ltd, Broadbeach Waters, COMMONWEALTH OF AUSTRALIA; Deakin University, Geelong, COMMONWEALTH OF AUSTRALIA; Depaus Holding BV, Amsterdam, KINGDOM OF THE NETHERLANDS; Dragos, Inc., Hanover, MD; Epirus Inc., Hawthorne, CA; Lin and Associates, Inc., Phoenix, AZ; ManTech International, Corporation, Herndon, VA; Momentum World LLC, Santa Clara, CA; Planckton Data, Sugar Land, TX; Resolve GeoSciences, Inc., Fulshear, TX; Reticulate Micro, Inc., Palm Bay, FL; SAS Acceliance, Le Raincy, FRENCH REPUBLIC; SUSE LLC, Pleasant Grove, UT; Taipei City Government Department of Information Technology, Taipei City, REPUBLIC OF CHINA (TAIWAN); TBM Council, Bellevue, WA; Virginia, Department of Social Services—ITS, Richmond, VA; Wakefield Thermal, Nashua, NH; and Worley Group Inc., Houston, TX, have withdrawn as parties to this venture.

Additionally, Novatec Consulting GmbH has changed its name to CGI Deutschland B.V. & Co. KG, Leinfelden-Echterdingen, FEDERAL REPUBLIC OF GERMANY.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and TOG intends to file additional written notifications disclosing all changes in membership.

On April 21, 1997, TOG filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on June 13, 1997 (62 FR 32371).

The last notification was filed with the Department on August 22, 2025. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on October 3, 2025 (90 FR 48059).

Suzanne Morris,

Deputy Director Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2026–09149 Filed 5–7–26; 8:45 am]

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DEPARTMENT OF JUSTICE

Antitrust Division

United States et al. v. RealPage, Inc. et al. Response to Public Comments

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that the Response of the United States to Public Comment on the Proposed Final Judgment in *United States of America et al.* v. *RealPage et al.,* Civil Action No. 24–cv–00710–WLO–JLW, in regards to Defendant RealPage, Inc., has been filed in the United States District Court for the Middle District of North Carolina, together with the response of the United States to the comments.

Copies of the public comment and the United States' Response are available for inspection on the Antitrust Division's website at *http://www.justice.gov/atr.*

Suzanne Morris,

Deputy Director Civil Enforcement Operations, Antitrust Division.

In the United States District Court for the Middle District of North Carolina

United States of America, et al., Plaintiffs, vs. *Realpage, Inc., et al.,* Defendants.

1:24–cv–00710–WLO–JGM

Response of Plaintiff United States to Public Comments on the Proposed Final Judgment

Pursuant to the requirements of the Antitrust Procedures and Penalties Act (the ''APPA'' or ''Tunney Act''), 15 U.S.C. 16(b)–(h), the United States submits this response to the eight public comments received regarding the proposed Final Judgment as to Defendant RealPage, Inc. (Doc. 159–1).[1]

After careful consideration of the submitted comments, the United States continues to believe that the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violations alleged in the Complaint.[2]

After this Response has been published in the **Federal Register**, pursuant to 15 U.S.C 16(d), the United States will move the Court to enter the proposed Final Judgment. On March 4, 2026 the Court granted the United States' motion to allow the United States to publish the public comments on the Antitrust Division's website due to the expense of publishing the comments in the **Federal Register** and the public accessibility of the Division's website. (Doc. 174.) These comments can be accessed at *www.justice.gov/atr.*

[1] The United States has redacted personally identifiable information from the comments. If the Court requests unredacted versions, the United States will provide unredacted comments under seal.

[2] The Complaint includes a number of claims asserted by co-Plaintiff States. This Response, like other filings that the United States has made under the Tunney Act, focuses only on the United States' claims in the Complaint, which are the only claims that would be resolved by the proposed Final Judgment, if entered.

I. Procedural History

On August 23, 2024, the United States, along with several States (''Plaintiffs''), filed a civil antitrust Complaint against RealPage, Inc. (''RealPage''). (Doc. 1.) On January 7, 2025, Plaintiffs amended their Complaint (the ''Complaint'') to add six property management companies (referred to herein as ''landlords'') as Defendants. (Doc. 47.) The Complaint alleges that RealPage violated Section 1 of the Sherman Act, 15 U.S.C. 1, by unlawfully agreeing to share and use landlords' competitively sensitive information and agreeing to use RealPage's software to align pricing among competing landlords. The Complaint also alleges that RealPage violated Section 2 of the Sherman Act, 15 U.S.C. 2, by monopolizing or attempting to monopolize the commercial revenue management software market for conventional multifamily rental housing by preventing other software providers from effectively competing with products that do not harm the competitive process.

On November 24, 2025, the United States filed a proposed Final Judgment (Doc. 159–1) as to RealPage, which is designed to remedy the loss of competition alleged in the Complaint due to RealPage's conduct, and a Stipulation and Proposed Order (Doc. 159), in which RealPage consented to entry of the proposed Final Judgment after compliance with the requirements of the Tunney Act. On November 24, 2025, the United States filed a Competitive Impact Statement describing the proposed Final Judgment as to RealPage. (Doc. 160.) On March 26, 2026, the Court entered the Stipulation and Proposed Order. (Doc. 182.)

The United States arranged for the publication of the Complaint, proposed Final Judgment, and Competitive Impact Statement in the **Federal Register** on December 5, 2025, *see* 15 U.S.C. 16(b)–(c); 90 FR 56,286 (Dec. 5, 2025), and caused notice regarding the same, together with directions for the submission of written comments relating to the proposed Final Judgment, to be published in *The Washington Post* from December 10–16, 2025 and in the *Greensboro News and Record* from December 10–15, 2025 and December 16–17, 2025. The 60-day period for public comment has now ended. The United States received eight comments in response, which are described below and attached as Exhibit 1 hereto.

II. The Complaint and the Proposed Final Judgment

As explained in the Competitive Impact Statement (Doc. 160), RealPage licenses three revenue management products to property management companies and property owners (collectively, ''landlords''). These software products are AI Revenue Management (''AIRM''), YieldStar, and Lease Rent Options (''LRO''). RealPage's revenue management products are used by landlords to determine how to price floor plans and units in conventional multifamily rental housing, *i.e.,* multiunit apartments that they manage and lease.

The Complaint alleges that RealPage, along with six landlords, violated Section 1 of the Sherman Act, 15 U.S.C. 1, by unlawfully agreeing to share and use competitively sensitive information for the properties that each landlord manages and leases. RealPage uses nonpublic, competitively sensitive data to train its algorithmic models (''models'') that AIRM leverages and to provide floor plan price recommendations and unit-level pricing to landlords when they are running AIRM or YieldStar. The sharing and use of nonpublic, competitively sensitive information harms or is likely to harm the competitive process, renters, and prospective renters.

The Complaint further alleges that RealPage and the landlords that use AIRM and YieldStar violated Section 1 of the Sherman Act, 15 U.S.C. 1, by unlawfully agreeing to use RealPage's software to align pricing among competing landlords. RealPage entered into individual agreements with landlords to use AIRM or YieldStar. By agreeing to use AIRM or YieldStar as each has been designed by RealPage, competing landlords align their pricing processes, strategies, and pricing responses, *e.g.,* how they go about setting rents, pricing amenities, and managing occupancy levels in local rental markets. As alleged in the Complaint, both RealPage and landlords knew that the software was designed to align pricing. They used the phrase ''a rising tide rises [sic] all ships'' to explain that AIRM and YieldStar would move prices in a ''similar manner'' to how the top and bottom of the market moved. (*See* Am. Compl. ¶ 33.) Collectively, these agreements harm the competitive process and actual and prospective renters.

Finally, the Complaint alleges that RealPage violated Section 2 of the Sherman Act, 15 U.S.C. 2, by monopolizing or attempting to monopolize the commercial revenue management software market for conventional multifamily rental housing. Through its licensing agreements with landlords that use its software products, RealPage has amassed a massive reservoir of competitively sensitive data from competing landlords. RealPage has ensured that other providers of revenue management products cannot compete on the merits unless they enter into similar agreements with landlords, thereby obstructing them from competing with products that do not harm the competitive process.

The proposed Final Judgment imposes a number of requirements and restrictions on RealPage that address the United States' concerns regarding RealPage's anticompetitive conduct alleged in the Complaint. First, the proposed Final Judgment imposes restrictions on how RealPage can use competitively sensitive data from landlords. The proposed Final Judgment identifies two discrete phases of how RealPage's revenue management products operate: runtime operation and model training. Runtime operation is a landlord's use of the software to provide pricing recommendations and prices for the specific floor plans and units in a particular rental property. Model training is any process of analyzing data to create a model or algorithm, including the models that RealPage uses to predict supply and demand, which is then used in the runtime operation. Subject to limited exceptions, RealPage will not be allowed to use nonpublic data from competing properties in runtime operation. In training the models, RealPage will be limited to using backward-looking data that has been aged at least 12 months and is not from active leases, *i.e.,* a unit with a rental agreement that is in effect.

Second, the proposed Final Judgment restricts RealPage's ability to source nonpublic information from and share nonpublic information among landlords. The proposed Final Judgment imposes significant limitations on RealPage's ability to use, share, publish, disclose, or provide competitors' nonpublic data to a landlord, including through RealPage's revenue management products or its pricing advisors. Relatedly, RealPage must not conduct any market surveys (the collection of potentially competitively sensitive nonpublic data through call arounds, emails, or other methods) for use in its revenue management products or to recommend a rental price or occupancy level during the term of the proposed Final Judgment. Finally, RealPage must not discuss with or facilitate discussions among landlords

about market analyses or trends based on nonpublic data, or about pricing strategies.

Third, the proposed Final Judgement limits RealPage's ability to use models trained using nonpublic, competitively sensitive information to determine price and supply below a certain geographic level. RealPage may not train its AI Demand, AI Supply I, and AI Supply II models with a geographic variable narrower than a state.[3] RealPage may not use nonpublic, competitively sensitive data to train any future models with a geographic variable narrower than the nation.

Fourth, RealPage must modify or otherwise ensure that certain software features are designed so that they no longer raise competitive concerns that underlie the allegations in the Complaint. For example, RealPage may not prohibit or impede a landlord's ability to reject or override a recommended price. Similarly, any software feature that automatically accepts recommended prices must require that a landlord individually set the parameters regarding that acceptance. Any limit on price increases and decreases must be symmetrical, and a landlord must individually determine the limits.

Fifth, RealPage must adopt and comply with a series of compliance measures. A monitor selected by the United States in its sole discretion will be appointed for a term of three years, which the United States may extend by up to 18 months if it deems appropriate. RealPage will also adopt a written antitrust compliance policy and train its employees on the policy. RealPage must allow the United States to inspect its documents and to interview its employees to ensure compliance with the Final Judgment, among other requirements.

Finally, RealPage must provide cooperation to the United States in this civil proceeding (*United States et al.* v. *RealPage et al.*) with respect to the United States' Section 1 claims against the non-settling landlord defendants.

Under the terms of the Stipulation and Order, RealPage must abide by and comply with the provisions of the proposed Final Judgment until it is entered by the Court or until the time for all appeals of any Court ruling declining entry of the proposed Final Judgment has expired.

The United States and RealPage have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the APPA. Entry of the proposed Final Judgment will terminate this action with respect to the United States' claims against RealPage, except that the Court will retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof by RealPage.

III. Standard of Judicial Review

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a 60-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the Court, in accordance with the Tunney Act as amended in 2004, is required to consider:

> (A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and
>
> (B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the Court's inquiry is necessarily a limited one, as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *United States* v. *US Airways Grp., Inc.,* 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (explaining that the ''court's inquiry is limited'' in Tunney Act settlements); *United States* v. *InBev N.V./S.A.,* No. 08–1965 (JR), 2009 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (noting that a court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable''); *United States* v. *Keyspan Corp.,* 763 F. Supp. 2d 633, 637–38 (S.D.N.Y. 2011); *see SEC* v. *Citigroup Global Mkts. Inc.,* 673 F.3d 158, 168 (2d Cir. 2012) (''We are bound in such matters to give deference to an executive agency's assessment of the public interest.'').

As the U.S. Court of Appeals for the District of Columbia Circuit has held, under the APPA, a court considers, among other things, the relationship between the remedy secured and the specific allegations in the government's complaint, whether the proposed Final Judgment is sufficiently clear, whether its enforcement mechanisms are sufficient, and whether it may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62; *United States* v. *Apple, Inc.,* 889 F. Supp. 2d 623, 631 (S.D.N.Y. 2012) (citing *Microsoft,* 56 F.3d at 1458, 1461–62). With respect to the adequacy of the relief secured by the proposed Final Judgment, a court may ''not make de novo determination of facts and issues.'' *United States* v. *W. Elec. Co.,* 993 F.2d 1572, 1577 (D.C. Cir. 1993) (quotation marks omitted); *see also Microsoft,* 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 16 (D.D.C. 2000); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Instead, ''[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General.'' *W. Elec. Co.,* 993 F.2d at 1577 (quotation marks omitted). ''The court should bear in mind the *flexibility* of the public interest inquiry: the court's function is not to determine whether the resulting array of rights and liabilities is one that will *best* serve society, but only to confirm that the resulting settlement is within the *reaches* of the public interest.'' *Microsoft,* 56 F.3d at 1460 (quotation marks omitted); *see also United States* v. *Deutsche Telekom AG,* No. 19–2232 (TJK), 2020 WL 1873555, at *7 (D.D.C. Apr. 14, 2020). More demanding requirements would ''have enormous practical consequences for the government's ability to negotiate future settlements,'' contrary to congressional intent. *Microsoft,* 56 F.3d at 1456. ''The Tunney Act was not

[3] As explained in the Competitive Impact Statement (Doc. 160), RealPage relies on three models in AIRM: AI Demand, AI Supply I, and AI Supply II. AI Demand predicts the likelihood that a prospective tenant will apply for a unit at a specific property. The AI Supply models predict the likelihood that an expiring lease will be renewed rather than terminated. AI Supply I predicts the likelihood of renewal before a renewal rent offer has been approved by the landlord, while AI Supply II predicts the likelihood of renewal using an approved renewal rent offer. Each of RealPage's models is one of multiple inputs used to determine, during runtime operation, the supply and demand at a particular property.

intended to create a disincentive to the use of the consent decree.'' *Id.*[4]

The United States' predictions about the efficacy of the remedy are to be afforded deference by the Court. *See, e.g., Microsoft,* 56 F.3d at 1461 (recognizing courts should give ''due respect to the Justice Department's . . . view of the nature of its case''); *United States* v. *Iron Mountain, Inc.,* 217 F. Supp. 3d 146, 152–53 (D.D.C. 2016) (''In evaluating objections to settlement agreements under the Tunney Act, a court must be mindful that [t]he government need not prove that the settlements will perfectly remedy the alleged antitrust harms[;] it need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'') (internal citations omitted); *United States* v. *Republic Servs., Inc.,* 723 F. Supp. 2d 157, 160 (D.D.C. 2010) (noting ''the deferential review to which the government's proposed remedy is accorded''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (''A district court must accord due respect to the government's prediction as to the effect of proposed remedies, its perception of the market structure, and its view of the nature of the case''). In determining whether a proposed settlement is in the public interest, a district court ''is not permitted to reject the proposed remedies merely because the court believes other remedies are preferable.'' *United States* v. *Morgan Stanley,* 881 F. Supp. 2d 563, 567 (S.D.N.Y. 2012) (quoting *United States* v. *Abitibi–Consol. Inc.,* 584 F. Supp. 2d 162, 165 (D.D.C. 2008)). The ultimate question is whether ''the remedies [obtained by the Final Judgment are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest.' '' *Microsoft,* 56 F.3d at 1461 (quoting *W. Elec. Co.,* 900 F.2d at 309).

Moreover, the Court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and the APPA does not authorize the Court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also US Airways,* 38 F. Supp. 3d at 75 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable); *Keyspan Corp.,* 763 F. Supp. 2d at 637–38 (''The Court's function is not to determine whether the proposed [d]ecree results in the balance of rights and liabilities that is the one that will best serve society, but only to ensure that the resulting settlement is 'within the reaches of the public interest.' '' (quoting *United States* v. *Alex. Brown & Sons, Inc.,* 963 F. Supp. 235, 238 (S.D.N.Y. 1997)); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (''the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60. *See also Heckler* v. *Chaney,* 470 U.S. 821, 832 (1985) (quoting U.S. Const. art. II, § 3) (recognizing that the decision about which claims to bring ''has long been regarded as the special province of the Executive Branch'').

In its 2004 amendments to the APPA, Congress made clear its intent to preserve the practical benefits of using consent judgments proposed by the United States in antitrust enforcement, Public Law 108–237 § 221, and added the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2); *see also US Airways,* 38 F. Supp. 3d at 76 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). This language explicitly wrote into the statute what Congress intended when it first enacted the Tunney Act in 1974. As Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24598 (1973) (statement of Sen. Tunney). ''A court can make its public interest determination based on the competitive impact statement and response to public comments alone.'' *US Airways,* 38 F. Supp. 3d at 76 (citing *Enova Corp.,* 107 F. Supp. 2d at 17).

IV. Summary of Public Comments and the United States' Response

The United States received eight public comments from seven commenters in response to the proposed Final Judgment. These comments were submitted by the American Antitrust Institute (''AAI Comment'') and by private individuals, whom the United States will refer to by each individual's initials: AK (''AK Comment''), BA (''BA Comment''), CC (''CC Comment''), DR (''DR Comment'' and ''DR Supplemental Comment''), JP (''JP Comment''), and ST (''ST Comment'').[5]

A. The AAI Comment

The AAI submitted some questions and recommendations related to the proposed Final Judgment. The United States responds to each in turn.[6]

1. How do the individual terms of the agreement serve to prevent RealPage from coordinating the exchange of data and setting common pricing rules?

The proposed Final Judgement explicitly limits RealPage's ability to coordinate the exchange of data among landlords. Paragraphs IV.A–B require RealPage, among other restrictions, to (i) cease using current or historical Unaffiliated Property Data in the Runtime Operation; (ii) notify licensees that RealPage does not seek the use of Unaffiliated Property Data; (iii) cease using current, forward-looking, or historical Unaffiliated Property Data or Owner Inputted Data unless the data is aged; (iv) not share, publish, disclose, or otherwise make accessible in a Revenue Management Product (including in Runtime Operation) to any licensee of a Revenue Management Product any Unaffiliated Property Data or Owner Inputted Data from a different Property Owner. Paragraph VI.A further requires Pricing Advisors not to disclose, share with, or otherwise disseminate Unaffiliated Property Data or Owner Inputted Data in the Revenue Management Product or for purposes or recommending floor plan pricing, unit level pricing, or occupancy levels.

[4] *See also United States* v. *BNS Inc.,* 858 F.2d 456, 464 (9th Cir. 1988) (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass'').

[5] The JP Comment also includes comments about the proposed Final Judgment between the United States and Greystar, Inc. The United States addressed JP's comments about its proposed Final Judgment with Greystar in the United States' Response to Public Comments on the Greystar Final Judgment. *See* Doc. 169.

[6] In the response below, the United States may refer to specific sections and paragraphs of the proposed Final Judgment, and all capitalized terms (*e.g.,* ''Unaffiliated Property Data,'' ''Runtime Operation'') are as defined in the proposed Final Judgment.

Given these restrictions, RealPage will not retain ''significant leeway'' to use competitors' nonpublic data to make pricing recommendations.[7]

AAI also comments on terms of the proposed Final Judgment that serve to prevent RealPage from coordinating what AAI calls ''common pricing rules.'' The Complaint alleges specific mechanisms by which RealPage aligned pricing among landlords, including the use of guardrails designed into the revenue management software and RealPage-sponsored meetings with landlords. (*E.g.,* Doc. 47 at ¶¶ 102–16, 142–52.) Paragraphs V.A–B of the proposed Final Judgment restrict RealPage's ability to use these guardrails in this alleged anticompetitive manner. Paragraph VI.B of the proposed Final Judgment prohibits RealPage from discussing or facilitating discussions of market analyses or trends based on nonpublic data or any pricing strategies, whether based on nonpublic or public data. The Complaint does not allege that adoption and use of the same revenue management software by competing landlords, standing alone, is necessarily anticompetitive; instead, it is RealPage's specific design of its software, and landlords' agreements to use that software as designed, that results in anticompetitive pricing alignment.[8]

2. What is the quantity and scope of the Owner Inputted Data that RealPage is allowed to use in its Runtime Operations under the agreement, and why is such use of competitor data consistent with the goals and principles laid out in the CIS?

Owner Inputted Data refers to data that is directly inputted by landlords into a revenue management product and includes both public and nonpublic data. (Doc. 159–1 at ¶ II.U.) As alleged in the Complaint, landlords directly exchanged competitively sensitive information to update rents within another RealPage revenue management product known as Lease Rent Options or LRO. (Doc. 47 at ¶¶ 99–100.) Because Owner Inputted Data may include both public and nonpublic data, the proposed Final Judgment restricts how RealPage can use Owner Inputted Data. First, RealPage is not allowed to use any Owner Inputted Data in model training. The proposed Final Judgment does not provide any exception to this restriction. (Doc. 159–1 at ¶ IV.A.3.) Second, RealPage is not allowed to share, publish, disclose, or otherwise make accessible in a revenue management product any Owner Inputted Data inputted by another Property Owner or a Property Manager acting on the Owner's behalf. In other words, RealPage may not use Owner Inputted Data in the Runtime Operation for a property from a different Property Owner for which it was inputted. (Doc. 159–1 at ¶ IV.B.) Third, Pricing Advisors are not allowed to disclose, share, or otherwise disseminate Owner Inputted Data nor is RealPage allowed to discuss or facilitate discussions about market analysis or trends based on Owner Inputted Data. (Doc. 159–1 at ¶ VI.A–B.) Finally, RealPage must notify all Property Managers or Property Owners that license or use RealPage's Revenue Management Products that RealPage may not seek Unaffiliated Property Data for use in Runtime Operation, including Owner Inputted Data. (Doc. 159–1 at ¶ IV.A.2.) These restrictions address the anticompetitive conduct alleged in the Complaint because they eliminate RealPage's use of potentially nonpublic data from different owners in determining rental prices or pricing recommendations.[9]

3. How will the individual terms of the agreement prevent RealPage from continuing to facilitate anticompetitive coordination notwithstanding its limits on the use of certain data, particularly with respect to RealPage's continued ability to recommend above-market prices to its licensees?

Please refer to answers IV.A.1 and IV.A.4.

4. Considering the DOJ's allegations that RealPage's price recommendations raise market prices even when they are not accepted, how will the proposed settlement's limits on RealPage's software features serve to prevent it from raising market prices?

The proposed Final Judgment eliminates the means by which the Complaint alleges that RealPage harms the competitive process and renters. First, the Complaint alleges that the agreement among RealPage and landlords to share nonpublic, competitively sensitive information is anticompetitive because it harms the competitive process. (Doc. 47 at ¶¶ 260–269.) A result of the unlawful information sharing is an increase in rents, harming renters. (*See, e.g.,* Doc. 47 at ¶ 127.) Second, the Complaint alleged that the design of AIRM and YieldStar, including certain product features such as the Hard Floor and Governor Guardrail, harms the competitive process and likely results in an alignment of pricing for competing properties in local markets.[10] (*See* Doc. 47 at ¶¶ 271–279.)

The proposed Final Judgment addresses both avenues of competitive harm. As explained above in II and IV.A.1, RealPage is restricted from using competitors' nonpublic, competitively sensitive data to provide pricing recommendations or prices to a landlord. And the restrictions on product design features shift decision-making and product customization from RealPage to the property management companies or property owners, reducing the possibility of pricing alignment between competitors in a given market and promoting independent decision-making on pricing and other competitive elements. For example, Auto Accept and the Governor Guardrail require a licensee or user to set the specific parameters, and the Governor Guardrail must be symmetrical in upper and lower bounds. (Doc. 159–1 at ¶¶ IV.A.1–2.) The Sold-out Guardrail must now only use the Subject Property's own information, regardless of whether the

[7] AAI Comment at 2.

[8] The AAI Comment's speculation as to the impact of the proposed Final Judgment's required geographic limitations, *see* AAI Comment at 6–7, misunderstands the connection between the specific output of the AIRM AI Demand and Supply Models and the AIRM price recommendation generated in runtime operation. The geographic limitations at issue apply to model training and thus affect only the output of the AIRM AI Demand and Supply Models, for example. By contrast, the restrictions on runtime operation inherently and implicitly incorporate a geographic dimension through their reference to competing properties. *See infra* IV.A.5.

[9] While outside of the scope of RealPage's proposed Final Judgment, the United States' Final Judgments with Cortland Management, LLC (Doc. 184) and Greystar Management Services, LLC (Doc. 172), and its proposed Final Judgment with LivCor, LLC (Doc. 164–1) prohibit disclosing, soliciting, or using nonpublic data from a third-party for setting rental prices or generating rental pricing recommendations. This would include inputting nonpublic data from a third-party into any revenue management product, in line with the stated objection of stopping the exchange and use of competitor data in setting prices. (*See also* Docs. 63, 155, and 168 (competitive impact statements for the settlements with these landlords).)

[10] As alleged in the Complaint, AIRM and YieldStar will not recommend a floor plan price that falls below the smoothed market minimum effective rent. The market minimum is a hard floor. AIRM and YieldStar thus explicitly constrain floor plan price recommendations based on the prices of competitors, using shared nonpublic information. (Doc. 47 at ¶ 143.)

As alleged in the Complaint, AIRM and YieldStar favor recommended price increases over price decreases. When the model calculates that the current day's ''optimal'' price will result in greater revenue than the previous day, a feature called the ''governor'' causes the model to recommend the current day's optimal price. (*Id.* at ¶ 151.)

data is public or nonpublic. (Doc. 159–1 at ¶ IV.A.3.) RealPage cannot implement an asymmetric hard floor and must allow users to go below a pricing floor to the same extent they can go above a pricing ceiling. (Doc. 159–1 at ¶ V.B.) Finally, Paragraph V.D. of the proposed Final Judgment prohibits RealPage from implementing any product feature that uses competitors' nonpublic data in a way that is inconsistent with the terms set forth in the proposed Final Judgment. (Doc. 159–1 at ¶ IV.D.)

By promoting decentralized, independent decision-making, expanding the range of user choices, and generally eliminating shared nonpublic information in Runtime Operation to inform recommendations, the proposed Final Judgment addresses the United States' concerns that AIRM and YieldStar harm the competitive process and thereby harm renters through higher rents or pricing behavior that is more likely to produce higher rents.

5. Considering the sophistication of RealPage's models and its ability to supplement training with granular, up-to-date, location-specific public data, how does the agreement prevent RealPage from continuing to develop and implement collusive pricing rules?

The Complaint alleges anticompetitive effects based on RealPage's use of nonpublic data to set prices for competing properties. The proposed Final Judgment addresses these concerns. (*See* Doc. 159–1 at ¶¶ IV.A.) The restrictions include: (i) restrictions on RealPage's use of Unaffiliated Property Data in runtime operation; (ii) requiring RealPage to age certain nonpublic data for model training; and (iii) restrictions on RealPage's use of models that filter or can identify geographic effects below a nationwide and, in some circumstances, statewide scope.

The Complaint also alleges that certain product features tended to align pricing. To remedy this concern, the proposed Final Judgment's provisions shift decision-making and product customization from RealPage to each property management company or property owner, reducing the possibility of collusive pricing. For example, Auto Accept and the Governor Guardrail require a licensee or user to set the specific parameters. (Doc. 159–1 at ¶¶ IV.A.1–2.) The Sold-out Guardrail must now only use the Subject Property's own information, regardless of whether the data is public or nonpublic. (Doc. 159–1 at ¶ IV.A.3.) Finally, Paragraph V.D. prohibits RealPage from implementing any product feature that is inconsistent with the terms set forth in the proposed Final Judgment. (Doc. 159–1 at ¶ IV.D.)

These restrictions address the United States' concerns regarding RealPage's use of nonpublic data and product design features that align pricing among competing landlords.

6. The DOJ Should Resolve the Ambiguity or Otherwise Clarify the Meaning of Paragraph IV.A.1, Including By Amending Paragraph IV.A.1 and the Definitions of ''Subject Property,'' Unaffiliated Property,'' and ''Unaffiliated Property Data'' and Any Other Provisions Necessary To Resolve Any Ambiguity or Confusion

The proposed Final Judgment provides definitions for these terms, eliminating ambiguity. RealPage's software provides pricing recommendations and prices for the floor plans and units within a specific Subject Property. Per Paragraph II.JJ, ''Subject Property'' is a property for which a Revenue Management Product provides price recommendations or prices. In other words, a Subject Property refers to, as described by the commenter, ''one property at any given time–the property to which RealPage's software is currently providing price recommendations in a given Runtime Operation.'' [11] ''Unaffiliated Property,'' as defined in Paragraph II.OO, refers to a property or properties that do not have the same Property Owner as the Subject Property. Finally, Paragraph II.PP defines ''Unaffiliated Property Data'' as the nonpublic data from an Unaffiliated Property.

Paragraph IV.A.1 prohibits the use of Unaffiliated Property Data in Runtime Operation. In other words, RealPage may *not* ''use the real-time [nonpublic] data of all licensees as an input to make price recommendations to any one licensee.'' [12] Rather, it is limited in Runtime Operation to using nonpublic data from a given Property Owner to make rental price recommendations for that Property Owner's specific property. (*See* Doc. 159–1 at ¶¶ II.F and IV.A.)

The United States believes the terms are properly defined and it is not necessary to amend the proposed Final Judgment.

7. The DOJ Should Appoint a Monitor With the Necessary Expertise To Ensure That RealPage Complies With Both the Letter and the Spirit of the Agreement as Finalized

Under the proposed Final Judgment, the United States has sole discretion to select the monitor to be appointed by the Court. (Doc. 159–1 at ¶ VII.A.) The United States agrees with the commenter's suggestion for the appointment of a monitor with the necessary expertise to properly monitor compliance with the terms of the Final Judgment.

8. The DOJ Should Continue To Monitor Rental Prices in the Affected Markets Listed in the Complaint To Ensure That the Limitations on RealPage's Conduct Effectively Prevent It From Raising Rental Prices Above the Competitive Level. If Such Monitoring Suggests That the use of RealPage's Products Continues to Result in Supracompetitive Prices in the Relevant Markets, the DOJ Should Reopen the Matter and/or Modify Its Decree Accordingly

Paragraphs IX.A–B provide the United States continued compliance inspection rights related to any matters contained in the Final Judgment. Relatedly, Paragraph XIII.A permits the United States to re-open the proceedings to seek additional relief should the Final Judgment fail to address the violations alleged in the Complaint.

B. The AK Comment

AK describes herself as a renter in South Dakota. AK does not believe the proposed Final Judgment goes far enough to address price-fixing concerns. The commenter provides four examples of where the proposed Final Judgment is allegedly too weak.

First, AK describes perceived loopholes and ''exceptions to exceptions'' that would allow RealPage to ''approximate much of the earlier behavior.'' [13] As an example, AK explains that the consent decree ''doesn't say that RealPage can't offer similar synthetic curve to different clients,'' essentially providing competitors a ''slightly tweak[ed]'' list of prices.[14] The proposed Final Judgment is designed to restrict the use of nonpublic data and some product features that, as alleged in the Complaint, harmed the consumers and the competitive process. While there are exceptions to the use of nonpublic data, these exceptions were carefully considered given how the data would be used. For example, while there is an

[11] AAI Comment at 4.

[12] AAI Comment at 3.

[13] AK Comment at 1.

[14] AK Comment at 1.

exception to using Unaffiliated Property Data in Runtime Operation, this is limited to properties that do not have ''comparable Surrogate Data available from the same reasonably identifiable Property Owner.'' (Doc. 159–1 at ¶ IV.C.) RealPage, however, may not use the same data in the Runtime Operation for a competing property in the same CBSA. In addition to limiting the nonpublic data that can be used, the proposed Final Judgment requires RealPage to further customize its revenue management software to the specific needs and goals of each property management company or property owner. Finally, the commenter misunderstands synthetic curves. Synthetic curves are not created from a list of prices. A Synthetic Curve is ''a demand or supply curve created by [RealPage or RealPage's] agents without the use of Transactional Data or Nonpublic Data of any kind.'' (Doc. 159–1 at ¶ II.LL.) Transactional Data includes both public and nonpublic current and historical data. (Doc. 159–1 at ¶ II.NN.) These synthetic curves, if used, would be one of multiple inputs to determine a price recommendation. Therefore, the commenter's conclusion that RealPage would be able to ''slightly tweak'' a ''list of prices'' is incorrect.

Second, AK is concerned with the proposed Final Judgment allowing RealPage to continue to offer pricing advisory services. The commenter believes that RealPage's pricing advisors will continue to advise clients to increase rents based on a different client's nonpublic data. The proposed Final Judgment prohibits this conduct. Pricing advisors must not ''disclose, share with, or otherwise disseminate Unaffiliated Property Data or Owner Inputted Data'' through the revenue management products or for purposes of recommending rental pricing or occupancy levels. (Doc. 159–1 at ¶ VI.A.) The proposed Final Judgment provides for various mechanisms, such as a monitor, certifications, and the United States' authority to inspect documents and records, to ensure RealPage's compliance with this provision. (*See id.* ¶¶ VIII.C.3, VII.K, IX.A–B.)

Third, AK states that the settlement does not require RealPage to ''disgorge any of the profit it made through illegal collusive price-fixing.'' [15] The United States did not allege a claim of price-fixing in its Complaint.

Fourth, AK is concerned that RealPage is allowed to ''keep all the old data that it gathered unlawfully and build models upon it.'' [16] The proposed Final Judgment imposes restrictions on what data RealPage may use to train its models. RealPage is not allowed to use ''current, forward-looking, or historical'' data from unaffiliated properties except that it may use historical or backward-looking data from unaffiliated properties that is at least 12 months old and not from active leases. (Doc. 159–1 at ¶ IV.A.3.) The proposed Final Judgment further restricts RealPage's ability to use its models to identify geographic effects narrower than nationwide and build models that would calculate market rent or market rank. (Doc. 159–1 at ¶ IV.A.4–5.) These restrictions are significant. RealPage models cannot be trained using nonpublic data that represent the current competitive conditions in the market, nor can RealPage use such data to determine rental prices at a relevant geographic level in which competition for conventional multifamily rentals occurs.[17]

C. The BA Comment

BA describes himself as a pricing professional and a RealPage user. BA believes that the proposed Final Judgment will harm competition and consumers and that the Court should deny entry of the proposed Final Judgment. BA argues that the Complaint did not demonstrate anticompetitive effects, failed to address procompetitive arguments for sharing data, and that the proposed remedy is not connected to the harm.

First, BA argues that Plaintiffs ''[assume] harm rather than demonstrating it'' and comments on the lack of expert testimony on ''market dynamics.'' [18] These comments are outside the scope of Tunney Act review, which focuses on whether the proposed Final Judgment adequately resolves the United States' antitrust claims against RealPage.

Second, BA alleges that Plaintiffs failed to address the ''procompetitive arguments for sharing data.'' [19] Again, such comments are outside the scope of Tunney Act review.

Finally, the commenter argues that ''even if one accepts entirely DOJ's argument that the harm outweighs the procompetitive benefits,'' the proposed settlement is not connected to the harm alleged.[20] The commenter further states that the Complaint ''alleges price fixing agreements'' but the remedy is ''not about agreements or price fixing.'' [21] The commenter misstates the allegations in the Complaint.

First, the Complaint alleges that Defendants, including RealPage, unlawfully shared information for use in competitors' pricing. The proposed Final Judgment restricts RealPage's use of nonpublic data in RealPage's Revenue Management Products. (Doc. 159–1 at ¶ IV.A–C.) Further, RealPage will not be able to ''conduct, commission, solicit, or otherwise knowingly accept'' nonpublic data through market surveys for use in its Revenue Management Products or for recommending rental pricing or occupancy levels. (Doc. 159–1 at ¶ IV.D.) Finally, the proposed Final Judgment restricts RealPage's ability to use, share, publish, or disclose competitors' data through Revenue Management Products, Pricing Advisors, or in RealPage Revenue Management Meetings. (Doc. 159–1 at ¶¶ IV.E and VI.A–B.)

Second, the Complaint alleges that Defendants, by agreeing to use the software as designed and intended, agreed to align users' pricing processes, strategies, and pricing responses. (Doc. 47 at ¶¶ 270–279.) The proposed Final Judgment addresses these concerns. Paragraphs V.A–D impose restrictions on RealPage's product features, such as Auto Accept and the Governor Guardrail, that the Complaint alleges aligned pricing between competitors. (*See, e.g.,* Doc. 47 at ¶ 142–152.)

Finally, the Complaint alleges that RealPage has unlawfully monopolized, or attempted to monopolize, the commercial revenue management software market. (Doc. 47 at ¶¶ 280–289.) The Complaint also alleges RealPage engaged in unlawful exclusionary conduct based on RealPage's use of competitively sensitive data from competing landlords to market and sell AIRM and YieldStar. As discussed earlier, the proposed Final Judgment limits RealPage's ability to use competitively sensitive data in competing landlords' pricing. (Doc. 159–1 at ¶ IV.A–C.) Therefore, the proposed Final Judgment addresses Plaintiffs' final claim.

The terms of the proposed Final Judgment directly remedy the conduct alleged in Plaintiffs' Complaint. Therefore, the United States believes that the proposed Final Judgment addresses the claims alleged in the Complaint.

[15] AK Comment at 1.

[16] AK Comment at 2.

[17] As described in the Complaint, geographic markets for conventional multifamily housing are inherently local because ''renters are typically tied to a particular location for work, family, or other needs.'' (Doc. 47 at ¶ 200.)

[18] BA Comment at 2–3.

[19] BA Comment at 3.

[20] BA Comment at 7.

[21] BA Comment at 7.

D. The CC Comment

CC describes herself as a resident of a property in South Dakota. CC explains that in November 2025, the property management company notified tenants of a mandatory digital rent payment mechanism for tenants. Digital payment mechanisms are not relevant to the Complaint's claims and are thus outside the scope of the Tunney Act review.

E. The DR Comments

DR describes herself as a resident at a multifamily building in Minnesota. DR raises concerns regarding her building's use of RealPage's OneSite, RealPage Utility Management, and YieldStar products. In particular, the commenter is concerned that by using these RealPage products, rent and utility bills might be inflating overall housing costs.[22] Additionally, DR requests that (1) full disclosure is provided to tenants regarding the use of algorithmic pricing and how pricing is calculated; (2) the United States ensures compliance with Minneapolis's ordinance banning algorithmic rent-setting; (3) the United States investigates whether the commenter's building practices contribute to patterns of algorithmic rent-setting; and (4) the United States considers additional oversight into properties not included in the proposed Final Judgment.[23]

DR's concerns regarding the use of RealPage Utility Management and RealPage's Onesite products, compliance with the Minneapolis ordinance banning algorithmic rent-setting, and investigating whether the commenter's building practices contribute to algorithmic price setting are not relevant to the Complaint's claims and are thus outside the scope of the Tunney Act review.

DR further suggests full disclosure to tenants on how price is calculated. This suggestion falls outside the scope of the Court's review under the Tunney Act because the proposed Final Judgment applies only to RealPage, and not to any landlord that licenses and uses RealPage's revenue management products in leasing its properties to tenants.

Finally, DR suggests that the terms of the proposed Final Judgment be expanded to other properties. This suggestion also falls outside the scope of the Tunney Act review because the proposed Final Judgment applies only to RealPage, and not to any landlord that licenses and uses RealPage's revenue management products in leasing its properties to tenants.

F. The JP Comment

JP describes himself as a resident of a Greystar property in Atlanta, Georgia. JP is concerned that the proposed Final Judgment with RealPage does not impose financial penalties on RealPage, does not include an admission of wrongdoing by RealPage, allows RealPage to continue using certain data for model training, and does not ''adequately address the ongoing harms to vulnerable populations.'' [24]

The United States did not seek financial penalties as a remedy for the violations alleged in its Complaint.

JP also comments that the RealPage settlement does not include an admission of wrongdoing. The Tunney Act, however, does not require a settlement to include an admission of wrongdoing as a prerequisite to judicial approval. *See Morgan Stanley,* 881 F. Supp. 2d at 568. On the contrary, the statute specifically excepts consent judgments like this one from being prima facie evidence or having a collateral estoppel effect in another action or proceeding. *See* 15 U.S.C. 16(a)(''A final judgment or decree heretofore or hereafter rendered in any civil or criminal proceeding brought by or on behalf of the United States under the antitrust laws to the effect that a defendant has violated said laws shall be prima facie evidence against such defendant in any action or proceeding brought by any other party against such defendant under said laws as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto: *Provided, That this section shall not apply to consent judgments or decrees entered before any testimony has been taken.*'') (emphasis added). Congress has designed the remedial provisions of the antitrust laws to encourage consent judgments, which allow the government to obtain relief without the ''time, expense and inevitable risk of litigation.'' *United States* v. *Armour and Co.,* 402 U.S. 673, 681 (1971). *See also United States* v. *Nat'l Ass'n of Broadcasters,* 553 F. Supp. 621, 623 (DDC 1982) (''Congress apparently enacted this proviso in order to encourage defendants to settle promptly government-initiated antitrust claims and thereby to save the government the time and expense of further litigation.''). To insist on more would impose substantial resource costs on government antitrust enforcement, risk the possibility of litigation resulting in no relief, and establish a precedent that could impede enforcement of the antitrust laws in the future.

JP is also concerned that the proposed Final Judgment will allow RealPage to continue using certain data for model training. Paragraph IV.A.3 of the proposed Final Judgment prohibits RealPage from using current, forward-looking, or historical nonpublic data in training its revenue management software models, unless the data are at least 12 months old and not from active leases.[25] The data aging requirements effectively eliminate active leases—*i.e.,* a unit with a rental agreement that is in effect—from the process of training the supply and demand models. These restrictions address the competitive concerns alleged in the Complaint.

Finally, JP is concerned that the settlement does not address ''ongoing harm to vulnerable populations'' and subsidized tenants.[26] JP's concerns are not relevant to the Complaint's claims and are thus outside the scope of the Tunney Act review.

G. The ST Comment

ST believes that the restrictions in the RealPage proposed Final Judgment prohibiting the use of nonpublic data in runtime operation, aging data, and removing features that limited price decreases or aligned prices are ''vital to restoring competitive conditions in rental markets.'' [27] ST raises concerns related to low-income residents who live in properties assisted by the U.S. Department of Housing and Urban Development. According to ST, these individuals face heightened risks when algorithmic tools ''indirectly shape owner's expectations and submissions to HUD.'' ST suggests additional conditions related to HUD-assisted properties related to HUD pricing certifications and compliance.[28] These concerns are outside the scope of the Tunney Act review because they are not relevant to the Complaint's claims, which do not involve HUD-assisted properties.

To the extent that commenters wish to raise the possibility of additional unlawful conduct not addressed by the Complaint brought in this matter, members of the public are encouraged to submit information about any antitrust violation, including potentially unlawful exchanges of information between competitors, to the Department of Justice Antitrust Division's Citizen

[22] DR Comment at 1 and 5.

[23] DR Comment at 6; DR Supplemental Comment at 3.

[24] JP Comment at 3.

[25] Doc. 159–1.

[26] JP Comment at 4.

[27] SK Comment at 1.

[28] SK Comment at 1–2.

Complaint Center (*https://www.justice.gov/atr/report-violations*).

V. Conclusion

After careful consideration of the public comments, the United States continues to believe that the proposed Final Judgment provides an effective and appropriate remedy for the antitrust violations alleged in the Complaint and is therefore in the public interest. The United States will move this Court to enter the proposed Final Judgment after the comments and this response are published in a manner approved by the Court, as required by 15 U.S.C. 16(d).

Dated: April 30, 2026

Respectfully submitted,

By:

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[FR Doc. 2026–09147 Filed 5–7–26; 8:45 am]

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DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On May 5, 2026, the Department of Justice lodged a Consent Decree (''Decree'') with the United States District Court for the District of Massachusetts in the lawsuit entitled *United States* v. *Amelia Joyce Inc., et al.,* Civil Action No. 1:24–cv–11562–RGS.

The proposed Consent Decree resolves alleged violations of the Clean Water Act stemming from the discharge of oily bilge water into Fairhaven Harbor, Massachusetts on at least July 14, 2019, and the failure of the fishing vessel, *Amelia Joyce,* to have the necessary pollution control equipment required by environmental regulation. The proposed Consent Decree requires Defendant Amelia Joyce Inc. to pay a civil penalty of $200,000. It also requires that the Compliance Defendants, or certain potential future purchasers of the *Amelia Joyce* and four other fishing vessels, undertake compliance actions including (1) training on the proper disposal of oil including oily bilge water for all captain and crew of the five fishing vessels; (2) maintenance of a log book on the *Amelia Joyce* documenting the proper disposal of oil from the vessel for three years; and (3) installation of required pollution control equipment on the five fishing vessels.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Amelia Joyce Inc., et. al.,* D.J. Ref. No. 90–5–1–1–12267. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Any comments submitted in writing may be filed in whole or in part on the public court docket without notice to the commenter. During the public comment period the proposed Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* If you require assistance accessing the proposed modification, you may request assistance by email or by mail to the addresses provided above for submitting comments.

Eric D. Albert,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2026–09114 Filed 5–7–26; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

Employment and Training Administration Program Year 2026 Workforce Innovation and Opportunity Act Section 167, National Farmworker Jobs Program State Allotments

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces allotments for the National Farmworker Jobs Program (NFJP) Career Services and Training grants for Program Year (PY) 2026.

DATES: The PY 2026 NFJP allotments are effective for the grant period that begins July 1, 2026. Written comments on this notice are invited and must be received on May 22, 2026. Comments submitted after the deadline for submission will not be considered.

ADDRESSES: Comments on this notice can be submitted to the Employment and Training Administration (ETA), Office of Workforce Investment, 200 Constitution Ave. NW, Room C–4510, Attention: Steven Rietzke, Chief, Division of National Programs, Tools and Technical Assistance. Additionally, comments on this notice can be submitted via email to *NFJP@dol.gov.* Please enter ''PY26 NFJP Grantee Allotments Public Comment'' in the subject line of the email.

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 Steven Rietzke using the information provided below. 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: Steven Rietzke, Chief, Division of National Programs, Tools and Technical Assistance, Office of Workforce Investment, at *Rietzke.Steven@dol.gov* or 202–693–3912 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: This notice is published pursuant to Section 182(d) of the Workforce Innovation and Opportunity Act, Prompt Allotment of Funds.

I. Background

The Department is announcing grantee allotments for the NFJP Career Services and Training (CST) grants for PY 2026. Specifically, this notice provides information on the amount of funds available during PY 2026 to state service areas awarded through the PY 2024 Funding Opportunity Announcement (''the FOA'') for the NFJP CST grants (FOA–ETA–24–15). In distributing funds, the Employment and Training Administration (ETA) calculated allotments for CST grantees through an administrative formula. The allotments are based on the funds appropriated in the Consolidated Appropriations Act, 2026, Public Law 119–75 (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 PY 2026, Congress provided $90,134,000 for formula grants (of which $89,405,000 is available for formula grants after setting aside $729,000 as authorized by the Act). While Congress appropriated the same amount for formula grants in PY 2025 and PY 2026, ETA is setting aside more funding in PY 2026 for set asides as authorized by the Act. Accordingly, as noted above and explained further below, ETA is calculating state allotment amounts by pro-rating the PY 2026 allotment amounts based on the results of the PY 2025 formula and the updated availability of formula funding after set-asides in PY 2026.

As background, the PY 2026 appropriation also provides $6,591,000 for migrant and seasonal farmworker housing (of which $6,539,000 was allotted after $52,000 was set aside as authorized by the Act and of which not less than 70 percent shall be for permanent housing), as well as $671,000 for other discretionary purposes. The Housing grant allotments are distributed as a result of a separate competition and are not the subject of this notice.

This notice includes the following sections:

- Section II of this notice provides a discussion of the data used to populate the formula.
- Section III describes the prorated method for allotments for the implementation year starting in PY 2026.
- Section IV provides final state allotments for PY 2026.

II. Description of Data Files and Allotment Formula

The formula's original methodology is described in the **Federal Register** notice 64 FR 27390, May 19, 1999. In PY 2018, ETA incorporated two modifications to the allotment formula to provide more accurate estimates of each state service area's relative share of persons eligible for the program. The formula also used updated data from each of the four data files serving as the basis of the formula since 1999. The revised formula methodology is described in the **Federal Register** notice 83 FR 32151, July 11, 2018. In PY 2021, ETA incorporated two modifications to the allotment formula. These modifications are described in **Federal Register** notice 86 FR 32063, June 16, 2021. The **Federal Register** notices are accessible at *https://www.federalregister.gov/.*

Like the PY 2025 appropriation, the PY 2026 appropriation includes language expanding program eligibility to farmworkers who are in families with total family incomes at or below 150 percent of the poverty line (rather than the higher of the poverty line or 70 percent of the lower living standard income level).

III. Description of the Prorated Method for Allotments

The Department used a prorated method for PY 2026 allotments. For PY 2026, each state service area received a prorated allotment based on their PY 2025 allotment percentage, as applied to the PY 2026 formula funds available.

IV. Program Year 2026 State Allotments

The allotments set forth in the Table appended to this notice reflect the distribution resulting from the prorated methodology described above.

Henry Maklakiewicz,

Assistant Secretary for Employment and Training, Labor.

U.S. Department of Labor, Employment and Training Administration, National Farmworker Jobs Program—Career Services and Training Grants

State	PY 2025 Prorated no stoploss/ stopgain	PY 2026 Prorated no stoploss/ stopgain	$ Difference	% Difference
Total	$90,064,000	$89,405,000	($659,000)	−0.73
Alabama	819,400	813,404	(5,996)	−0.73
Alaska	.....	.....	.....	0.00
Arizona	2,695,554	2,675,831	(19,723)	−0.73
Arkansas	1,335,907	1,326,132	(9,775)	−0.73
California	24,453,463	24,274,537	(178,926)	−0.73
Colorado	1,861,429	1,847,809	(13,620)	−0.73
Connecticut	561,180	557,074	(4,106)	−0.73
Delaware	173,071	171,805	(1,266)	−0.73
Dist of Columbia	.....	.....	.....	0.00
Florida	3,342,201	3,317,746	(24,455)	−0.73
Georgia	1,854,573	1,841,003	(13,570)	−0.73
Hawaii	.....	.....	.....	0.00
Idaho	2,456,947	2,438,969	(17,978)	−0.73
Illinois	2,047,942	2,032,957	(14,985)	−0.73
Indiana	1,376,058	1,365,989	(10,069)	−0.73

U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, NATIONAL FARMWORKER JOBS PROGRAM—CAREER SERVICES AND TRAINING GRANTS—Continued

State	PY 2025 Prorated no stoploss/ stopgain	PY 2026 Prorated no stoploss/ stopgain	$ Difference	% Difference
Iowa	1,966,764	1,952,373	(14,391)	−0.73
Kansas	1,392,062	1,381,876	(10,186)	−0.73
Kentucky	884,604	878,131	(6,473)	−0.73
Louisiana	876,174	869,763	(6,411)	−0.73
Maine	456,816	453,473	(3,343)	−0.73
Maryland	583,343	579,075	(4,268)	−0.73
Massachusetts	.....	.....	.....	0.00
Michigan	2,321,425	2,304,439	(16,986)	−0.73
Minnesota	1,760,995	1,748,110	(12,885)	−0.73
Mississippi	975,803	968,663	(7,140)	−0.73
Missouri	1,365,171	1,355,182	(9,989)	−0.73
Montana	783,057	777,327	(5,730)	−0.73
Nebraska	1,396,092	1,385,877	(10,215)	−0.73
Nevada	250,691	248,857	(1,834)	−0.73
New Hampshire	.....	.....	.....	0.00
New Jersey	861,877	855,571	(6,306)	−0.73
New Mexico	1,195,497	1,186,750	(8,747)	−0.73
New York	2,428,451	2,410,682	(17,769)	−0.73
North Carolina	2,229,675	2,213,360	(16,315)	−0.73
North Dakota	824,125	818,095	(6,030)	−0.73
Ohio	1,609,000	1,597,227	(11,773)	−0.73
Oklahoma	.....	.....	.....	0.00
Oregon	2,470,673	2,452,595	(18,078)	−0.73
Pennsylvania	1,972,845	1,958,410	(14,435)	−0.73
Puerto Rico	2,161,607	2,145,790	(15,817)	−0.73
Rhode Island	.....	.....	.....	0.00
South Carolina	735,342	729,961	(5,381)	−0.73
South Dakota	745,280	739,827	(5,453)	−0.73
Tennessee	702,728	697,586	(5,142)	−0.73
Texas	4,898,734	4,862,890	(35,844)	−0.73
Utah	732,148	726,791	(5,357)	−0.73
Vermont	229,194	227,517	(1,677)	−0.73
Virginia	830,096	824,022	(6,074)	−0.73
Washington	5,049,516	5,012,569	(36,947)	−0.73
West Virginia	122,057	121,164	(893)	−0.73
Wisconsin	1,924,539	1,910,457	(14,082)	−0.73
Wyoming	349,894	347,334	(2,560)	−0.73

[FR Doc. 2026–09142 Filed 5–7–26; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0143]

Proposed Extension of Information Collection: Qualification and Certification Program Request for MSHA Individual Identification Number (MIIN)

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program for all information collections, to provide the public and Federal agencies with an opportunity to comment on proposed collections of information, in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection titled ''Qualification and Certification Program Request for MSHA Individual Identification Number (MIIN).''

DATES: All comments must be received on or before July 7, 2026.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below. Please note that comments received after the deadline will not be considered.

- *Federal E-Rulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for docket number MSHA–2026–0133.
- *Mail/Hand Delivery:* DOL–MSHA, Office of Standards, Regulations, and Variances, 200 Constitution Avenue NW, Room C3522, Washington, DC 20210. Before visiting MSHA in person, call 202–693–9440 to make an appointment.
- MSHA will post all comments as well as any attachments, except for information submitted and marked as confidential, in the docket at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jessica D. Senk, Acting Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information. collections@dol.gov* (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

A. Legal Authority

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), as amended, 30 U.S.C. 813(h), authorizes the Mine Safety and Health Administration (MSHA) to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811(a), authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise, as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal and metal and nonmetal (MNM) mines.

The Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) governs paperwork burdens imposed on the public by Federal agencies for using identical questions to collect information from 10 or more persons. The PRA defines paperwork burden in 44 U.S.C. 3502(2) as time, effort, or financial resources expended to generate, maintain, or provide information to or for a Federal agency. Under 44 U.S.C. 3507, the PRA also establishes policies and procedures of information collection for controlling paperwork burdens imposed by Federal agencies on the public, including evaluating public comments.

B. Information Collection

To fulfill its statutory mandate to promote miners' health and safety, MSHA requires information under the information collection request (ICR) titled ''Qualification and Certification Program Request for MSHA Individual Identification Number (MIIN).'' This information collection is intended to ensure every individual wishing to receive a license, including qualification, certification, or Part 90 status updates from MSHA, can be identified with a unique MIIN from the Agency.

MIINs are required by current standards under many circumstances. MSHA issues certifications, qualifications, and approvals to the nation's miners and instructors to conduct specific work and training at coal and MNM mines. An individual must apply for a MIIN if the person applies for a new MSHA qualification or certification or updates an existing MSHA qualification or certification.

Burden costs associated with this ICR include:

1. Applying for MSHA Individual Identification Numbers (MIINs).

2. MSHA Approving MIINs.

The associated standards that authorize the collection of information are described below.

1. Applying for MSHA Individual Identification Numbers (MIINs)

Individuals need MIINs to apply for and receive MSHA qualifications and certifications. For example, MSHA requires a person with the necessary certification to complete a CMDPSU Dust Data Card. Under 30 CFR 70.210(c), 71.207(c), and 90.208(c), the Dust Data Card shall be signed by the certified person who actually performed the required examinations during the sampling shift and shall include that person's MIIN. Respirable dust samples with data cards not properly completed may be voided by MSHA.

A MIIN is also used to identify miners who have exercised their option to work in areas of a mine with respirable dust concentration at or below 0.5 milligrams per cubic meter of air (Part 90 miners). Under 30 CFR 90.209(a), MSHA shall provide the operator with a CPDM report on the respirable dust samples submitted or whose results were transmitted electronically, including the Part 90 miner's MIIN. Under 30 CFR 90.209(c), the paper record of a CPDM Dust Data card of the sample run must be provided to each Part 90 miner, including the Part 90 miner's MIIN. Under 30 CFR 90.300(b), when an operator submits to the District Manager for approval a written respirable dust control plan for the affected Part 90 miner, each respirable dust control plan shall include the name and MIIN of the Part 90 miner.

Under these provisions, individuals wishing to receive a license from MSHA, *e.g.*, a qualification, certification, or Part 90 status, are required to furnish MSHA with a taxpayer identification number, in this case a MIIN. MSHA uses MIINs instead of Social Security numbers (SSNs) for all other MSHA collections that require a taxpayer identifying number. The MIIN identifier fulfills Executive Order 13402, Strengthening Federal Efforts Against Identity Theft, which requires Federal agencies to better secure government-held data.

To receive a MIIN, an individual must apply to MSHA by completing and submitting MSHA Form 5000–46, Request for MSHA Individual Identification Number (MIIN). The miner then uses this unique number when dealing with MSHA instead of providing their SSN.

2. MSHA Approving MIINs

Upon receiving an application for a MIIN, MSHA processes the application and issues the individual with a MIIN.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection titled ''Qualification and Certification Program Request for MSHA Individual Identification Number (MIIN).'' MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

The ICR is available on *https://www.regulations.gov.* MSHA cautions commenters against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *https://www.regulations.gov* and *https://www.reginfo.gov.*

The public may also examine publicly available documents at DOL–MSHA, Office of Standards, Regulations and Variances, 200 Constitution Avenue NW, Room C3522, Washington, DC 20210. Before visiting MSHA in person, call 202–693–9440 to make an appointment.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

III. Current Actions

This ICR concerns provisions for Qualification and Certification Program Request for MSHA Individual Identification Number (MIIN). MSHA has updated the data with respect to the number of respondents, responses, time burden, and burden costs supporting this ICR from the previous ICR.

Type of Review: Extension, without change, of a currently approved information collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0143.

Affected Public: Business or other for-profit entity.

Number of Annual Respondents: 9,000.

Frequency: On occasion.

Number of Annual Responses: 9,000.

Annual Time Burden: 720 hours.

Annual Recordkeeping Costs: $180.

MSHA Form: MSHA Form 5000–46, Request for MSHA Individual Identification Number (MIIN).

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the proposed ICR; they will become a matter of public record and be available at *https://www.reginfo.gov.*

Jessica D. Senk,

Certifying Officer, Mine Safety and Health Administration.

[FR Doc. 2026–09115 Filed 5–7–26; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0035]

Ethylene Oxide (EtO) Standard; Extension 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 extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Ethylene Oxide (EtO) Standard.

DATES: Comments must be submitted (postmarked, sent, or received) by July 7, 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–2009–0035) 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 purpose of these requirements in the Ethylene Oxide (EtO) Standard is to protect workers from the adverse health effects that may result from occupational exposure to ethylene oxide. The principal information collection requirements in the Ethylene Oxide (EtO) Standard include conducting worker exposure monitoring, notifying workers of the exposure, implementing a written compliance program, and implementing medical surveillance of workers. Also, the examining physician must provide specific information to ensure that workers receive a copy of their medical examination results. The employer must maintain exposure-monitoring and medical records for specific periods, and provide access to these records by OSHA, the National Institute for Occupational Safety and Health (NIOSH), the affected workers, and their authorized representatives and other designated parties.

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 Ethylene Oxide (EtO) Standard. The agency is seeking an adjustment decrease in burden going from 30,252 hours to 24,521 hours, a difference of 5,731 hours. The adjustment decrease is primarily due to the decline in the number of workers receiving periodic medical examinations, going from 24,992 to 16,663 examinations.

Also, the agency is seeking a decrease in capital costs of $868,465, going from $5,129,858 to $4,261,393. This decrease

is due to a decrease in the number of medical examinations administered.

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: Extension of a currently approved collection.

Title: Ethylene Oxide (EtO) Standard (29 CFR 1910.1047).

OMB Control Number: 1218–0108.

Affected Public: Business or other for-profits.

Number of Respondents: 2,123.

Number of Responses: 87,592.

Frequency of Responses: On occasion.

Average Time per Response: Varies.

Estimated Total Burden Hours: 24,521.

Estimated Cost (Operation and Maintenance): $4,261,393.

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 (Docket No. OSHA–2009–0035). 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 submissions, 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 May 5, 2026.

Amanda Laihow,

Principle Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2026–09116 Filed 5–7–26; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0862]

Hazardous Waste Operations and Emergency Response (HAZWOPER) Standard; Extension 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 extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Hazardous Waste Operations and Emergency Response (HAZWOPER) Standard.

DATES: Comments must be submitted (postmarked, sent, or received) by July 7, 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–2011–0862) 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 HAZWOPER Standard specifies a number of collections of information (paperwork) requirements. Employers can use the information collected under the HAZWOPER rule to develop the various programs the

standard requires and to ensure that their workers are trained properly about the safety and health hazards associated with hazardous waste operations and emergency response to hazardous waste releases. OSHA will use the records developed in response to this standard to determine adequate compliance with the standard's safety and health provisions. The employer's failure to collect and distribute the information required in this standard will affect significantly OSHA's effort to control and reduce injuries and fatalities. Such failure would also be contrary to the direction Congress provided in the Superfund Amendments and Reauthorization Act (SARA).

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 Hazardous Waste Operations and Emergency Response (HAZWOPER) Standard. The agency is seeking an adjustment decrease in burden hours, going from 251,002 hours to 232,668 hours, a difference of 18,334 hours. The adjustment decrease is primarily due to a decline in the number of Resource Conservation & Recovery Act (RCRA) treatment, storage, and disposal (TSD) cleanup sites. Also, the agency is seeking an adjusted decrease in capital costs of $364,121, going from $3,769,483 to $3,405,362, which is also due to a decline in RCRA TSD cleanup sites.

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: Extension of a currently approved collection.

Title: Hazardous Waste Operations and Emergency Response (HAZWOPER) Standard (29 CFR 1910.120).

OMB Control Number: 1218–0202.

Affected Public: Business or other for-profits.

Number of Respondents: 17,211.

Number of Responses: 1,381,624.

Frequency of Responses: On occasion.

Average Time per Response: Varies.

Estimated TotalBurden Hours: 232,668.

Estimated Cost (Operation and Maintenance): $3,405,362.

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 (Docket No. OSHA–2011–0862). 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 submissions, 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 May 5, 2026.

Amanda Laihow,

Principle Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2026–09119 Filed 5–7–26; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

[OMB Control No. 1240–0022]

Proposed Extension of Information Collection; Notice of Law Enforcement Officer's Injury or Occupational Disease, and Notice of Law Enforcement Officer's Death

AGENCY: Office of Workers' Compensation Programs.

ACTION: Request for public comments.

SUMMARY: The Department of Labor (DOL) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled ''Notice of Law Enforcement Officer's Injury or Occupational Disease'' and ''Notice of Law Enforcement Officer's Death.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: All comments must be received on or before July 7, 2026.

ADDRESSES: You may submit comment as follows. Please note that late, untimely filed comments will not be considered.

Electronic Submissions: Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for WCPO–2026–0298. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket, with no changes. Because your comment will be made public, you are responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as your or anyone else's Social Security number or confidential business information.
- If your comment includes confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission.

Written/Paper Submissions: Submit written/paper submissions in the following way:

- Mail/Hand Delivery: Mail or visit DOL–OWCP, Division of Federal Employees' Compensation, 200 Constitution Ave. NW, Room S–3323, Washington, DC 20210.
- OWCP will post your comment as well as any attachments, except for information submitted and marked as confidential, in the docket at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Anjanette Suggs, Office of Workers' Compensation Programs at *suggs.anjanette@dol.gov* @dol.gov (email); (202) 354–9660.

SUPPLEMENTARY INFORMATION:

I. Background

The DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to OMB for approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

The Office of Worker's Compensation Programs (OWCP) administers the Federal Employees' Compensation Act (FECA), which provides under 5 U.S.C. 8191, *et. seq.* and 20 CFR 10.735, that non-Federal law enforcement officers injured or killed under certain circumstances are entitled to the benefits of the Act, to the same extent as if they were employees of the Federal Government. The CA–721 and CA–722 are used by non-Federal law enforcement officers and their survivors to claim compensation under the FECA. Form CA–721 is used for claims for injury. Form CA–722 is used for claims for death. The authority for this collection is 5 U.S.C. 8191–8193.

These forms are the device by which notices of injury, claims for compensation, and claims for death benefits are filed by non-Federal law enforcement officers and their survivors. The information contained in the forms is used to help determine if the claim is covered and what further issues to develop: (a) was the injury sustained under circumstances bringing it within 5 U.S.C. 8191; (b) was the injury disabling; (c) is the disability due to the injury; (d) are those filing a claim entitled to compensation; (e) what further information is required to reach a decision, etc.

See: *https://www.dol.gov/agencies/owcp/FECA/regs/statutes/feca.*

See: *eCFR: 20 CFR 10.735—When is a non-Federal law enforcement officer (LEO) covered under the FECA?*

II. Desired Focus of Comments

OWCP is soliciting comments concerning the proposed information collection related to the Request for Employment Information. OWCP is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of OWCP/DFEC's estimate of the burden related to the information collection, including the validity of the methodology and assumptions used in the estimate;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the information collection on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Documents related to this information collection request are available at *https://regulations.gov* and at DOL–OWCP located at 200 Constitution Ave. NW, Room S–3323, Washington, DC 20210. Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

III. Current Actions

This information collection request concerns the Notice of Law Enforcement Officer's Injury or Occupational Disease Form, Form CA–721; and Notice of Law Enforcement Officer's Death, Form CA–722.

OWCP has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request from the previous information collection request.

Type of Review: Extension of a currently approved collection.

Agency: Office of Workers' Compensation Programs.

OMB Number: 1240–0022.

Affected Public: Private Sector—Business or other For-profits.

Number of Respondents: 4.

Frequency: On Occasion.

Number of Responses: 4.

Annual Burden Hours: 1.333.

Annual Respondent or Recordkeeper Cost: $81.00.

OWCP Forms: Notice of Law Enforcement Officer's Injury or Occupational Disease (CA–721) and Notice of Law Enforcement Officer's Death (CA–722).

Comments submitted in response to this notice will be summarized in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and will be available at *https://www.reginfo.gov.*

Anjanette Suggs,

Certifying Officer.

[FR Doc. 2026–09120 Filed 5–7–26; 8:45 am]

BILLING CODE 4510–CH–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2026–016]

Agency Information Collection Activities; Proposals, Submissions, and Approvals; Schedule A and Veterans Recruitment Initiative

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of request to reinstate a previously-approved information collection.

SUMMARY: We have submitted a request to the Office of Management and Budget (OMB) for approval to reinstate a previously-approved information collection that expired in July 2025. This information collection will be used to connect veterans and Schedule A-eligible applicants with an opportunity for noncompetitive employment. Information will be collected from people who are interested in these opportunities to consider them for the positions and match them with possible jobs. The collection includes approval of a form, NA Form 3102, NARA Employment Interest Questionnaire. We invite you to comment on these information collections.

DATES: We must receive written comments on or before July 7, 2026.

ADDRESSES: Send comments to *surveys@nara.gov.*

FOR FURTHER INFORMATION CONTACT: Ben Jordi, Paperwork Reduction Act Officer, by email at *ben.jordi@nara.gov* or by telephone at 304–726–7865 with requests for additional information or copies of the proposed information collection and supporting statement.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we invite the public and other federal agencies to comment on proposed information collections. If you have comments or suggestions, they should address one or more of the following points: (a) whether the proposed information collection is necessary for NARA to properly perform its functions; (b) our estimate of the burden of the proposed information collection and its accuracy; (c) ways we could enhance the quality, utility, and clarity of the information we collect; (d) ways we could minimize the burden on respondents of collecting the information, including through information technology; and (e) whether the collection affects small businesses.

We will summarize any comments you submit and include the summary in our request for OMB approval. All comments will become a matter of public record.

Title: Schedule A and Veterans Recruitment Initiative.

OMB number: 3095–0075.

Agency form number: NA Form 3102, NARA Employment Interest Questionnaire.

Type of review: Regular.

Affected public: Individuals or households.

Estimated number of respondents: 300.

Estimated time per response: 5 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 25 hours.

Abstract: This recruitment initiative connects people who are veterans or are Schedule A-eligible with non-competitive employment opportunities within our agency. The Special Program Placement Coordinator (SPPC) serves as a liaison between the applicant and NARA managers and supervisors to find viable employment opportunities for applicants.

SPPC has developed a Resume Repository (retained in a spreadsheet) to store resumes of qualified individuals who may meet our hiring needs. The Repository helps our agency find highly motivated veterans and Schedule A candidates who are eager to demonstrate their abilities in the workplace through excepted service positions, which could become permanent positions after trial period requirements have been met.

We collect the information for the Repository through an online form, NA Form 3102, NARA Employment Interest Questionnaire, which includes the following information for each individual: Applicant name, email address, phone number, U.S. citizenship status, past federal employment, referral source, desired work location, types of positions applicant is interested in (may be multiple areas of interest), and minimum starting grade level.

We enter the collected information from the questionnaire into the Repository spreadsheet, which managers and supervisors can use to sort and filter by position(s) of interest and/or duty location. We include resumes and cover letters as a link beside each candidate's entry so managers can view them and consider the candidate when looking for an employee. Managers have unlimited access to the Repository information and resumes to select qualified applicants to fill vacancies through a direct, non-competitive hire.

The Schedule A and veterans recruitment questionnaire link will be listed in our agency's information on the OPM website, in information provided by other agencies and organizations with similar programs, and on various pages of our agency's website at *https://www.archives.gov/.*

Candidates must be U.S. citizens, eligible veterans, or be eligible under the Schedule A hiring authority.

Gulam Shakir,

Executive for Information Services/CIO.

[FR Doc. 2026–09153 Filed 5–7–26; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2026–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of May 11, 18, 25, and June 1, 8, 15, 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 May 11, 2026

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/.*

Week of June 8, 2026—Tentative

Tuesday, June 9, 2026

10:00 a.m. Meeting With the Organization of Agreement States (OAS) and the Conference of Radiation Control Program Directors (CRCPD) (Public Meeting) (Contact: Jeff Lynch: 301–415–5041)

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, June 11, 2026

9:00 a.m. Overview of Proposed Rulemakings to Address Executive Order 14300 (Public Meeting) (Contact: Katie McCurry: 404–997–4438)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via

webcast at the Web address—*https://video.nrc.gov/*.

Week of June 15, 2026—Tentative

There are no meetings scheduled for the week of June 15, 2026.

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: May 6, 2026.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2026–09192 Filed 5–6–26; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2026–1057]

Privacy Act of 1974; System of Records

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of modified system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, as amended, the U.S. Nuclear Regulatory Commission (NRC) proposes to revise System of Records NRC 16, which includes Privacy Act records regarding facility operator licensees, to reflect the NRC's issuance of a final rule establishing a new risk-informed, technology-inclusive regulatory framework for advanced reactors. This final rule establishes a new part within the NRC's regulations that includes, among other things, provisions for licensing facility operators. The revision to NRC 16 clarifies that the system will now include records about individuals licensed as operators under the new regulations, while continuing to include records about individuals licensed under the NRC's pre-existing operator licensing regulations. This system notice is subject to a 30-day public comment period.

DATES: Submit comments on revisions and changes by June 8, 2026. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2026–1057. 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.
- *Mail Comments to:* Office of Administration, Mail Stop: TWFN–5–A85, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.
- *Obtaining Information and Submitting Comments:* Please refer to Docket ID NRC–2026–1057 when contacting the NRC about the availability of information for this action. The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2026–1057 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into Agencywide Documents Access and Management System (ADAMS). The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from others for submission to the NRC, then you should inform them not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2026–1057.
- *NRC's 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*.
- *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 standard time, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sally Hardy, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–5607; email: *Sally.Hardy@nrc.gov*.

SUPPLEMENTARY INFORMATION: The NRC is proposing to revise the following system of records: NRC 16, ''Facility Operator Licensees Records (10 CFR part 55).'' Because the NRC may now issue facility operator licenses under its newly issued part 53 of title10 of the *Code of Federal Regulations* (10 CFR), which provides a risk-informed, technology-inclusive regulatory framework for advanced reactors. The revision changes the name of the system of records to ''Facility Operator Licensees Records (10 CFR part 53 or 55, as applicable,)'' and clarifies that the system covers individuals licensed as operators under the new 10 CFR part 53, in addition to individuals licensed under 10 CFR part 55. No other substantive changes are proposed. As part of the update, the NRC proposes to rename the system to more accurately describe the categories of individuals and records covered. The NRC also proposes conforming amendments to incorporate references to the new regulations, and make related clarifying changes, in the following sections of the system notice: Authority for Maintenance of the System, Categories of Individuals Covered by the System; Categories of Records in the System; Record Source Categories; Routine Uses of Records Maintained in the System, including Categories of Users and the Purpose of Such Uses (specifically routine use a); and Policies and Practices for Retention and Disposal of Records. No other substantive changes are proposed.

A report on these revisions has been sent to OMB, the Committee on Homeland Security and Governmental Affairs of the U.S. Senate, and the Committee on Oversight and Accountability of the U.S. House of Representatives, as required by the Privacy Act.

If changes are made based on the NRC's review of comments received, the NRC will publish a subsequent notice.

The text of the report, in its entirety, is attached.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: May 6, 2026.

For the Nuclear Regulatory Commission.

Garo Nalabandian,

Senior Agency Official for Privacy, Office of the Chief Information Officer.

Attachment—Nuclear Regulatory Commission Privacy Act System of Records

NRC System of Records

16. Facility Operator Licensees Records (10 CFR Part 53 or 55, as applicable)—NRC

This system of records is maintained by the NRC and contains personal information about individuals that is retrieved by an individual's name or identifier.

The notice for this system of records states the name and location of the record system, the authority for and manner of its operation, the categories of individuals that it covers, the types of records that it contains, the sources of information in those records and the routine uses of this system of records. This notice also includes the business address of the NRC official who will inform interested persons of the procedures whereby they may gain access to and request amendment of records pertaining to them.

The Privacy Act provides certain safeguards for an individual against an invasion of personal privacy by requiring Federal agencies to protect records contained in an agency system of records from unauthorized disclosure and to ensure that information is current and accurate for its intended use and that adequate safeguards are provided to prevent misuse of such information.

SYSTEM NAME AND NUMBER:

Facility Operator Licensees Records (10 CFR part 53 or 55, as applicable)—NRC 16.

SECURITY CLASSIFICATION:

Unclassified

SYSTEM LOCATION:

For power reactors, at the appropriate Regional Office at the address listed in Addendum I, Part 2; for non-power (test and research) reactor facilities, at the Operator Licensing and Human Factors Branch, Division of Reactor Oversight, Office of Nuclear Reactor Regulation, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The Reactor Program System—Operator Licensing (RPS–OL) is located at NRC Headquarters and is accessible by the four Regional Offices.

SYSTEM MANAGER(S):

Chief, Operator Licensing and Human Factors Branch, Division of Reactor Oversight, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2131–2141; 10 CFR parts 53 and 55.

PURPOSE(S) OF THE SYSTEM:

The purpose of the system is to record information associated with individual operator licenses, including initial applications, examination results, license issuance, license renewals, license expirations, and medical status.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals licensed as operators under 10 CFR part 53 or 55, as applicable, applicants whose applications are being processed, and individuals whose licenses have expired.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information pertaining to 10 CFR part 53 or 55 applicants, as applicable, for an operator license, licensed operators, and individuals who previously held operator licenses. This includes applications for an operator license, license and denial letters, and related correspondence; correspondence relating to actions taken against a licensee; 10 CFR 50.74 notifications; certification of medical examination and related medical information; fitness for duty information; examination results and other docket information.

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual applying for an operator license, the 10 CFR part 50, 52, or 53 facility licensee, as applicable, a licensed physician, and NRC and contractor staff.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the other types of disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To determine if the individual meets the requirements of 10 CFR *part 53 or 55, as applicable,* to take an examination or to be issued an operator's license.

b. To provide researchers with information for reports and statistical evaluations related to selection, training, and examination of facility operators.

c. To provide examination, testing material, and results to facility management.

d. A record from this system of records which indicates a violation of civil or criminal law, regulation or order may be referred as a routine use to a Federal, State, local or foreign agency that has authority to investigate, enforce, implement or prosecute such laws. Further, a record from this system of records may be disclosed for civil or criminal law or regulatory enforcement purposes to another agency in response to a written request from that agency's head or an official who has been delegated such authority.

e. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency to obtain information relevant to an NRC decision concerning hiring or retaining an employee, letting a contract, or issuing a security clearance, license, grant or other benefit.

f. A record from this system of records may be disclosed as a routine use in the course of discovery; in presenting evidence to a court, magistrate, administrative tribunal, or grand jury or pursuant to a qualifying order from any of those; in alternative dispute resolution proceedings, such as arbitration or mediation; or in the course of settlement negotiations.

g. A record from this system of records may be disclosed as a routine use 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.

h. A record from this system of records may be disclosed as a routine use to NRC-paid experts or consultants, and those under contract with the NRC on a ''need-to-know'' basis for a purpose within the scope of the pertinent NRC task. This access will be granted to an NRC contractor or employee of such contractor by a system manager only after satisfactory justification has been provided to the system manager.

i. A record from this system of records may be disclosed as a routine use to appropriate agencies, entities, and persons when (1) NRC suspects or has confirmed that there has been a breach of the system of records, (2) NRC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, NRC (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 NRC efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm; and

j. A record from this system of records may be disclosed as a routine use to another Federal agency or Federal entity, when the NRC 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.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Information in this system of records is maintained in both paper and electronic formats. Paper records are stored in restricted areas within access-controlled facilities and maintained in locked file cabinets. Access to paper records is limited to those agency personnel whose official duties and responsibilities require access. Electronic records are stored on agency-approved information systems with restricted access and permissions.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are accessed by name and docket number and ADAMS accession number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained under the NRC's NUREG 0910 Rev 4—(2.18.6.a, 2.25.9.a), Headquarters and Regional Operator Licensing Files, 10 CFR part 53 or 55, as applicable Docket Files. Cutoff files upon latest license expiration/revocation/termination, application denial or withdrawal, or issuance of denial letter. Destroy when 10 years old. Examination Package records are retained under NUREG 0910 Rev 4—(2.18.6.b(1), 2.18.6.b(4), 2.25.9.b(1), 2.25.9.b(4)). Cutoff upon receipt of next exam. Destroy 4 years after cutoff.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Maintained in locked file cabinets or an area that is locked. Computer files are password protected. Access to and use of these records is limited to those persons whose official duties require such access based on roles and responsibilities.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedures.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedures.''

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act or Privacy Act Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

HISTORY:

90 FR 12816 (March 19, 2025).

[FR Doc. 2026–09213 Filed 5–7–26; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2026–229 and K2026–227; MC2026–230 and K2026–228; MC2026–231 and K2026–229]

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.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *https://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Public Proceeding(s)
III. Summary Proceeding(s)

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established. Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. *See* 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary

[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).

proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)–(d), the Commission does not appoint a Public Representative or request public comment in proceedings to review such requests.

II. Public Proceeding(s)

None. *See* Section III for summary proceedings.

III. Summary Proceeding(s)

1. *Docket No(s).:* MC2026–229 and K2026–227; *Filing Title:* USPS Request to Add New Mid-Market Standardized Distinct Product, PM–GA Contract 977, and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* May 5, 2026; *Filing Authority:* 39 U.S.C. 3642 and 3633, 39 CFR 3035.105, and 39 CFR 3041.325.

2. *Docket No(s).:* MC2026–230 and K2026–228; *Filing Title:* USPS Request to Add New Fulfillment Standardized Distinct Product, PM–GA Contract 978, and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* May 5, 2026; *Filing Authority:* 39 U.S.C. 3642 and 3633, 39 CFR 3035.105, and 39 CFR 3041.325.

3. *Docket No(s).:* MC2026–231 and K2026–229; *Filing Title:* USPS Request to Add New Fulfillment Standardized Distinct Product, PM–GA Contract 979, and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* May 5, 2026; *Filing Authority:* 39 U.S.C. 3642 and 3633, 39 CFR 3035.105, and 39 CFR 3041.325.

This Notice will be published in the **Federal Register**.

Danielle LeFlore,

Legal Assistant.

[FR Doc. 2026–09150 Filed 5–7–26; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105371; File No. SR–CBOE–2026–024]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend Certain Rules Regarding Complex Orders and Complex Order Auctions To Accommodate Stop-Limit Complex Orders and Establish Stop Complex Order Auctions as a New Type of Auction Mechanism

May 5, 2026.

On March 9, 2026, Cboe Exchange, Inc. (''Cboe Options'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to accommodate stop-limit complex orders and establish Stop Complex Order Auctions as a new type of auction mechanism. The proposed rule change was published for comment in the **Federal Register** on March 26, 2026.[3] The Commission received no comments regarding the proposed rule change.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is May 10, 2026. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates June 24, 2026, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–CBOE–2026–024).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2026–09126 Filed 5–7–26; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 105064 (Mar. 23, 2026), 91 FR 14736.

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105365; File No. SR–ISE–2026–22]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing of Proposed Rule Change To Permit the Listing of A.M.-Settled Options on the Nasdaq-100 Index That Expire on Any Monday, Tuesday, Wednesday, Thursday, or Friday (Other Than the Third Friday-of-the-Month or Days That Coincide With an End-of-Month Expiration) and Expire on the Last Trading Day of the Month

May 5, 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 28, 2026, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''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 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 permit the listing of A.M.-settled options on the Nasdaq-100® Index [3] (''NDX'' or ''NDX options'') that expire (1) on any Monday, Tuesday, Wednesday, Thursday, or Friday (other than the third Friday-of-the-month or days that coincide with an end-of-month expiration) and (2) the last trading day of the month.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/ise/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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Nasdaq-100 Index is a modified market capitalization-weighted index. A description of the Nasdaq-100 Index is available on Nasdaq's website at *https://indexes.nasdaqomx.com/docs/methodology_NDX.pdf*. The Nasdaq-100 Index is a broad-based index, as defined in Options 4A, Section 3. *See also: https://www.nasdaq.com/NDX_NDXP_Factsheet.*

the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its rules to permit the listing of A.M.-settled NDX options that expire (1) on any Monday, Tuesday, Wednesday, Thursday, or Friday (other than the third Friday-of-the-month or days that coincide with an end-of-month expiration) (''A.M.-settled Weekly Expirations'') and (2) on the last trading day of the month (''EOMs'' or ''EOM Expirations'').

Background

When cash-settled [4] index options were first introduced in the 1980s, they generally utilized closing-price settlement procedures (*i.e.,* P.M.-settlement).[5] At the time, the Commission was concerned with the impact of P.M.-settled, cash-settled index options on the underlying cash equities markets, and in particular, added market volatility and sharp price movements near the close on expiration days.[6] These concerns were particularly heightened during the ''triple-witching'' hour on the third Friday of March, June, September, and December when index options, index futures, and options on index futures expired concurrently.[7] Academic research at the time provided at least some evidence suggesting that futures and options expirations contributed to excess volatility and reversals around the close on those days.[8] In light of the concerns with P.M.-settlement and to help ameliorate the price effects associated with expirations of P.M.-settled, cash-settled index products, in 1987, the Commodity Futures Trading Commission approved a proposed rule change by the Chicago Mercantile Exchange (''CME'') to provide for A.M.-settlement [9] for index futures, including futures on the S&P 500 Index.[10] The Commission subsequently approved a proposed rule change by Cboe Exchange, Inc. (''Cboe'') to list and trade a.m.- settled options on the S&P 500 Index.[11] In 1992, the Commission approved Cboe's proposal to transition all of its European-style cash-settled options on the S&P 500 Index to A.M.-settlement.[12]

In 1993, the Commission approved a proposed rule change allowing Cboe to list P.M.- settled options on certain broad-based indexes, including the S&P 500, expiring at the end of each calendar quarter (since approved as permanent).[13] Starting in 2006, the Commission approved a number of proposals, on a pilot basis, permitting Cboe and other options exchanges to introduce other index options with P.M.-settlement.[14] These include P.M.-settled index options expiring weekly (other than the third Friday) and at the end of each month.[15] Subsequently, other exchanges, including ISE, sought to permit the listing and trading of p.m.-settled options on certain broad-based indices. In February 2018, the Commission approved ISE's nonstandard expirations pilot program on a pilot basis (''Nonstandard Pilot'').[16] Specifically, ISE was permitted to open for trading Weekly Expirations on any broad-based index eligible for standard options trading to expire on any Monday, Wednesday, or Friday (other than the third Friday-of-the-month or days that coincide with an EOM expiration).[17] The Commission subsequently approved a proposed rule change to amend the Nonstandard Expirations Program to allow the Exchange to also list P.M.-settled Tuesday and Thursday expirations on the Nasdaq-100.[18] In 2023, ISE received approval for P.M.-settled index options expiring on the third Friday-of-the-month.[19]

Current Rules

Currently, under the Nonstandard Expirations Program set forth in Supplementary Material .07(a) to Options 4A, Section 12, the Exchange may open for Weekly Expirations on any broad-based index eligible for standard options trading to expire on any Monday, Tuesday, Wednesday, Thursday or Friday (other than the third Friday-of-the-month or days that coincide with an EOM expiration). Further, under its current rules, the Exchange may open for trading standard monthly expirations with A.M.-settlement on the third Friday-of-the-month,[20] Weekly Expirations with P.M.-

[4] The seller of a ''cash-settled'' index option pays out the cash value of the applicable index on expiration or exercise. A ''physical delivery'' option, like equity and ETF options, involves the transfer of the underlying asset rather than cash. See Characteristics and Risks of Standardized Options, available at: *https://www.theocc.com/Company-Information/Documents-and-Archives/Options-Disclosure-Document.*

[5] *See* Securities Exchange Act Release No. 65256 (September 2, 2011), 76 FR 55969, at 55972 (September 9, 2011) (SR–C2–2011–008) (Order approving proposed rule change to establish a pilot program to list and trade SPXPM options on the C2 Options Exchange, Incorporated).

[6] *See id.*

[7] *See id.*

[8] *See* Securities and Exchange Commission, Division of Economic Risk and Analysis, Memorandum dated February 2, 2021 on Cornerstone Analysis of PM Cash-Settled Index Option Pilots (September 16, 2020) (''Pilot Memo'') at 5, available at: *https://www.sec.gov/files/Analysis_of_PM_Cash_Settled_Index_Option_Pilots.pdf* (citing, among other papers, Stoll, Hans R., and Robert E. Whaley, ''Expiration day effects of index options and futures,'' Monograph Series in Finance and Economics, no. 3 (1986)).

[9] The term ''A.M.-settled index option'' means an index options contract for which the current index value at expiration shall be determined as provided in Options 4A, Section 12(a)(5). *See* Options 4A, Section 2(c).

[10] *See* Proposed Amendments Relating to the Standard and Poor's 500, the Standard and Poor's 100 and the Standard Poor's OTC Stock Price Index Futures Contract, 51 FR 47053 (December 30, 1986) (notice of proposed rule change from the CME). *See also* Securities Exchange Act Release No. 24367 (April 17, 1987), 52 FR 13890 (April 27, 1987) (SR–CBOE–87–11) (noting that the CME moved the S&P 500 futures contract's settlement value to opening prices on the delivery date).

[11] *See* Securities Exchange Act Release No. 24367 (April 17, 1987), 52 FR 13890 (April 27, 1987) (SR–CBOE–87–11).

[12] *See* Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992) (SR–CBOE–92–09). The Commission also approved proposals by other options markets to transfer most of their cash-settled index products to A.M.-settlement. *See, e.g.,* Securities Exchange Act Release No. 25804 (June 15, 1988), 53 FR 23475 (June 22, 1988) (SR–NYSE–87–11 and 88–04).

[13] *See* Securities Exchange Act Release No. 31800 (February 1, 1993), 58 FR 7274 (February 5, 1993) (SR–CBOE–92–13). *See also* Securities Exchange Act Release Nos. 54123 (July 11, 2006), 71 FR 40558 (July 17, 2006) (SR–CBOE–2006–65); and 60164 (June 23, 2009), 74 FR 31333 (June 30, 2009) (SR–CBOE–2009–029).

[14] In 2006, the Commission approved a proposed rule change allowing the then International Securities Exchange, Inc. to list and trade options series on indexes or on Exchange Traded Fundsthat that expire at the close of business (P.M.-settled) on the last day of a calendar quarter (''Quarterly Options Series''). *See* Securities Exchange Act Release No. 60275 (July 9, 2009), 74 FR 34809 (July 17, 2009) (SR–ISE–2009–50) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Permanently Establish the Quarterly Options Series Pilot Program).

[15] *See* Securities Exchange Act Release Nos. 62911 (September 14, 2010), 75 FR 57539 (September 21, 2010) (SR–CBOE–2009–075); 76529 (November 30, 2015), 80 FR 75695 (December 3, 2015) (SR–CBOE–2015–106); and 78531 (August 10, 2016), 81 FR 54643 (August 16, 2016) (SR–CBOE–2016–046).

[16] *See* Securities Exchange Act Release No. 92612 (February 1, 2018), 83 FR 5470 (February 7, 2018) (SR–ISE–2017–111).

[17] *See id.*

[18] *See* Securities Exchange Act Release No. 95393 (July 29, 2022), 87 FR 47807 (August 4, 2022) (SR–ISE–2022–13).

[19] *See* Securities Exchange Act Release No. 98643 (September 29, 2023), 88 FR 68841 (October 4, 2023) (SR–ISE–2023–20).

[20] *See* Options 4A, Section 12(a)(3) and (4).

settlement [21] (including P.M.-settled Third Friday Index Options); [22] and EOM expirations with P.M.-settlement.[23]

Proposal

The Exchange now proposes to amend its rules to permit the listing of A.M.-settled Weekly and EOM Expirations on NDX options.

The Exchange proposes to amend Supplementary Material .07 to Options 4A, Section 12 which governs its Nonstandard Expirations Program, to permit A.M.-settled NDX options that expire (1) on any Monday, Tuesday, Wednesday, Thursday, or Friday (other than the third Friday-of-the-month (''Expiration Friday'') or days that coincide with an EOM expiration) (''A.M.- settled Weekly Expirations'') and (2) EOMs.

A.M.-settled Weekly Expirations and EOM Expirations on NDX are subject to all provisions of Options 4A, Section 12 and treated the same as A.M.-settled options on NDX that expire on the third Friday of the expiration month, as well as P.M.-settled Weekly and EOM NDX options. The maximum number of expirations that may be listed for each A.M.-settled Weekly Expiration on NDX options (*i.e.,* a A.M.-settled Monday expiration, A.M.-settled Tuesday expiration, A.M.-settled Wednesday expiration, A.M.-settled Thursday Expiration, or A.M.-settled Friday expiration, as applicable) [24] and each A.M.-settled EOM Expiration on NDX options is the same as the maximum number of expirations permitted in Options 4A, Section 12(a)(3) for standard options on NDX. A.M.-settled Weekly Expirations on NDX need not be for consecutive Monday, Tuesday, Wednesday, Thursday, or Friday expirations as applicable; however, the expiration date of a nonconsecutive expiration may not be beyond what would be considered the last expiration date if the maximum number of expirations were listed consecutively. A.M.-settled Weekly Expirations that are first listed in NDX options may expire up to four weeks from the actual listing date. Similarly, A.M.-settled EOMs on NDX need not be for consecutive end of month expirations; however, the expiration date of a non-consecutive expiration may not be beyond what would be considered the last expiration date if the maximum number of expirations were listed consecutively. A.M.-settled EOMs that are first listed in NDX options may expire up to four weeks from the actual listing date. If the Exchange lists A.M.-settled EOMs and A.M.-settled Weekly Expirations on NDX, the Exchange will list an A.M.-settled EOM instead of an A.M.-settled Weekly Expiration that expires on the same day in the given class. Other expirations in the same class are not counted as part of the maximum number of Weekly or EOM Expirations for NDX.

If the Exchange is not open for business on a respective Monday, the normally Monday expiring Weekly Expirations will expire on the following business day. If the Exchange is not open for business on a respective Tuesday, Wednesday, Thursday, or Friday, the normally Tuesday, Wednesday, Thursday, or Friday expiring Weekly Expirations will expire on the previous business day. If two different Weekly Expirations on an index would expire on the same day because the Exchange is not open for business on a certain weekday, the Exchange will list only one of such Weekly Expirations.

The Exchange believes that the introduction of A.M.-settled Weekly Expirations and EOMs on NDX options will provide market participants with additional hedging tools and greater trading opportunities. By offering expanded expirations along with the current standard A.M.-settled expirations (as well as P.M.-settled weekly, monthly and quarterly expirations), the proposed rule change will allow market participants to purchase options on NDX available for trading on the Exchange in a manner more aligned with specific timing needs (such as to hedge special events) and more effectively tailor their investment and hedging strategies and manage their portfolios.

The Exchange believes that expanding the NDX options offering to include A.M.-Settled Weekly and EOM Expirations would allow market participants to purchase an option based on their needed timing and allow them to tailor their investment or hedging needs more effectively. Further, the Exchange believes there is sufficient investor interest and demand in A.M-settled Weekly and EOM Expirations on NDX options to inclusion in the Nonstandard Expirations Program and in the Rules, and that the Nonstandard Expirations Program and the Rules, as amended, will continue to provide investors with additional means of managing their risk exposures and carrying out their investment objectives.

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it believes that the Exchange has the necessary systems capacity to handle any potential additional traffic associated with trading of A.M-Settled Weekly Expirations and EOM Expirations for NDX options. The Options Price Reporting Authority (''OPRA'') also informed the Exchange it believes it has the necessary systems capacity to handle the additional traffic associated with the listing of A.M-Settled Weekly Expirations and EOM Expirations for NDX options that would result from this proposed rule change.

The Exchange does not believe that its Members will experience any capacity issues as a result of this proposal and represents that it will monitor the trading volume associated with any possible additional NDX options series listed as a result of this proposal and the effect (if any) of these additional series on market fragmentation and on the capacity of the Exchange's automated systems.

In addition to this, the Exchange believes that its existing surveillance and reporting safeguards in place are adequate to deter and detect possible manipulative behavior which might arise from listing and trading A.M-settled Weekly and EOM Expirations for NDX options (as the Exchange currently applies these to NDX options that are A.M.-settled with standard expirations, as well as P.M.-settled with weekly, monthly and quarterly expirations) and will support the protection of investors and the public interest. Furthermore, the trading of A.M-settled Weekly and EOM Expirations for NDX options will be subject to the same rules that currently govern the trading of these options with other expirations, including governing customer accounts, position and exercise limits,[25] margin requirements and trading halt procedures, among other Rules, which are designed to prevent fraudulent and manipulative acts and practices.

In response to any potential concerns that disruptive trading conduct could occur as a result of the concurrent

[21] *See* Supplementary Material .07(a) to Options 4A, Section 12.

[22] *See* Options 4A, Section 12(a)(6)(i).

[23] *See* Supplementary Material .07(b) to Options 4A, Section 12.

[24] As part of the proposed changes, the Exchange proposes conforming amendments to Supplementary Material .07(a) and (b) to Options 4A, Section 12 to replace certain existing references to ''Weekly Expirations'' with ''P.M.-settled Weekly Expirations,'' to reflect that those provisions are applicable to P.M.-settled options series and to distinguish them from the A.M.-settled Weekly Expirations proposed. For the avoidance of doubt, there are no changes to the P.M.-settled Weekly Expirations or EOMs as a result of the proposed change. The Exchange also proposes to remove language stating that Weekly Expirations and EOMs shall be P.M-settled.

[25] There are no position limits for NDX Options pursuant to Options 4A, Section 6(a).

listing and trading of two index option products based on the same index but for which different settlement methodologies exist (*i.e.,* one is A.M.-settled and one is P.M.-settled), the Exchange notes that Cboe, for roughly five years (1987 to 1992), listed and traded an A.M.-settled S&P 500 index option under symbol NSX at the same time it listed and traded a P.M.-settled S&P 500 index option under symbol SPX, and Cboe noted that it did not observe any market disruptions as a result of offering both products.[26]

The adoption of trading of A.M-settled Weekly and EOM Expirations on the Nasdaq-100 Index on the same exchange as A.M.-settled (with standard expirations) and P.M-settled options on the Nasdaq-100 Index would provide greater spread opportunities. This manner of trading allows a market participant to take advantage of the different expiration times, which provides expanded trading opportunities. In the options market currently, market participants regularly trade similar or related products in conjunction with each other, which contributes to overall market liquidity.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[27] in general, and furthers the objectives of Section 6(b)(5) of the Act,[28] 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section (6)(b)(5)[29] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed rule change will 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 believes that the introduction of A.M-settled Weekly and EOM Expirations for NDX options will provide investors with expanded hedging tools and greater trading opportunities. As a result, investors will have additional means to manage their risk exposures and carry out their investment objectives. By offering expanded expirations along with the current standard A.M.-settled expirations (as well as P.M.-settled weekly, monthly and quarterly expirations), the proposed rule change will allow market participants to purchase options on NDX available for trading on the Exchange in a manner more aligned with specific timing needs (such as to hedge special events) and more effectively tailor their investment and hedging strategies and manage their portfolios. For example, the proposed rule change will allow market participants to spread risk across more trading days and incorporate daily changes in the markets, which may reduce the premium cost of buying protection. The Exchange represents that it believes that it has the necessary systems capacity to support any additional traffic associated with trading of A.M-settled Weekly and EOM Expirations for NDX options and does not believe that its Members will experience any capacity issues as a result of this proposal.

The Exchange does not believe that the addition of A.M-settled Weekly and EOM Expirations for NDX options to the Nonstandard Expirations Program will raise any prohibitive regulatory concerns, nor adversely impact fair and orderly markets on expiration days. The Exchange has not experienced any meaningful regulatory concerns, nor adverse impact on fair and orderly markets, in connection with these programs, nor with the listing of standard A.M.-settled expirations for NDX options along with P.M.-settled expirations, (as the Exchange currently does) and is unaware of any reason why adding A.M.-settled options with expirations each day of the week for NDX options would be create such concerns or impact. Particularly, the Exchange does not believe increases in the number of options series and expirations will have any significant adverse economic impact on the futures, index, or underlying index component securities markets. The Exchange believes that the proposed rule change will provide investors with greater trading and hedging opportunities and flexibility, allowing them to transact in NDX options in a manner more aligned with specific timing needs and more effectively tailor their investment and hedging objectives by listing these A.M-settled options that expire each trading day of the week, in addition to options that expire at on the third Friday-of-the-month or that are P.M-settled and expire daily, monthly and quarterly (which, as noted above, the Exchange may already do pursuant to separate listing programs in the Rules).

The Commission previously recognized the benefits of A.M-settlement for broad-based index options when it approved Cboe Options' proposal to transition most of its cash-settled index options, including on the S&P 500 Index, to A.M.-settlement.[30] Specifically, the Commission identified several advantages of opening price settlement, including: (1) the ability to facilitate contra-side interest to alleviate order imbalances caused by the unwinding of index-related positions, without requiring market participants to assume overnight or weekend position risk; (2) providing market participants the remainder of the trading day to adjust to price movements resulting from expiration activity and assess whether those movements reflect changes in fundamental value or short-term supply and demand; and (3) allowing stock positions associated with expiring contracts to benefit from orderly opening procedures designed to facilitate price discovery.[31]

The Exchange believes the benefits set forth by the Commission are not unique to standard monthly expirations. Specifically, as daily and end-of-month P.M.-settled NDX expirations have grown in prominence, the same concerns regarding order imbalance and price discovery could arise at any expiration (not just the third Friday of each month). Accordingly, the Exchange believes that extending A.M.-settlement to daily and end-of-month expirations is consistent with the Commission's own rationale, and would provide market participants with those same protections across the full expiration calendar.

Finally, the Exchange believes its proposal to introduce changes to specify between A.M.-settled Weekly Expirations and P.M.-settled Weekly Expirations are reasonable, as they

[26] *See* Securities Exchange Act Release No. 105320 (April 28, 2026) (not yet published) (SR–Cboe–2026–044). Further, Cboe noted in its rule proposal that currently A.M.-settled SPX options and P.M.-settled SPX options trade under different symbols (*i.e.,* SPX and SPXW, respectively).

[27] 15 U.S.C. 78f(b).

[28] 15 U.S.C. 78f(b)(5).

[29] 15 U.S.C. 78(f)(b)(5).

[30] *See* Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992) (SRCBOE–92–09). Thereafter, the Commission approved proposals by the options markets to transfer most of their cash-settled index products to A.M. settlement.

[31] *See* Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992) (SRCBOE–92–09). Thereafter, the Commission approved proposals by the options markets to transfer most of their cash-settled index products to A.M. settlement.

provide clarity within the Exchange rules, thereby mitigating potential investor confusion.

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 does not believe that the proposed rule change will impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because A.M.-settled NDX options with Weekly and EOM Expirations will be available to all market participants. By listing NDX options with these expirations (in addition to the standard Expiration Friday expirations (A.M.-settled) and weekly and EOM expirations (P.M.-settled) that are currently listed), the proposed rule change will provide all investors that participate in the markets for these index options available for trading on the Exchange with greater trading and hedging opportunities and flexibility to meet their investment and hedging needs.

The Exchange does not believe that the proposal to list A.M.-settled NDX options with Weekly and EOM Expirations will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because these options are proprietary Exchange products. To the extent that the addition of these expirations for NDX options makes the Exchange a more attractive marketplace to market participants at other exchanges, such market participants are free to elect to become market participants on the Exchange. Further, to other exchanges offer ''nonstandard'' expirations [32] for index options and are welcome to similarly propose to list options on those index or equity products with similar expirations as proposed herein. Finally, as noted above, NDX options with these expirations will trade in the same manner as other options with these expirations.

[32] Cboe's Nonstandard Expirations Program, set forth in Rule 4.13(e), permits Cboe to open for trading (1) Weekly Expirations on any broad-based index eligible for standard options trading and on CBTX, MBTX, and the Cboe Magnificent 10 Index to expire on any Monday, Tuesday, Wednesday, Thursday, or Friday (other than the third Friday-of-the-month or days that coincide with an EOM expiration) and (2) EOMs on any broad-based index eligible for standard options trading and on CBTX, MBTX, and the Cboe Magnificent 10 Index to expire on last trading day of the month.

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 self-regulatory organization consents, the Commission will:

(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–ISE–2026–22 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–ISE–2026–22. 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–ISE–2026–22 and should be submitted on or before May 29, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2026–09122 Filed 5–7–26; 8:45 am]

BILLING CODE 8011–01–P

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105375; File No. SR–LTSE–2026–11]

Self-Regulatory Organizations; Long-Term Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the LTSE Fee Schedule To Introduce the LTSE Membership Launchpad Program

May 5, 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 22, 2026, Long-Term Stock Exchange, Inc. (''LTSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the LTSE Fee Schedule to introduce the LTSE Membership Launchpad Program, which offers discounted Membership Fees, Logical Connectivity Fees and Market Data Fees for up to 12 months for new Members of the Exchange. The Exchange proposes to implement the changes to the fee schedule pursuant to this proposal on April 9, 2026.[3]

The text of the proposed rule change is available at the Exchange's website at *https://longtermstockexchange.com/*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On April 9, 2026, the Exchange filled SR–LTSE–2026–10. The Exchange intends to withdraw that filing on April 22, 2026 and submit this proposal in its place. This filing replaces and supersedes SR–LTSE–2026–10.

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 self-regulatory organization 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to introduce the LTSE Membership Launchpad Program (the ''Program'') to offer discounted Membership Fees, Logical Connectivity Fees and Market Data Fees for up to 12 months for new LTSE Members. The purpose of this filing is to encourage smaller, retail-oriented market participants that are not currently LTSE Members to become Members by discounting certain fixed costs associated with becoming a Member of LTSE. The Exchange proposes to codify the Program under Section E of the Fee Schedule and to implement the fee changes effective April 9, 2026.

The Exchange also notes that the Program is similar to a program adopted by another exchange that similarly provides discounts on membership, connectivity and market data fees for new members for the similar purpose of encouraging smaller, retail-oriented market participants to become members of the exchange.[4]

Current Market and Competitive Environment

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and self-regulatory organization revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [5]

While Regulation NMS has enhanced competition, it has also fostered a ''fragmented'' market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that ''such competition can lead to the fragmentation of order flow in that stock.'' Indeed, equity trading is currently dispersed across 17 exchanges, 31 alternative trading systems, and numerous broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly available information, no single exchange has more than 15% market share. Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange's market share of trading in Tape A, B and C securities combined is less than 1%.

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain exchange transaction fees that relate to orders that would provide liquidity on an exchange.

Proposed Rule Change

The Exchange proposes to discount certain fixed costs related to Exchange membership in order to incentivize smaller, retail-oriented market participants to consider LTSE membership. Specifically, the Exchange proposes to introduce a new Program that offers significant discounts for up to 12 months on the Membership Fees, Logical Connectivity Fees and Market Data Fees for new Members, subject to specific restrictions.

Proposed Discounts

The proposed discounts would be phased out over a period of 12 months. Specifically, during Phase 1 (months 1–6) following approval of a new membership application, the applicable discount for the Membership Fee, Logical Connectivity Fees and Market Data Fees would be 100% for each eligible product. During Phase 2 (months 7–12), the amount of the discount would become 50%. The Program would terminate at the end of Phase 2 (12 months), and the Member would be charged at the regular rate set forth in the LTSE Fee Schedule from that point forward.[6]

Membership Fee

The Exchange currently charges a Membership Fee of $10,000 a year for all LTSE Members ($833.33 per month). The Membership Fee is assessed on a calendar year basis, with the fee for each upcoming year due by December 31st.[7]

For example, assuming new Member A is approved on May 7, 2026, the Exchange would calculate and apply the 2026 annual Membership Fee as follows:

- Apply a 100% discount for the period June 2026 through November 2026 (months 1–6).
- Apply a 50% discount for December 2026 (month 7) = $416.67 ($833.33 * 50%).

The Exchange would calculate and apply Member A's 2027 annual Membership Fee as follows:

- Apply a 50% discount for the period January 2027 through May 2027 (months 8–12) = $2,083.32 ($833.33 * 5 months * 50%).
- Apply no discount for the period June 2027 through December 2027 = $5,833.31 ($833.33 * 7 months).

To be eligible, a new Member may not have been, within the prior 6 months, approved as an LTSE Member. Eligibility for discounts begins in the month following membership approval, which will count as month 1 for the purposes of assessing the 12 months of discounts. A new Member is only eligible to enroll in the Program once. A new Member that is an ''affiliate'' of an existing Member is ineligible to participate in the Program. Affiliate is proposed to be defined, for purposes of

[4] *See* Securities Exchange Act Release No. 91626 (April 21, 2021), 79 FR 22287(April 27, 2021) (SR–NYSE–2021–22) *See* also New York Stock Exchange Price List, NYSE Membership On-Ramp Program.

[5] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7–10–04) (Final Rule) (''Regulation NMS'').

[6] For the avoidance of doubt, the discounts described in the Program apply beginning in the first full month following approval of a new membership application (month 1). No Membership Fee, Logical Connectivity Fees, or Market Data Fees are assessed during the initial month in which a new Member is approved and onboarded (''Month 0''), consistent with the Exchange's existing billing practice. Accordingly, the treatment of Month 0 is not a new fee waiver or discount being proposed by this filing.

[7] If a firm is admitted as a Member during a calendar year, the annual Membership Fee is prorated (starting with the next calendar month) based upon the date the firm becomes a Member. Such proration applies only to the portion of the calendar year in which the firm is admitted. The full annual Membership Fee for the following calendar year shall be due on December 31 of the year of admission (for example, the full 2027 annual Membership Fee shall be due on December 31, 2026).

the fee schedule, as any Member under 75% common ownership or control of that Member.

Market Data Fees

LTSE offers the following market data products to all market participants, including new Members on a voluntary, subscription basis: the LTSE Depth of Book Feed, the LTSE Top of Book Feed, and the LTSE Last Sale Feed, together the (''Market Data Feeds''). Each Market Data Feed allows a vendor to redistribute certain data elements included in the data feed on a real-time basis. For the Depth of Book Feed, the Exchange charges $2,500 per data recipient per month. For the Top of Book Feed, the Exchange charges $500 per data recipient per month. For the Last Sale Feed the Exchange charges $0 per month. A firm that was a subscriber to any of the LTSE Market Data Feeds six (6) months before becoming approved as a new Member is ineligible for Program's market data fee discounts.

Assume new Member A is approved on May 7, 2026, and subscribes to the LTSE Depth of Book Feed for 5 data recipients and the LTSE Top of Book Feed for 10 data recipients. Under the current fee schedule, Member A would be charged $2,500 per data recipient per month for the Depth of Book Feed (totaling $12,500 per month) and $500 per data recipient per month for the Top of Book Feed (totaling $5,000 per month), for a combined total of $17,500 per month.

Under the Program, during Phase 1 (months 1–6), Member A would receive a 100% discount on these fees, resulting in no charge for market data during this period. During Phase 2 (months 7–12), Member A would receive a 50% discount, resulting in monthly charges of $6,250 for the Depth of Book Feed and $2,500 for the Top of Book Feed, for a combined total of $8,750 per month.

Beginning in month 13, Member A would be charged the full applicable rates set forth in the LTSE Fee Schedule.

Logical Connectivity Fees

Finally, the Program would be available for fees charged for the Logical Connectivity sessions. These application sessions, commonly known as ports, are utilized to perform a particular function on the Exchange, such as order entry or order cancellation, receipt of drop copies, proprietary market data dissemination, or requesting data to be backfilled (*i.e.,* ''gap ports''). Members can also choose to connect to LTSE indirectly through a session maintained by a third-party service bureau. Service bureau sessions may provide access to one or multiple Members on a single session.

The Exchange charges $450 per port per month but waives the fees for three (3) sessions per month per market participant which the Exchange believes encourages market participants to connect to the Exchange's backup trading systems and to conduct appropriate testing of their use of the Exchange. All Logical Connectivity Fees beyond the first 3 complimentary sessions will be eligible. However, the Exchange notes that Cross-Connect Fees will not be eligible for the Program.

Assume new Member A is approved on May 7, 2026, and subscribes to 20 Logical Connectivity sessions. Under the current fee schedule, Member A would be charged $450 per port per month for each port in excess of the three (3) complimentary sessions, resulting in 17 billable ports and a total monthly charge of $7,650.

Under the Program, during Phase 1 (months 1–6), Member A would receive a 100% discount on these fees and would not be charged for Logical Connectivity during this period. During Phase 2 (months 7–12), Member A would receive a 50% discount and would be charged $225 per port per month for 17 ports, resulting in a total monthly charge of $3,825.

Beginning in month 13, Member A would be charged the full applicable rates set forth in the LTSE Fee Schedule.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(4) of the Act,[9] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among all of its Members and issuers and other persons using its facilities; Section 6(b)(5) of the Act,[10] which requires, among other things, that the rules of the Exchange be 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 to protect investors and the public interest and are not designed to permit unfair discrimination between customers, issuers, brokers or dealers. The Exchange also believes that the proposed rule change is reasonable, fair and equitable, and non-discriminatory.

As discussed above, the Exchange operates in a highly fragmented and competitive market where market participants can and do move order flow or discontinue or reduce use of certain categories of products, in response to fee changes. Moreover, in the current competitive market environment, market participants also have a choice of where to become members. In light of this, the Exchange believes that it is reasonable to offer discounted Membership Fees, Logical Connectivity Fees and Market Data Fees for up to 12 months for new Members in order to provide an incentive for smaller broker-dealers to apply for Exchange membership and a trading license. The Exchange believes that providing an incentive for broker-dealers that are not currently Exchange Members to apply for membership would encourage market participants to become Members of the Exchange and bring additional liquidity to a public market. In addition, the Exchange believes that the proposal could result in additional retail liquidity to a public exchange, to the benefit of all market participants. The Exchange believes creating incentives and opportunities for new Members on the Exchange protects investors and the public interest by increasing the competition and liquidity on a transparent public market.

The Exchange believes the proposal constitutes an equitable allocation of fees because the proposed change would be offered to all market participants that wish to become new Members, all of whom would continue to be subject to the same fee structure and access to the Exchange's market would continue to be offered on fair and nondiscriminatory terms.

The Exchange believes that the proposal is not unfairly discriminatory. In the prevailing competitive environment, Members are free to disfavor Exchange membership and the Exchange's pricing if they believe that alternatives offer them better value. The proposal is not unfairly discriminatory because it neither targets nor uniquely impacts any particular category of market participant. The proposed discounted Membership Fees, Logical Connectivity Fees and Market Data Fees for up to 12 months do not permit unfair discrimination because the proposed changes would apply to all similarly situated new Members, who would all benefit from the discounted fees on an equal basis. For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[11] the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

Instead, as discussed above, the Exchange believes that the proposed changes would increase competition by reducing the cost of operating as an Exchange Member, which the Exchange believes will enhance market quality through the submission of additional retail liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for member organizations. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [12]

The proposed changes are designed to attract additional Members and order flow to the Exchange. The Exchange believes that the proposed changes would continue to incentivize market participants to become Exchange Members and direct order flow, especially retail order flow, to the Exchange. Greater liquidity benefits all market participants on the Exchange by encouraging market participants to become Exchange Members and send orders to the Exchange, thereby providing more trading opportunities and contributing to robust levels of liquidity on the Exchange, which benefits all market participants. The proposed discounts would be available to all similarly situated market participants, and, as such, the proposed change would not impose a disparate burden on competition among market participants on the Exchange. As noted, the proposal would apply to all similarly situated Members on the same and equal terms, who would benefit from the changes on the same basis. Accordingly, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition

The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchange and off exchange venues if they deem fee levels at those other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe its proposed fee change can impose any burden on intermarket competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

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

This proposed rule change establishes dues, fees or other charges among its members and, as such, may take effect upon filing with the Commission pursuant to Section 19(b)(3)(A)(ii) of the Act [13] and paragraph (f)(2) of Rule 19b–4 thereunder.[14] Accordingly, the proposed rule change would take effect upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–LTSE–2026–11 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–LTSE–2026–11. 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–LTSE–2026–11 and should be submitted on or before May 29, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

J. Matthew DeLesDernier,

Deputy Secretary.

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[11] 15 U.S.C. 78f(b)(8).

[12] Regulation NMS, 70 FR at 37498–99.

[13] 15 U.S.C. 78s(b)(3)(A)(ii).

[14] 17 CFR 240.19b–4(f)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105367; File No. SR–TXSE–2026–005]

Self-Regulatory Organizations; Texas Stock Exchange LLC; Notice of Filing of a Proposed Rule Change To Adopt Rules Related to the Listing and Trading of Closed-End Funds on the Exchange

May 5, 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 23, 2026, Texas Stock Exchange LLC (the ''Exchange'' or ''TXSE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 filed a proposal to adopt rules related to the listing and trading of closed-end funds on the Exchange.

The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is available on the Commission's website (*https://www.sec.gov/rules/sro.shtml*) at the Exchange's website (*https://txse.com/rule-filings*), 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

The Exchange proposes to amend its Rules to: (i) add new Rule 16.316 related to the initial and continued quantitative listing standards applicable to Closed-End Funds [3] based on existing criteria applicable to Closed-End Funds listed on Cboe BZX Exchange, Inc. (''BZX''); [4] (ii) add new rule text specifically related to the initial and continued listing of Interval Funds, as defined below, on the Exchange; and (iii) to add Closed-End Funds to the list of security types for which the annual shareholder meaning[sic] requirements do not apply.

Initial Listing

Closed-End Funds

As proposed, a Closed-End Fund must meet the initial listing requirements for either an individual Closed-End Fund (the ''Individual CEF Standard'') or a Group [5] of Closed-End Funds (the ''Group CEF Standard''), as provided below, before being listed on the Exchange. The Individual CEF Standard requires: (a) a Public Distribution [6] of: (i) at least 500,000 shares where there are at least 800 Public Shareholders,[7] except that companies that are not banks whose securities are concentrated in a limited geographical area, or whose securities are largely held in block by institutional investors, are normally not considered eligible for listing unless the Public Distribution appreciably exceeds 500,000 shares; [8] or (ii) at least 1,000,000 shares where there are at least 400 Public Shareholders; (b) a Public Distribution with a market value [9] or net assets of at least $20 million; (c) a minimum bid price of at least $4 per share; and (d) at least four registered and active Market Makers.[10] The Group CEF Standard requires that a Closed-End Fund which is part of a Group be subject to the following criteria: (a) the Group has a Public Distribution with a market value or net assets of at least $75 million; (b) the Closed-End Funds in the Group have a Public Distribution with an average market value or average net assets of at least $15 million; (c) each Closed-End Fund in the Group has a Public Distribution with a market value or net assets of at least $10 million; and (d) each Closed-End Fund in the Group has: (i) a Public Distribution of: (a) at least 500,000 shares where there are at least 800 Public Shareholders, except that companies that are not banks whose securities are concentrated in a limited geographical area, or whose securities are largely held in block by institutional investors, are normally not considered eligible for listing unless the Public Distribution appreciably exceeds 500,000 shares; [11] or (b) at least 1,000,000 shares where there are at least 400 Public Shareholders; (ii) a minimum bid price of at least $4 per share; and (iii) at least four registered and active Market Makers. As noted above, these proposed quantitative initial listing requirements for Closed-End Funds are substantively identical to those of BZX.[12]

Interval Funds

The Exchange is also proposing to add Rule 16.316(b)(3) related to the initial listing requirements that apply to Interval Funds.[13] Interval Funds are a type of Closed-End Fund that offer to repurchase shares of the fund at its net asset value on a periodic basis pursuant to the requirements of Rule 23c–3. Specifically, the Exchange is proposing that an Interval Fund may be listed on the Exchange where it: (i) meets the requirements applicable to Closed-End Funds under proposed Rule 16.316(b); and (ii) has a periodic interval at which it offers to repurchase its common stock equal to or less than three months. While Interval Funds are already eligible for listing under standard Closed-End Fund listing rules, the Exchange believes that adding these rules will both provide additional transparency and clarity under exchange rules about the listing of Interval Funds and also create a heightened standard for listing Interval Funds on exchange—rather than merely needing to comply with the requirements under Rule 23c–3 under the Investment Company Act of 1940, exchange-listed interval funds will be required to offer repurchase at net asset value at least every three months instead of having the flexibility to have a periodic interval for repurchase of three, six, or twelve months as provided in Rule 23c–3(a)(1).

[3] As defined in proposed Rule 16.316(a)(1), the term Closed-End Fund means a closed-end management investment company registered under the Investment Company Act of 1940.

[4] *See* BZX Rule 14.8(e).

[5] As defined in proposed Rule 16.316(b)(2), a ''Group'' is a group of Closed-End Funds which are or will be listed on the Exchange, and which are managed by a common investment adviser or investment advisers who are ''affiliated persons'' as defined in Section 2(a)(3) of the Investment Company Act of 1940 as amended. Section 2(a)(3) of the Investment Company Act of 1940 defines affiliated person of another person as ''(A) any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting securities of such other person; (B) any person 5 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person; (C) any person directly or indirectly controlling, controlled by, or under common control with, such other person; (D) any officer, director, partner, copartner, or employee of such other person; (E) if such other person is an investment company, any investment adviser thereof or any member of an advisory board thereof; and (F) if such other person is an unincorporated investment company not having a board of directors, the depositor thereof.''

[6] As defined in proposed Rule 16.316(a)(4), the term ''Public Distribution'' shall mean the public distribution including only Public Shareholders.

[7] As defined in proposed Rule 16.316(a)(3), the term ''Public Shareholders'' shall include both shareholders of record and beneficial holders, but is exclusive of the holdings of officers, directors, controlling shareholders, and other concentrated (*i.e.* 10% or greater), affiliated or family holdings.

[8] The Exchange notes that where the Public Distribution appreciably exceeds 500,000 shares for companies that are not banks whose securities are concentrated in a limited geographical area, or whose securities are largely held in block by institutional investors, the 800 Public Shareholders requirement would also apply.

[9] For purposes of Closed-End Funds, the term ''market value'' shall mean the official closing price multiplied by the unit of account.

[10] As provided in Rule 16.002(a)(!5)[sic], the term ''Market Maker'' means a dealer that, with respect to a security, holds itself out (by entering quotations into the Exchange) as being willing to buy and sell such security for its own account on a regular and continuous basis and that is registered as such.

[11] The Exchange notes that where the Public Distribution appreciably exceeds 500,000 shares for companies that are not banks whose securities are concentrated in a limited geographical area, or whose securities are largely held in block by institutional investors, the 800 Public Shareholders requirement would also apply.

[12] *See* BZX Rule 14.8(e).

[13] As provided in proposed Rule 16.316(a)(2), the term ''Interval Fund'' shall mean a Closed-End Fund that repurchases common stock of which it is the issuer pursuant to Rule 23c–3 of the Investment Company Act of 1940. The Exchange notes that this proposal is also intended to allow the listing of registered closed-end management investment companies that offer multiple classes of shares (*i.e.* an unlisted class and a listed class) and make periodic repurchase offers pursuant to Rule 23c–3 under the Investment Company Act of 1940.

Continued Listing

Closed-End Funds

The Exchange will consider the suspension of trading in and will initiate delisting proceedings (and such Closed-End Fund will not be eligible to follow the cure procedures outlined in Rule 16.501) for a Closed-End Fund where: (a) the market value of the Public Distribution and net assets each are less than $5,000,000 for more than 60 consecutive days; (b) the Closed-End Fund no longer qualifies as a closed-end fund under the Investment Company Act of 1940 (unless the resultant entity otherwise qualifies for listing); (c) the Public Distribution is less than 200,000; (d) the total number of Public Shareholders is less than 300; (e) the Public Distribution has a market value of less than $1,000,000 for more than 90 consecutive days; (f) the bid price is less than $1 per share; or (g) there are fewer than four registered and active Market Makers. Any failure to meet any of the continued listing requirements will subject the applicable Closed-End Fund to delisting proceedings in accordance with the provisions set forth in Rule 16.501 and, as noted above, any such Closed-End Fund will not be eligible to follow the cure procedures outlined in Rule 16.501 in order to regain compliance prior to delisting. The Exchange notes that these proposed quantitative continued listing requirements for Closed-End Funds are substantively identical to those of BZX.[14]

Interval Funds

Additionally, the Exchange will consider the suspension of trading in and will initiate delisting proceedings (and such Interval Fund will not be eligible to follow the cure procedures outlined in Rule 16.5010[sic]) for an Interval Fund where: (i) the Interval Fund no longer meets the continued listing requirements for a Closed-End Fund as enumerated in Rule 16.326(a); (ii) suspended or postponed repurchase offers persist in a manner inconsistent with Rule 23c–3 under the Investment Company Act of 1940; or (iii) the Interval Fund is otherwise not in compliance with the requirements of Rule 23c–3 under the Investment Company Act of 1940. While Interval Funds are already eligible for listing under standard Closed-End Fund listing rules, the Exchange believes that adding these continued listing rules will both provide additional transparency and clarity under exchange rules about the continued listing of Interval Funds.

[14] *See* BZX Rule 14.8(i).

Governance

Any Closed-End Funds listed on the Exchange will be subject to the governance requirements in Rule 16.400 applicable to all management investment companies listed on the Exchange, including Closed-End Funds, except as provided in the exceptions to certain governance requirements for management investment companies as provided under Rule 16.407(a)(5) and the associated Supplementary Material .04. The Exchange is not proposing to make any changes to these exceptions. Rule 16.408(a) provides that ''Each company listing common stock or voting preferred stock, and their equivalents, shall hold an annual meeting of Shareholders no later than one (1) year after the end of the Company's fiscal year-end, unless such Company is a limited partnership that meets the requirements of TXSE Rule 16.407(a)(4)(D).'' Supplementary Material .01 to Rule 16.408 clearly states that Rule 16.408 is not applicable to a number of different types of securities that may be listed on the Exchange, including Derivative Securities.[15] The Exchange is proposing to amend Supplementary Material .01 to Rule 16.408 in order to provide that Rule 16.408(a) would also not be applicable to Closed-End Funds. The Exchange notes that there is no existing regulatory obligation for Closed-End Funds to hold annual meetings (including in the Investment Company Act of 1940).

Closed-End Funds share the key feature that makes the annual shareholder meeting requirement inapplicable to Derivative Securities under Supplementary Material .01: they are exchange-listed securities whose value is tied to an underlying portfolio of holdings rather than to the performance of an operating company, and holders invest for exposure to that underlying portfolio rather than to supervise the affairs of an operating company through annual shareholder meetings. The parallel is even closer with Exchange Traded Fund Shares, Portfolio Depository Receipts, and Index Fund Shares, each a type of Derivative Security and, like a Closed-End Fund, a registered investment vehicle holding assets on behalf of shareholders, with governance comprehensively regulated under the Investment Company Act of 1940 rather than through the corporate governance model the annual meeting requirement contemplates. The Exchange believes that the strong similarities between Closed-End Funds and Derivative Securities, combined with the absence of any statutory mandate requiring Closed-End Funds to hold an annual shareholder meeting, support excluding Closed-End Funds from the Rule 16.408 annual meeting requirement.[16] Applying the requirement to Closed-End Funds while not applying it to similarly structured exchange-traded products would create an inconsistency in treatment for which the Exchange sees no supporting policy rationale.

Trading Rules

Closed-End Funds are equity securities, thus rendering trading in Closed-End Funds subject to the Exchange's existing rules governing the trading of equity securities. The Exchange will allow trading in Closed-End Funds from 8:00 a.m. until 5:00 p.m. Eastern Time and the Exchange has appropriate rules to facilitate such transactions during all trading sessions.[17]

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in a Closed-End Fund. The Exchange will halt trading in a Closed-End Fund under the conditions specified in Rule 11.020(h)[sic] and

[15] Under TXSE Rule 16.407(a)(6)(B), ''Derivative Securities,'' include the following: Exchange Traded Fund Shares (Rule 17.104), Portfolio Depository Receipts and Index Fund Shares (Rule 17.105); Equity Index-Linked Securities (Rule 17.110(k)(1)), Commodity-Linked Securities (Rule 17.110(k)(2)), Fixed Income Index-Linked Securities (Rule 17.110(k)(3)), Futures-Linked Securities (Rule 17.110(k)(4)), Multifactor Index-Linked Securities (Rule 17.110(k)(5)), Index-Linked Exchangeable Notes (Rule 17.111(a)), Equity Gold Shares (Rule 17.111(b)), Trust Certificates (Rule 17.111(c)), Commodity-Based Trust Shares (Rule 17.111(d)), Currency Trust Shares (Rule 17.111(e)), Commodity Index Trust Shares (Rule 17.111(f)), Commodity Futures Trust Shares (Rule 17.111(g)), Partnership Units (Rule 17.111(h)), Managed Trust Securities (Rule 17.111(j)), SEEDS (Rule 17.115), Trust Issued Receipts (Rule 17.120), Managed Fund Shares (Rule 17.135) and Proxy Portfolio Shares (Rule 17.150). In addition to ''Derivative Securities,'' TXSE Rules specifically provide that ''This requirement is not applicable to Companies whose only securities listed on TXSE are non-voting preferred securities, debt securities . . . or securities listed pursuant to TXSE Rule 17.130(a) and TXSE Rule 17.132 (such as Trust Preferred Securities and Contingent Value Rights), unless the listed security is a common stock or voting preferred stock equivalent (*e.g.,* a callable common stock).''

[16] Notwithstanding the foregoing, TXSE Rules would provide that if the issuer of a Closed-End Fund also lists common stock or voting preferred stock, or their equivalent, the Company must still hold an annual meeting for the holders of that common stock or voting preferred stock, or their equivalent.

[17] The Exchange notes that this includes three trading sessions on the Exchange: the Pre-Market Session from 8:00 a.m. to 9:30 a.m. Eastern Time; Regular Trading Hours from 9:30 a.m. to 4:00 p.m. Eastern Time; and the Post-Market Session from 4:00 p.m. to 5:00 p.m. Eastern Time.

11.021. Rule 16.207 also provides certain conditions under which the Exchange will halt trading in a Closed-End Fund for additional reasons, including for the dissemination of material news. Trading may also be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These include whether unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of Closed-End Funds on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of Closed-End Funds on the Exchange will be subject to the Exchange's surveillance procedures for ETPs and other equity securities traded on the Exchange.

Listing Fees

The Exchange plans to separately submit a proposal to amend Rule 16.600 related to listing fees in order to implement fees applicable to Closed-End Funds prior to this proposal becoming operational.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act [18] in general and Section 6(b)(5) of the Act [19] 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 facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that the proposed rules will facilitate the listing and trading of additional types of exchange-traded securities on the Exchange that will enhance competition among market participants, to the benefit of investors and the marketplace. In addition, the listing and trading criteria set forth in the proposed rules are intended to protect investors and the public interest.

As noted above, the Exchange's proposed quantitative listing requirements related to Closed-End Funds for both initial and continued listing are substantively identical to those of BZX and, as such, the proposed rule change is consistent with the protection of investors and the public interest. Additionally, the proposal is designed to prevent fraudulent and manipulative acts and practices, as any Closed-End Funds listed on the Exchange will be required to meet these proposed new rules related to initial and continued listing and will be subject to existing Exchange trading rules, trading halts, governance, and surveillance procedures, as set forth above.

The Exchange also believes that its proposed initial and continued listing standards for Interval Funds are consistent with the Act because they are generally designed to memorialize the requirements for Interval Funds to list on an exchange rather than just listing on exchange under the Closed-End Fund rules. Further, the proposed rules related to Interval Funds would require that exchange-listed interval funds will be required to offer repurchase at net asset value at least every three months instead of having the flexibility to have a periodic interval for repurchase of three, six, or twelve months as provided in Rule 23c–3(a)(1) which will further protect investors and the public interest by reducing the likelihood of extended periods of trading below their net asset value than Interval Funds with longer repurchase periods. The Exchange notes that these proposed rules are designed to supplement the requirements for Interval Funds that already exist under the Investment Company Act of 1940.

The Exchange also believes that the existing governance requirements applicable to Closed-End Funds are consistent with the Act in that they are generally similar to those applicable to Closed-End Funds listed on BZX, except that the Exchange is proposing to add Closed-End Funds to the list of instruments that are not subject to the annual shareholder meeting requirement. The annual meeting requirement is generally intended to apply to operating companies. Closed-End Funds share the key feature that makes the annual shareholder meeting requirement inapplicable to Derivative Securities under Supplementary Material .01: they are exchange-listed securities whose value is tied to an underlying portfolio of holdings rather than to the performance of an operating company, and holders invest for exposure to that underlying portfolio rather than to supervise the affairs of an operating company through annual shareholder meetings. The parallel is even closer with Exchange Traded Fund Shares, Portfolio Depository Receipts, and Index Fund Shares, each a type of Derivative Security and, like a Closed-End Fund, a registered investment vehicle holding assets on behalf of shareholders, with governance comprehensively regulated under the Investment Company Act of 1940 rather than through the corporate governance model the annual meeting requirement contemplates. The Exchange believes that the strong similarities between Closed-End Funds and Derivative Securities, combined with the absence of any statutory mandate requiring Closed-End Funds to hold an annual shareholder meeting, support excluding Closed-End Funds from the Rule 16.408 annual meeting requirement.[20] Applying the requirement to Closed-End Funds while not applying it to similarly structured exchange-traded products would create an inconsistency in treatment for which the Exchange sees no supporting policy rationale. For these reasons, the Exchange believes that Closed-End Funds are more appropriately treated in the same manner as Derivative Securities rather than as operating companies, and that excluding Closed-End Funds from the Exchange's annual meeting requirement is consistent with the Act.

The proposal is also designed to promote just and equitable principles of trade by way of the proposed initial and continued listing standards, which is further bolstered by the requirement that any failure to meet any of the continued listing requirements will subject the applicable Closed-End Fund to delisting proceedings in accordance with the provisions set forth in Rule 16.501. These requirements, together with the applicable Exchange equity trading rules (which will apply to Closed-End Funds listed under the proposed criteria) ensure that all investors will have the same access to trading in Closed-End Funds listed on the Exchange, as is the case for all other products listed and/or traded on the Exchange, all to the benefit of public customers and the marketplace as a whole.

On the whole, 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 in that it will facilitate the listing and trading of an additional product type on the Exchange that will enhance competition

[18] 15 U.S.C. 78f.

[19] 15 U.S.C. 78f(b)(5).

[20] Notwithstanding the foregoing, TXSE Rules would provide that if the issuer of a Closed-End Fund also lists common stock or voting preferred stock, or their equivalent, the Company must still hold an annual meeting for the holders of that common stock or voting preferred stock, or their equivalent.

among market participants, to the benefit of investors and the marketplace.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

(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, as amended. Instead, the proposal is a competitive one which would facilitate the listing and trading of Closed-End Funds on the Exchange, which the Exchange believes will enhance competition among exchanges that list Closed-End Funds, which can benefit investors, issuers, and the marketplace generally.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

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 will:

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 proposal 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 No. SR–TXSE–2026–005 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File No. SR–TXSE–2026–005. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–TXSE–2026–005 and should be submitted on or before May 29, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2026–09123 Filed 5–7–26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105369; File No. SR–CBOE–2026–045]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt a Stock Loan Inventory Functionality for Silexx

May 5, 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 28, 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 Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add a real-time broker stock loan inventory functionality for Silexx.

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 add a real-time broker stock loan inventory functionality to Silexx (the ''Short Locate Service''). As discussed further below, the Short Locate Service is a new FIX connectivity offering that a broker utilizing Silexx (a ''Silexx broker'') may provide to its customers utilizing Silexx (a ''Silexx user''). This allows for the Silexx broker to provide its Silexx users with a real-time view of the Silexx broker's inventory. This Short Locate Service will be requested, and purchased, by the Silexx broker and provided to its Silexx users. The Exchange believes that the integration of the Short Locate Service into a Silexx user's interface will create a more efficient process for Silexx users and brokers alike.

By way of background, the Silexx platform consists of a ''front-end'' order entry and management trading platform (also referred to as the ''Silexx terminal'') for listed stocks and options that supports both simple and complex orders, and a ''back-end'' platform which provides connection to the infrastructure network. The Silexx

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

platform (collectively, the front-end and back-end platform) has the capability to send options orders to the U.S. options exchanges, send stock orders to the U.S. stock exchanges (and other trading centers), and input parameters to control the size, timing, and other variables of their trades. The Silexx platform can also provide users with access to real-time options and stock market data, as well as access to certain historical data. The Silexx platform is designed so that a Silexx user may enter orders into the platform to send to a Silexx broker (including Trading Permit Holders (''TPHs'')) of its choice and such Silexx broker will then send the orders to Cboe Options (if the broker is a TPH) or other U.S. exchanges (and trading centers) in accordance with the Silexx user's instructions. The Silexx platform is a software application that is installed locally on a user's desktop. Silexx grants users licenses to use the platform, and a firm or individual does not need to be a TPH to license the platform.

As noted above, Silexx users may utilize the Silexx platform to send stock orders to the U.S. stock exchanges as well as other trading centers. Amongst other order types, Silexx users may choose to enter short sell orders into the Silexx platform. A short sale is the sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the account of, the seller.[5] Short sales are governed by Regulation SHO,[6] which, amongst other things, mandates that prior to effecting a short sale in a stock, that the executing broker has (i) borrowed the security, (ii) entered into a bona-fide arrangement to borrow the security, or (iii) has reasonable grounds to believe that the security can be borrowed so that it can be delivery on the date delivery is due (the ''Locate Requirement'').[7] However, there are exceptions to the Locate Requirement under Regulation SHO.

Specifically that the Locate Requirement does not apply to (i) a broker or dealer that has accepted a short sale order from another registered broker or dealer that is required to comply with the Locate Requirement, unless the broker or dealer relying on this exception contractually undertook responsibility for compliance with the Locate Requirement; (ii) any sale of a security that a person is deemed to own pursuant to § 242.200, provided that the broker or dealer has been reasonably informed that the person intends to deliver such security as soon as all restrictions on delivery have been removed; if the person has not delivered such security within 35 days after the trade date, the broker-dealer that effected the sale must borrow securities or close out the short position by purchasing securities of like kind and quantity; (iii) short sales effected by a market maker in connection with bona-fide market making activities in the security for which this exception is claimed; and (iv) transactions in security futures.[8]

Today, when a Silexx user enters a short sale order into the Silexx platform, they may either (if they are a broker-dealer) route that order directly to a U.S. stock exchange, or another trading venue (*e.g.,* an off-exchange trading venue such as an alternative trading system). Alternatively, a Silexx user (both broker-dealers and non-broker-dealers) may choose to route their short sale order to a Silexx broker with which the Silexx user has a pre-existing relationship. To comply with the Locate Requirement, the Silexx user must locate the security to be sold short. Today, the manner in which a Silexx user satisfies the Locate Requirement depends on whether the security to be sold short is easy to borrow (''ETB'')[9] or hard to borrow (''HTB'').[10] In either case, the Silexx user must ensure that their short sale order ticket is populated with a locate ID, which is a value identifying the broker-dealer the Silexx user has located as the source from which they can borrow the security to be sold short. If a sell short order does not have a valid locate ID, Silexx will not allow the order to proceed to an exchange or trading center, or to an executing broker.[11]

Current ETB Short Sale Workflow

Currently, Silexx users wishing to sell short a security rely on ETB lists to satisfy the Locate Requirement.[12] An ETB list is a catalogue of securities that a Silexx broker has in its inventory, and the quantity that is available to be borrowed by a market participant that seeks to sell short a stock. Today, Silexx brokers upload their ETB Lists to Silexx on a daily basis, and Silexx users who have relationships with these Silexx brokers may use these ETB lists to locate a Silexx broker from which the security can be borrowed. A Silexx user may have access to one or several ETB lists, depending on the number of Silexx brokers with which they maintain relationships. Once the Silexx user enters a short sale order the Silexx platform will utilize the ETB list(s) the Silexx user has access to, and should the security appear on an ETB list, Silexx will populate the Silexx user's short sale order with a relevant locate ID.

Currently, the inventory, quantity, and borrowing costs of securities on ETB lists are static, and do not update in real-time. As such, a Silexx user may inadvertently sell short a security based on an inaccurate view of the available quantity of a security a Silexx broker has available to lend, and/or based on an inaccurate understanding of the cost of borrowing a security at the time of the transaction.

Current HTB Short Sale Workflow

Silexx users cannot rely on the ETB workflow for HTB securities. Instead, Silexx users utilize processes and systems outside of Silexx to locate a broker-dealer from which the subject security can be borrowed. Once that locate is identified the Silexx user must then manually enter the locate ID into their order ticket. If no locate ID is populated, Silexx will not allow the order to proceed. These manual processes can make short selling in Silexx more time consuming and less efficient than necessary.

Proposed Short Sale Workflow

Based on Silexx broker feedback, the Exchange now seeks to enhance Silexx's short sale workflows by implementing functionality providing Silexx users with a real-time view of the stock loan inventory of a Silexx broker with which they have a stock lending relationship (''Short Locate Service''). Under the new proposed Silexx offering, a Silexx broker may permission its users to have a live view into its inventory (including both ETB and HTB stocks). The inventory will note both the quantity available and the fee at which a Silexx broker will loan the security. A Silexx user may also automatically send a request using this Silexx offering to its broker to borrow the stock in question, which the broker can respond to. After

[5] *See* 17 CFR 242.200—Definition of ''short sale'' and marking requirements.

[6] *See* Regulation SHO, Regulation of Short Sales, 17 CFR $242.200–242.204

[7] *See* Regulation SHO, Borrowing and delivery requirements, 17 CFR 242.203(b)(1)–(2).

[8] *See* 17 CFR $242.203(b)(2).

[9] For the sake of clarity, the term ''easy to borrow'' or ''ETB'' is generally understood to refer to stocks that are typically highly liquid and as such, are often readily available for borrowing.

[10] For the sake of clarity, the term ''hard to borrow or ''HTB'' is generally understood to refer to stocks that are not easy to borrow.

[11] The Locate ID represents the lending entity and documents that the user has located borrowable shares.

[12] *See* ''Division of Market Regulation: Responses to Frequently Asked Questions Concerning Regulation SHO,'' Question 4.2: How may broker-dealers use Easy to Borrow lists?'' available at: *https://www.sec.gov/rules-regulations/staff-guidance/trading-markets-frequently-asked-questions-8.*

the Silexx broker responds, the locate ID is automatically populated for the user when its order is sent.

Specifically, the Exchange seeks to integrate the Silexx Platform with the stock locate systems of Silexx brokers via FIX ports that Silexx brokers may purchase from the Exchange, which a Silexx broker can then make available to its Silexx users.[13] By connecting via FIX to a Silexx broker's stock locate system, Silexx users will have a tool that provides them with real-time visibility into a Silexx broker's stock loan inventory,[14] the quantity available for borrowing, the pricing for borrowing a security, as well as acceptance controls to secure a locate and potential borrow from the broker-dealer. By streamlining sell short workflows within Silexx, Silexx users will be able to more efficiently execute short sale transactions in the Silexx platform, thereby enhancing their ability to comply with the Locate Requirement.[15]

The proposed functionality will enable Silexx users to view the available borrowable quantity of a security on an ETB list, and the related borrowing costs, in real-time.[16] As noted above, the ETB list in Silexx, today, is static in nature. As such, a Silexx user may inadvertently sell short a security based on an inaccurate understanding of the cost of borrowing a security at the time of the transaction. By enhancing Silexx to provide a real-time view of ETB lists, Silexx users will have a better view of the lending market for a security and will be better enabled to comply with the Locate Requirement.

The Exchange also seeks to enhance Silexx short sale functionality by providing Silexx users with a real-time view into a Silexx broker's inventory for securities that are HTB. This functionality will enable Silexx users to view the inventory of a Silexx broker, with which they have a pre-existing relationship, in real-time, as well as request in real-time the cost of obtaining a locate for and borrowing a subject security. Once a locate on a security has been identified and agreed to, the Silexx platform will populate the Silexx user's short sale order ticket with the relevant locate ID and will, based on the Silexx user's instruction, either route the order to an exchange or trading center, or to a Silexx broker. By eliminating the manual processes that exist in Silexx today, Silexx users will have a more efficient and expeditious way to execute short transactions in HTB securities.

To illustrate the proposed enhancements, consider the following examples:

Example 1: Current State—ETB

A Silexx user enters an order into the Silexx platform to sell short security, ABC. Upon entry of the short sale order, Silexx will use the ETB list(s) to which the Silexx user has access, to verify whether ABC is on an ETB list. If ABC is easy to borrow, Silexx will populate the Silexx user's short sale order ticket with a relevant locate ID. Silexx will then allow the order to proceed to an exchange or trading venue for execution, or to an executing broker of the Silexx user's choosing. Notably, when accessing the ETB list(s), the Silexx user is not viewing in real-time the available quantity a lending broker-dealer has in inventory, or the real-time cost of borrowing such a security.

Example 2: Proposed State—ETB

A Silexx user enters an order into the Silexx platform to sell short security ABC. Upon entry of the short sale order, Silexx will use the ETB list(s) to which the Silexx user has access to verify whether ABC is on an ETB list. If ABC is easy to borrow, Silexx will populate the Silexx user's short sale order ticket with a relevant locate ID. Silexx will then allow the order to proceed to an exchange or trading venue for execution, or to an executing broker of the Silexx user's choosing. However, with the implementation of the proposed functionality, the Silexx user's view of the ETB list(s) will now be in real-time, and Silexx will now see a real-time view of the quantity of ABC the Silexx broker has in its inventory to lend. As such, the true cost of borrowing is known at the time of order entry.

Example 3: Current State—HTB

A Silexx user enters an order to sell short security, XYZ, into the Silexx platform. XYZ is HTB, and the Locate Requirement must be satisfied in a different manner. The Silexx user then sources a locate for security, XYZ, utilizing systems and/or processes that exist outside of Silexx. Once the Silexx user has located a broker-dealer from which they can borrow XYZ, the Silexx user then manually populates their Silexx short sale order ticket with a valid locate ID. With a valid locate ID, Silexx allows the order to proceed, and handles the order according to the Silexx user's instructions.

Example 4: Proposed State—HTB

A Silexx user enters an order to sell short security, XYZ, into the Silexx platform. XYZ is HTB and the Locate Requirements must be satisfied in a different manner. Now, under the proposed functionality, rather than utilizing processes and system outside of Silexx, and having to manually input the locate ID into the Silexx short sale order ticket, the Silexx user can utilize the enhanced Silexx short sale functionality. Specifically, upon a Silexx user entering its order to sell short, XYZ, Silexx will view the stock loan inventory of Silexx brokers with which the Silexx user has a stock lending relationship. In doing so, the Silexx user has a real time view of the quantity of a security available to borrow, and the real-time cost of locating and potentially borrowing such security. Once a Silexx broker has been identified as a locate source, Silexx will populate the Silexx user's short sale order ticket with the relevant locate ID, and from there, will allow the sell short order to proceed.

Connectivity

As noted above, the use of this service will be through a new FIX offering (as opposed to the existing ETB list which is a daily file that is integrated into a Silexx user's platform). Silexx brokers will pay a monthly fee for this proposed FIX session[17] which they can then permission its users for access to the FIX locate inventory user interface (including both ETB and HTB stocks) and Silexx users can route short locate requests directly to their Silexx brokers. The Exchange notes that there will be no additional connectivity requirements for a Silexx broker's Silexx user(s) (*i.e.,* Silexx users will not need to pay for any additional connectivity).

The proposed Short Locate Service, would be a new FIX offering separate from the existing FIX offerings[18] for Cboe Silexx.[19] This FIX connection would be requested by the Silexx

[13] The Exchange will separately submit a fee filing for the FIX ports described herein.

[14] It is ultimately up to the brokers to communicate the inventory to Silexx. When a broker pushes an update of its inventory to Silexx, Silexx will reflect that change via the FIX connection to the Broker's Silexx users.

[15] Silexx users must comply with Regulation SHO, Borrowing and delivery requirements, 17 CFR 242.203(b)(1)–(2), regardless of how they use the Silexx platform.

[16] The quantity available will decrease upon a user borrowing.

[17] The Exchange will submit a fee filing to the Commission separately.

[18] Currently in Cboe Silexx, the FIX ports can fulfill a variety of purposes, one of which includes sending execution messages to customers from their executing brokers, which, in turn, allows customers to update positions, risk calculations, and streamline back-office functions.

[19] *See* Cboe Exchange, Inc., Silexx Fee Schedule, noting the monthly cost for a FIX connection for staged orders, drop copies, and order routing functionality for FIX connections. For example, the current schedule allows for staged Drop Copies, and Order Routing Functionality for FIX Connections for $250/month/FIX connection that is paid for by the user.

broker, from which, the Silexx broker can allow its Silexx users access to its inventory. These Silexx users would then be permissioned for a live view of the Silexx broker's inventory and may also use this FIX connection to directly submit an inquiry to the Silexx broker about a specific stock through a streamlined process for its inventory. The integration of the Short Locate Service into a Silexx user's interface will create a more efficient process for Silexx users and brokers alike.

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.[20] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[21] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[22] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that offering the proposed Short Locate Service protects investors and is in the public interest because it will allow Silexx users to more efficiently fulfill their regulatory obligations under the Locate Requirement. By allowing Silexx users access to a tool that provides them with automated real-time visibility into its Silexx broker's stock loan inventory, Silexx users will be able to streamline their workflows in a more efficient manner. By streamlining sell short workflows within Silexx, Silexx users will be able to more efficiently execute short sale transactions in the Silexx platform, thereby enhancing their ability to comply with the Locate Requirement.

The Exchange believes the proposed rule change does not discriminate among market participants because use of the Cboe Silexx platform, and more specifically, the proposed short sale functionality, is completely voluntary. The Short Locate Service is available as a convenience to Silexx broker, and in turn, their Silexx users. Silexx brokers may continue to use the daily ETB file and are under no obligation to use the Short Locate Service. Additionally, the proposed functionality will be available to all Silexx brokers who find value in this service.

Silexx brokers can provide the proposed functionality to allow its Silexx users that have a relationship with the Silexx broker to access a tool that provides them with automated real-time visibility into a Silexx broker's stock loan inventory, the quantity available for borrowing, the pricing for borrowing a security, as well as acceptance controls to secure a borrow from the Silexx broker.

The Exchange believes that this additional, optional functionality that Silexx brokers may purchase and offer to its users will create a more efficient process for users and brokers alike.

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 change will not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the Exchange will make the Short Locate Service available to all Silexx brokers who believe their Silexx users would benefit from this optional service.

As described in detail above, the use of the Short Locate Service will be completely voluntary and Silexx brokers may continue to use the existing ETB file if they believe it better fits their use case.[23] The proposed functionality is not an exclusive means of complying with a Silexx user's requirements under the Locate Requirement, and if market participant believe that other products, vendors, front-end builds, etc. available in the marketplace are more beneficial than the proposed functionality, they may simply use those products instead. Use of such functionality is completely voluntary.

The Exchange does not believe that the proposed change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because Cboe Options will be offering a type of product that is widely available throughout the industry.[24] As noted above, market participants can also develop their own proprietary products with the same functionality. The Exchange will also continue to offer the ability for users to continue using the daily ETB file.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[25] and Rule 19b–4(f)(6)[26] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission 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–2026–045 on the subject line.

[20] 15 U.S.C. 78f(b).

[21] 15 U.S.C. 78f(b)(5).

[22] *Id.*

[23] *See* Cboe–Silexx–Announcement_v23–6_20230620.pdf, announcing the release of the easy-to-borrow and locate ID integration.

[24] See *e.g.,* Takion Technologies.

[25] 15 U.S.C. 78s(b)(3)(A).

[26] 17 CFR 240.19b–4(f)(6).

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–2026–045. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the 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–2026–045 and should be submitted on or before May 29, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2026–09124 Filed 5–7–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105373; File No. SR–DTC–2026–005]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the DTC Rules To Align a Provision With Rule 17ad–22(e)(19) Under the Securities Exchange Act of 1934

May 5, 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 28, 2026, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(4) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change[5] consists of amendments to the DTC Rules to align a provision of the DTC Rules with Rule 17ad–22(e)(19) under the Act.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1.Purpose

The purpose of this proposed rule change is to amend the DTC Rules to align a provision of the DTC Rules with Rule 17ad–22(e)(19) under the Act.

(i) Background

As a covered clearing agency,[6] DTC is required to comply with specific rules, including Rule 17ad–22(e) under the Act,[7] which sets forth risk management and operational requirements to ensure robust governance, transparency, and the protection of market participants. The Covered Clearing Agency Standards help mitigate systemic risk and safeguard the integrity of the clearing and settlement processes.

CCAS Rule 17ad–22(e)(19)[8] requires each covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to identify, monitor and manage the material risks to the covered clearing agency arising from arrangements in which firms that are indirect participants in the covered clearing agency rely on the services provided by direct participants to access the covered clearing agency's payment, clearing, or settlement facilities.

Because DTC does not usually have a direct relationship with indirect participants, DTC relies on its Participants that act on behalf of indirect participants to obtain information necessary to help identify, monitor and manage the material risks posed by those indirect participants, in compliance with CCAS Rule 17ad–22(e)(19) .

DTC Rule 2 provides some support for DTC's compliance with CCAS Rule 17ad–22(e)(19) in that it requires Participants to provide certain information regarding firms on whose behalf they utilize DTC's services.[9] However, DTC Rule 2 also includes language that can prevent DTC from requiring certain information from its Participants relating to indirect participants that is needed to help identify, monitor and manage the material risks posed by indirect participants and facilitate DTC's compliance with CCAS Rule 17ad–22(e)(19). Specifically, under the current DTC Rule 2 language, DTC's authority to request information of its Participants ''shall not extend to books, records and information relating to the Participant's relationship with Persons upon whose behalf it may obtain services of [DTC] nor to books, records and information relating to such persons, their accounts or market activity.''[10] That restrictive DTC Rule 2 language preceded the implementation of the Covered Clearing Agency Standards and can complicate DTC's ability to obtain information in compliance with CCAS Rule 17ad–22(e)(19).

Therefore, in light of the requirements imposed on DTC under CCAS Rule 17ad–22(e)(19), DTC proposes to update DTC Rule 2 to permit DTC to inspect books, records and information relating to the Participant's relationship with Persons upon whose behalf it may obtain the services of DTC, and to inspect books, records and information relating to such Persons, their accounts or market activity. The amendment

[27] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4).

[5] Capitalized terms not defined herein are defined in the Rules, By-Laws and Organization Certificate of DTC (''DTC Rules''), *available at www.dtcc.com/legal/rules-and-procedures.*

[6] 17 CFR 240.17ad–22(a).

[7] 17 CFR 240.17ad–22(e) (hereinafter, the ''Covered Clearing Agency Standards'' or, when referring to a specific rule, ''CCAS Rule 17ad–22(e)'').

[8] 17 CFR 240.17ad–22(e)(19).

[9] DTC Rule 2, *supra* note 5 (''Upon the request of [DTC], a Participant shall furnish to [DTC] information sufficient to demonstrate its satisfactory financial condition and operational capability, including, but not limited to, such information as [DTC] may request regarding the businesses and operations of the Participant and its risk management practices with respect to services of [DTC] utilized by the Participant *for another Person or Persons*'' (emphasis added)).

[10] DTC Rule 2, *supra* note 5.

would expressly permit DTC to inspect and obtain such information. This change is intended to enable DTC to better identify, monitor and manage the material risks posed by indirect participants and to ensure robust risk management in accordance with regulatory requirements, in support of DTC's compliance with CCAS Rule 17ad–22(e)(19).

2. Statutory Basis

DTC believes that the proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to a registered clearing agency. Specifically, DTC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act [11] and CCAS Rule 17ad–22(e)(19) [12] for the reasons described below.

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a clearing agency, such as DTC, be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[13] By permitting DTC to better access the necessary books, records, and information relating to indirect participants, the proposed rule change supports robust risk management practices and helps safeguard the integrity of the financial markets, thereby reinforcing DTC's critical role in the safeguarding of securities and funds. As such, DTC believes that the proposed amendment to DTC Rule 2 is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to a registered clearing agency.

DTC believes the proposal is also consistent with CCAS Rule 17ad–22(e)(19), which requires a clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to identify, monitor and manage the material risks to the covered clearing agency arising from arrangements in which firms that are indirect participants in the covered clearing agency rely on the services provided by direct participants to access the covered clearing agency's payment, clearing, or settlement facilities.[14] In this regard, DTC proposes to amend DTC Rule 2 to eliminate the current restriction preventing DTC from accessing books, records, and information related to a Participant's relationship with entities for whom the Participant may obtain DTC services, as well as information regarding those entities' accounts or market activity. The revised rule would expressly authorize DTC to inspect and obtain such information. This amendment is designed to strengthen DTC's ability to identify, monitor and manage the risks posed by indirect participants, thereby supporting robust risk management and helping ensure compliance with regulatory obligations established under CCAS Rule 17ad–22(e)(19).

(B) Clearing Agency's Statement on Burden on Competition

DTC does not believe that the proposed changes to the DTC Rules, as described above, would have any impact, or impose any burden, on competition.

The proposed amendments are intended solely to update the DTC Rules to ensure alignment with DTC's obligations under CCAS Rule 17ad–22(e)(19), thereby reflecting current regulatory requirements and strengthening DTC's risk management framework. Importantly, the updated DTC Rule 2 language would be applied uniformly to all Participants, ensuring fairness and consistency. As a result, DTC believes that the proposed rule change would not impose any burden on competition, but rather supports the continued integrity and transparency of DTC's operations in compliance with applicable regulations.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC has not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b–4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b–4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, *available at www.sec.gov/rules-regulations/how-submit-comment.* General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at *tradingandmarkets@sec.gov* or 202–551–5777.

DTC reserves the right to not respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and paragraph (f) of Rule 19b–4 thereunder.[16] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–DTC–2026–005 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549.

All submissions should refer to File Number SR–DTC–2026–005. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of DTC and on DTCC's website (*www.dtcc.com/legal/sec-rule-filings*). 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

[11] 15 U.S.C. 78q–1(b)(3)(F).
[12] 17 CFR 240.17ad–22(e)(19).
[13] 15 U.S.C. 78q–1(b)(3)(F).
[14] 17 CFR 240.17ad–22(e)(19).
[15] 15 U.S.C. 78s(b)(3)(A).
[16] 17 CFR 240.19b–4(f).

obscene or subject to copyright protection. All submissions should refer to File Number SR–DTC–2026–005 and should be submitted on or before May 29, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2026–09127 Filed 5–7–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105370; File No. SR–NASDAQ–2026–041]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Ports Fees

May 5, 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 28, 2026, The Nasdaq Stock Market LLC (the ''Exchange'' or ''Nasdaq'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend The Nasdaq Options Market LLC (''NOM'') Pricing Schedule at Options 7, Section 3, Nasdaq Options Market—Ports and Other Services, in connection with a technology migration.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaqtx/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

NOM is planning a technology migration commencing July 27, 2026.[3] As part of this technology migration, NOM Participants will need to acquire new ports to connect to the new technology platform to accommodate the symbol migration plan.[4] Specifically, Participants will need to utilize both existing or ''legacy'' [5] ports and ''new'' [6] ports during the technology migration rollout.[7] NOM will not assess fees for any pre-production [8] ports acquired in anticipation of a technology migration to enhance participation in testing. However, pre-production ports will become production ports [9] once NOM begins the technology migration in July 2026.

At this time, NOM proposes certain pricing for ''duplicate'' [10] ports during the technology migration. NOM will not assess the FIX Port,[11] SQF Port,[12] SQF Purge Port,[13] QUO Port,[14] CTI Port,[15]

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See https://www.nasdaqtrader.com/MicroNews.aspx?id=OTU2026-2.*

[4] NOM plans to migrate to the new platform on a symbol-by-symbol basis over two weeks. *See id.*

[5] A ''legacy'' port refers to a port that was subscribed to by a NOM Participant prior to the technology migration and connects to the existing technology platform.

[6] A ''new'' port refers to a port acquired for the NOM technology migration and would connect to the new technology platform.

[7] For example, once the technology migration commences in July 2026, new ports will be utilized to enter order and quote for symbols that have migrated to the new platform and existing ports will be utilized to enter orders and quotes that have not yet migrated to the new platform. Once the 2-week rollout is complete, or a longer period as the Exchange may designate for the rollout, the Exchange would sunset the ports, on a defined date, that are connected to the current environment.

[8] A pre-production port may be used for port connectivity testing purposes only and is not connected to the Exchange's match engine that is currently in production for the execution of interest. A pre-production port may *not* be used to enter an order or quote for execution or otherwise send a message through a pre-production port that would be acted upon by the Exchange. Testing means the dates designated by the Exchange for user acceptance testing and final confidence tests.

[9] Production ports are used to submit quotes and orders for execution in the Exchange's match engine.

[10] The term duplicate means the type and quantity of their legacy ports. For example, a NOM Participant with 3 legacy SQF Ports, 1 legacy SQF Purge Port, 1 legacy FIX Port, and 1 legacy CTI Port on July 1, 2026 could request the equivalent quantity and type of new ports (3 SQF Ports, 1 SQF Purge Port, 1 FIX Port, and 1 CTI Port) for the new environment at no additional cost.

[11] ''Financial Information eXchange'' or ''FIX'' is an interface that allows Participants and their Sponsored Customers to connect, send, and receive messages related to orders to and from the Exchange. Features include the following: (1) execution messages; (2) order messages; and (3) risk protection triggers and cancel notifications. *See* Options 3, Section 7(a)(i)(A).

[12] ''Specialized Quote Feed'' or ''SQF'' is an interface that allows Market Makers to connect, send, and receive messages related to quotes and Immediate-or-Cancel Orders into and from the Exchange. Features include the following: (1) options symbol directory messages (*e.g.,* underlying instruments); (2) system event messages (*e.g.,* start of trading hours messages and start of opening); (3) trading action messages (*e.g.,* halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; and (8) opening imbalance messages. The SQF Purge Interface only receives and notifies of purge requests from the Market Maker. Market Makers may only enter interest into SQF in their assigned options series. Immediate-or-Cancel Orders entered into SQF are not subject to the Order Price Protection, Market Order Spread Protection, or Size Limitation in Options 3, Section 15(a)(1) and (a)(2), and (b)(2), respectively. *See* Options 3, Section 7(a)(i)(B).

[13] An SQF Purge Interface only receives and notifies of purge requests from the Market Maker.

[14] ''Quote Using Orders'' or ''QUO'' is an interface that allows Market Makers to connect, send, and receive messages related to single-sided orders to and from the Exchange. Order Features include the following: (1) options symbol directory messages (*e.g.,* underlying); (2) system event messages (*e.g.,* start of trading hours messages and start of opening); (3) trading action messages (*e.g.,* halts and resumes); (4) execution messages; (5) order messages; and (6) risk protection triggers and cancel notifications. Orders submitted by Market Makers over this interface are treated as quotes. Market Makers may only enter interest into QUO in their assigned options series. Orders entered into QUO are not subject to the Order Price Protection or Size Limitation in Options 3, Section 15(a)(1) and (b)(2), respectively. *See* Options 3, Section 7(a)(i)(D).

[15] Clearing Trade Interface (''CTI'') is a real-time clearing trade update message that is sent to a Participant after an execution has occurred and contains trade details specific to that Participant. The information includes, among other things, the following: (i) The Clearing Member Trade Agreement or ''CMTA'' or The Options Clearing Corporation or ''OCC'' number; (ii) Exchange badge or house number; (iii) the Exchange internal firm identifier; (iv) an indicator which will distinguish electronic and non-electronically delivered orders; (v) liquidity indicators and transaction type for billing purposes; and (vi) capacity. *See* Options 3, Section 23(b)(1).

ITTO Port [16] and BONO Port [17] fees in Options 7, Section 3 for any new FIX Ports, SQF Ports, SQF Purge Ports, OTTO Ports (formerly QUO Ports),[18] CTI Ports, Depth of Market Feed (formerly ITTO Ports) [19] and Top of Market Feed Ports (formerly BONO Ports),[20] as of July 1, 2026, acquired as part of the migration from July 1, 2026 through August 31, 2026 (''Transition Period''). NOM will continue to assess the FIX Port, SQF Port, SQF Purge Port, QUO Port, CTI Port ITTO Port and BONO Port fees for legacy FIX Ports, SQF Ports, SQF Purge Ports, QUO Ports, CTI Ports, ITTO Ports and BONO Ports in Options 7, Section 3 during the Transition Period including new FIX Ports, SQF Ports, SQF Purge Ports, OTTO Ports (formerly QUO Ports), CTI Ports, Depth of Market Feed (formerly ITTO Ports) and Top of Market Feed Ports (formerly BONO Ports) that are not duplicative of existing legacy ports.

NOM proposes to sunset [21] legacy SQF Ports, SQF Purge Ports, QUO Ports, CTI Ports, ITTO Ports and BONO Ports on September 1, 2026. The Exchange believes that NOM Participants have enough time to return their SQF Ports, SQF Purge Ports, QUO Ports, CTI Ports, ITTO Ports and BONO Ports by September 1, 2026 since the migration will be complete on August 10, 2026 and SQF Ports, SQF Purge Ports, QUO Ports, CTI Ports, ITTO Ports and BONO Ports are not connected to a platform that is active once the migration is complete.

In contrast, NOM proposes to sunset legacy FIX Ports on November 30, 2026, because unlike the other legacy ports, legacy FIX Ports provide data from the new platform. As of September 1, 2026, NOM will assess FIX Port fees in Options 7, Section 3 to new and legacy FIX Ports. NOM Participants may return legacy FIX Ports prior to September 1, 2026, to avoid any legacy FIX Port fees after the Transition Period.

The duplicate new ports that are being offered at no cost will allow NOM Participants time to test ports to the new environment as well as provide continuous connection to the Exchange's match engine during the migration.[22] During the Transition Period, NOM Participants will be required to utilize their new ports on the new platform for symbols that have migrated to the new platform, while continuing to leverage legacy ports for symbols that have not yet migrated to the new platform.[23] During the Transition Period, NOM Participants would be assessed only for legacy ports and would not be assessed for the new ports which are duplicative of the legacy ports. NOM Participants may acquire additional legacy ports during the Transition Period and the charges for those additional ports would be assessed accordingly.

The technology migration does not require NOM Participants to acquire additional ports or any new ports that are being offered, rather the technology migration requires a new port to connect to the new environment. NOM Participants may also elect to obtain fewer ports as only one order entry port is required to submit orders and only one quoting port is required to submit quotes. The technology migration is 1:1 and therefore would not require a NOM Participant to acquire an additional quantity of new ports, nor would it reduce the total number of ports needed to connect to the match engine. This proposal is not intended to impose any additional fees on any NOM Participant. Rather, this proposal is intended to permit a NOM Participant to utilize the new environment with the same type and quantity of legacy ports, at no additional cost, during the Transition Period.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[24] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[25] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposal to assess no fees for pre-production ports acquired in anticipation of a technology migration is reasonable because the Exchange is seeking to permit NOM Participants to acquire pre-production ports at no cost to encourage participation in testing. The Exchange's proposal is equitable and not unfairly discriminatory as no NOM Participant will be assessed Port Fees for any pre-production ports acquired in anticipation of a technology migration.

The proposed amendments to Options 7, Section 3 to permit NOM Participants to acquire a second set of FIX Ports, SQF Ports, SQF Purge Ports, OTTO Ports (formerly QUO Ports), CTI Ports, Depth of Market Feed (formerly ITTO Ports) and Top of Market Feed Ports (formerly BONO Ports), at no cost, as part of the technology migration are reasonable because they will permit NOM Participants to migrate to the new platform without a pricing impact. Specifically, the proposal is intended to permit NOM Participants to migrate their legacy FIX Ports, SQF Ports, SQF Purge Ports, QUO Ports, CTI Ports, ITTO Ports and BONO Ports to new ports at no additional cost during the Transition Period. This proposal will allow NOM Participants to test their ports and maintain continuous connection to the Exchange's match engine during the migration.

The proposed amendments to Options 7, Section 3 to permit NOM Participants to acquire a second set of FIX Ports, SQF Ports, SQF Purge Ports, OTTO Ports (formerly QUO Ports), CTI Ports, Depth of Market Feed (formerly ITTO Ports) and Top of Market Feed Ports (formerly BONO Ports), at no cost, as part of the technology migration are equitable and not unfairly discriminatory because no NOM Participant would have a pricing impact as a result of this proposal provided the NOM Participant did not obtain additional new ports beyond the number of duplicate legacy ports or additional legacy ports beyond the

[16] Nasdaq ITCH to Trade Options (ITTO) is a data feed that provides full order and quote depth information for individual orders and quotes on the NOM book and last sale information for trades executed on NOM. The data provided for each options series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on NOM and identifies if the series is available for closing transactions only. The feed also provides order imbalances on opening/reopening (size of matched contracts and size of the imbalance). *See* Options 3, Section 23(a)(1).

[17] Best of Nasdaq Options (BONO) is a data feed that provides the NOM Best Bid and Offer and last sale information for trades executed on NOM. The data provided for each options series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on NOM and identifies if the series is available for closing transactions only. *See* Options 3, Section 23(a)(2).

[18] QUO Ports were renamed OTTO Ports in SR–NASDAQ–2026–039 (not yet noticed).

[19] ITTO Ports were renamed Depth of Market Feed in SR–NASDAQ–2026–039 (not yet noticed).

[20] BONO Ports were renamed Top of Market Feed Ports in SR–NASDAQ–2026–039 (not yet noticed).

[21] Sunsetting a port means removing access badge or mnemonic access to a port. The term ''badge'' means an account number, which may contain letters and/or numbers, assigned to NOM Market Makers. A NOM Market Maker account may be associated with multiple badges. *See* NOM Options 1, Section 1(a)(5). The term ''mnemonic'' means an acronym comprised of letters and/or numbers assigned to Participants. A Participant account may be associated with multiple mnemonics. *See* NOM Options 1, Section 1(a)(25). NOM Market Operations will remove badge/mnemonic access on all legacy ports on the respective sunset dates.

[22] Participants would contact Market Operations to acquire ports for the technology migration.

[23] *See supra* notes 3 and 4.

[24] *See* 15 U.S.C. 78f(b).

[25] *See* 15 U.S.C. 78f(b)(4) and (5).

quantity and type the Participant had on July 1, 2026. No NOM Participant would be assessed a fee for the new second set of ports for FIX Ports, SQF Ports, SQF Purge Ports, OTTO Ports (formerly QUO Ports), CTI Ports, Depth of Market Feed (formerly ITTO Ports) and Top of Market Feed Ports (formerly BONO Ports) provided they acquired a new second set of ports commensurate with the type and quantity of ports they subscribed to as of July 1, 2026. Any NOM Participant obtaining additional legacy ports, beyond the current type and quantity of ports they have as of July 1, 2026, would be assessed the fees noted in Options 7, Section 3 as applicable.

The proposal to sunset legacy SQF Ports, SQF Purge Ports, QUO Ports, CTI Ports, ITTO Ports and BONO Ports on September 1, 2026 for all NOM Participants is reasonable, equitable and not unfairly discriminatory because legacy SQF Ports, SQF Purge Ports, QUO Ports, CTI Ports, ITTO Ports and BONO Ports are not connected to a platform that is active once the migration is complete. The Exchange believes that NOM Participants have enough time to return their SQF Ports, SQF Purge Ports, QUO Ports, CTI Ports, ITTO Ports and BONO Ports by September 1, 2026, since the migration will be complete on August 10, 2026. No NOM Participant will receive data from legacy SQF Ports, SQF Purge Ports, QUO Ports, CTI Ports, ITTO Ports and BONO Ports once the migration is complete. Further, no NOM Participant may log into legacy SQF Ports, SQF Purge Ports, QUO Ports, CTI Ports, ITTO Ports and BONO Ports after the sunset date.

The proposal to sunset legacy FIX Ports on November 30, 2026 and assess FIX Ports fees in Options 7, Section 3 for new and legacy FIX Ports commencing September 1, 2026 is reasonable, equitable and not unfairly discriminatory because FIX Ports, unlike other legacy ports, provide data from the new platform and are still functional after the migration. Assessing FIX Port fees starting on September 1, 2026, will encourage NOM Participants to return their legacy ports to avoid a fee, thereby allowing NOM to efficiently and timely sunset the legacy platform. The Exchange would assess the FIX Port fees in Options 7, Section 3 for all legacy and new ports, in a uniform manner, to all NOM Participants that continue to subscribe to legacy FIX Ports after the Transition Period. Further, no NOM Participant may log into a legacy FIX Port after the sunset date.

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.

Intermarket Competition

The Exchange believes its proposal remains competitive with other options markets and will offer market participants another choice of venue to transact options. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

Intramarket Competition

The Exchange's proposal to not assess pre-production ports does not impose an undue burden on intra-market competition as no NOM Participant will be assessed Port Fees for any pre-production ports acquired in anticipation of a technology migration.

The proposed amendments to Options 7, Section 3 to permit NOM Participants to acquire a second set of FIX Ports, SQF Ports, SQF Purge Ports, OTTO Ports (formerly QUO Ports), CTI Ports, Depth of Market Feed (formerly ITTO Ports) and Top of Market Feed Ports (formerly BONO Ports), at no cost, as part of the technology migration do not impose an undue burden on competition because no NOM Participant would have a pricing impact as a result of this proposal provided the NOM Participant did not obtain additional new ports beyond the number of duplicate legacy ports or additional legacy ports beyond the quantity and type the Participant had on July 1, 2026. No NOM Participant would be assessed a fee for the new second set of ports provided they acquired a new second set of ports commensurate with the type and quantity of ports they subscribed to as of July 1, 2026. Any NOM Participant obtaining additional legacy ports, beyond the current type and quantity of ports they have as of July 1, 2026, would be assessed the fees noted in Options 7, Section 3 as applicable.

The proposal to sunset legacy SQF Ports, SQF Purge Ports, QUO Ports, CTI Ports, ITTO Ports and BONO Ports on September 1, 2026 for all NOM Participants does not impose an undue burden on competition because no NOM Participant will receive data from legacy SQF Ports, SQF Purge Ports, QUO Ports, CTI Ports, ITTO Ports and BONO Ports once the migration is complete. Further, no NOM Participant may log into legacy SQF Ports, SQF Purge Ports, QUO Ports, CTI Ports, ITTO Ports and BONO Ports after the sunset date.

The proposal to sunset legacy FIX Ports on November 30, 2026 and assess FIX Ports fees in Options 7, Section 3 for new and legacy FIX Ports commencing September 1, 2026 does not impose an undue burden on competition because the Exchange would assess the FIX Port fees in Options 7, Section 3 for all legacy and new ports, in a uniform manner, to all NOM Participants that continue to subscribe to legacy FIX Ports after the Transition Period. Further, no NOM Participant may log into a legacy FIX Port after the sunset date.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[26]

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[26] 15 U.S.C. 78s(b)(3)(A)(ii).

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–2026–041 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–2026–041. 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–NASDAQ–2026–041 and should be submitted on or before May 29, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

J. Matthew DeLesDernier,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105376; File No. SR–SAPPHIRE–2026–19]

Self-Regulatory Organizations; MIAX Sapphire, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 2040, Qualified Floor Orders

May 5, 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 29, 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 (1) amend Exchange Rule 2040 to permit Floor Brokers[3] to execute Customer Cross Orders,[4] Complex Customer Cross Orders,[5] Qualified Contingent Cross Orders,[6] and Complex Qualified Contingent Cross Orders[7] (collectively, the ''Crossing Orders'') on the Trading Floor[8] immediately without announcement to the trading crowd provided that certain requirements are met; (2) amend Exchange Rule 2040(a)(4) to remove the reference to paragraph ''(a)'' of Exchange Rule 518 to broaden the rule cross-reference; and (3) add an explicit reference and description of the behavior of a QFO with an ISO designation (described below) to the Exchange's Rulebook to provide additional detail and clarity regarding trading on the Exchange's Trading Floor.

The text of the proposed rule change is available on the Exchange's website at *https://www.miaxglobal.com/markets/us-options/all-options-exchanges/rule-filings,* and at MIAX Sapphire'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

The Exchange proposes to (1) amend Exchange Rule 2040 to permit Floor Brokers to execute Crossing Orders on the Trading Floor immediately without announcement to the trading crowd provided that certain requirements are met; (2) amend Exchange Rule 2040(a)(4) to remove the reference to paragraph ''(a)'' of Exchange Rule 518 to broaden the rule cross-reference; and (3) add an explicit reference and description of the behavior of a QFO with an ISO designation to the Exchange's Rulebook to provide additional detail and clarity regarding trading on the Exchange's Trading Floor.

Background

Electronic Market

The MIAX Sapphire Exchange operates both an electronic market and a physical Trading Floor. The electronic market supports both a Simple Order

[27] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 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. A Floor Broker may take into his own account, and subsequently liquidate, any position that results from an error made while attempting to execute, as Floor Broker, an order. *See* Exchange Rule 2015.

[4] A Customer Cross Order is comprised of a Priority Customer Order to buy and a Priority Customer Order to sell at the same price and for the same quantity. A Customer Cross Order is not valid during the Opening Process described in Rule 503. *See* Exchange Rule 516(i).

[5] A Complex Customer Cross or ''cC2C'' Order is comprised of one Priority Customer complex order to buy and one Priority Customer complex order to sell at the same price and for the same quantity. Trading of cC2C Orders is governed by Rule 515(g)(3). *See* Exchange Rule 518(b)(3).

[6] A Qualified Contingent Cross Order is comprised of an originating order to buy or sell at least 1,000 contracts, or 10,000 mini-option contracts, that is identified as being part of a qualified contingent trade, as that term is defined in Interpretation and Policy .01 below, coupled with a contra-side order or orders totaling an equal number of contracts. A Qualified Contingent Cross Order is not valid during the Opening Process described in Rule 503. *See* Exchange Rule 516(j).

[7] A Complex Qualified Contingent Cross or ''cQCC'' Order is comprised of an originating complex order to buy or sell where each component is at least 1,000 contracts that is identified as being part of a qualified contingent trade, as defined in Rule 516, Interpretation and Policy .01, coupled with a contra-side complex order or orders totaling an equal number of contracts. Trading of cQCC Orders is governed by Rule 515(g)(4). *See* Exchange Rule 518(b)(4).

[8] 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.

Book [9] and a Strategy Book.[10] The order types available to Members [11] on the electronic market for the Simple Order Book are described in Exchange Rule 516, Order Types. Specifically included in Rule 516 is a description of a Customer Cross Order [12] and a Qualified Contingent Cross Order.[13] The order types available to Members on the electronic market for the Strategy Book are described in Rule 518, Complex Orders. Specifically included in Rule 518(b) is a description of a Complex Customer Cross Order (''cC2C'') [14] and a Complex Qualified Contingent Cross Order (''cQCC'').[15]

Customer Cross Orders

The trading of Customer Cross Orders is governed by Exchange Rule 515(g)(1). Specifically, Rule 515(g)(1) provides that, ''Customer Cross Orders, as defined in Rule 516(i), are automatically executed upon entry provided that the execution (i) is at or between the best bid and offer on the Exchange; (ii) is not at the same price as a Priority Customer Order on the Exchange's Simple Order Book; and (iii) will not trade at a price inferior to the NBBO.'' [16] Further, the rule provides, ''[i]f trading interest exists on the Exchange's Simple Order Book that is subject to the Managed Interest Process pursuant to Rule 515(d)(2) when the Exchange receives a Customer Cross Order, the System will reject the Customer Cross Order. Customer Cross Orders will be automatically canceled if they cannot be executed. Rule 520, Interpretation and Policy .01 applies to the entry and execution of Customer Cross Orders.'' [17]

Complex Customer Cross Orders

The trading of Complex Customer Cross Orders is governed by Rule 515(g)(3). Rule 515(g)(3) provides that, ''cC2C Orders, as defined in Rule 518(b)(3), are automatically executed upon entry provided that (A) a cC2C Order with a conforming ratio [18] will be executed in accordance with Rule 518(c)(1)(iv) and will improve the best price available on the Strategy Book; and (B) a cC2C Order with a non-conforming ratio [19] will be executed in accordance with Rule 518(c)(1)(v) and will improve the best price available on the Strategy Book.'' [20] Rule 515(g)(3)(i) provides that, ''cC2C Orders will be automatically canceled if they cannot be executed.'' [21] Additionally, Rule 515(g)(3)(ii) provides that, ''cC2C Orders may only be entered in minimum trading increments of $0.01.'' [22] Rule 515(g)(3)(iii) provides that, ''Rule 520, Interpretation and Policy .01, applies to the entry and execution of cC2C Orders.'' [23] Finally, Rule 515(g)(3)(iv) provides that, ''[t]he Exchange will determine, on a class-by-class basis, the option classes in which cC2C Orders are available for trading on the Exchange, and will announce such classes to Members via Regulatory Circular.'' [24]

Qualified Contingent Cross Orders

The trading of Qualified Contingent Cross Orders is governed by Rule 515(g)(2). Rule 515(g)(2) provides that, ''Qualified Contingent Cross Orders, as defined in Rule 516(j), are automatically executed upon entry provided that the execution (i) is not at the same price as a Priority Customer Order on the Exchange's Simple Order Book; and (ii) is at or between the NBBO.'' [25] Further, the rule provides, ''[i]f trading interest exists on the Exchange's Simple Order Book that is subject to the Managed Interest Process pursuant to Rule 515(d)(2) when the Exchange receives a Qualified Contingent Cross Order, the System will reject the Qualified Contingent Cross Order. Qualified Contingent Cross Orders will be automatically canceled if they cannot be executed.'' [26]

Complex Qualified Contingent Cross Orders

The trading of Complex Qualified Contingent Cross Orders is governed by Rule 515(g)(4). Rule 515(g)(4) provides that, ''cQCC Orders, as defined in Rule 518(b)(4), are automatically executed upon entry provided that, with respect to each option leg of the cQCC Order, the execution (i) is not at the same price as a Priority Customer Order on the Exchange's Simple Order Book; and (ii) is at or between the NBBO.'' [27] Rule 515(g)(4)(i) provides that, ''cQCC Orders will be automatically canceled if they cannot be executed.'' [28] Additionally, Rule 515(g)(4)(ii) provides that, ''cQCC Orders may only be entered in the minimum trading increments applicable to complex orders under Rule 518(c)(1)(i) or 518(c)(1)(ii) if the cQCC includes the stock component upon entry.'' [29] Rule 515(g)(4)(iii) provides that, ''[t]he Exchange will determine, on a class-by-class basis, the option classes in which cQCC Orders are available for trading on the Exchange, and will announce such classes to Members via Regulatory Circular.'' [30] Additionally, Rule 515(g)(4)(iv) provides that, ''[a] cQCC Order may be entered with or without the stock component. A cQCC Order entered without the stock component will be treated as a complex strategy with only option components. A cQCC Order entered with the stock component shall be subject to Rule 518.01. A Member that submits a cQCC Order to the Exchange (with or without the stock component) represents that such order satisfies the requirements of a qualified contingent trade (as described in Interpretations and Policies .01 of Rule 516) and agrees to provide information to the Exchange related to the execution of the stock component as determined by the Exchange and communicated via Regulatory Circular.'' [31] Rule 515(g)(4)(v) provides that, ''[a] cQCC Order with a conforming ratio will be executed in accordance with Rule 518(c)(1)(iv).'' Finally, Rule 515(g)(4)(vi) provides that, ''[a] cQCC Order with a non-conforming ratio will be executed in accordance with Rule 518(c)(1)(v).'' [32] In sum, the Crossing Orders described above are

[9] The ''Simple Order Book'' is the Exchange's regular electronic book of orders and quotes. *See* Exchange Rule 100.

[10] The ''Strategy Book'' is the Exchange's electronic book of complex orders. *See* Exchange Rule 100.

[11] 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.

[12] *See* Exchange Rule 516(i).

[13] *See* Exchange Rule 516(j).

[14] *See* Exchange Rule 518(b)(3).

[15] *See* Exchange Rule 518(b)(4).

[16] *See* Exchange Rule 515(g)(1).

[17] *See* Exchange Rule 515(g)(1).

[18] A ''conforming ratio'' is where the ratio between the sizes of the options components of a complex order is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00); and where one component of the complex order is the underlying security (stock or ETF) or security convertible into the underlying stock (''convertible security''), the ratio between the option component(s) and the underlying security (stock or ETF) or convertible security is less than or equal to eight-to-one (8.00). *See* Exchange Rule 518(a).

[19] A ''non-conforming ratio'' is where the ratio between the sizes of the options components of a complex order is greater than three-to-one (3.00) or less than one-to-three (.333); or where one component of the complex order is the underlying security (stock or ETF) or security convertible into the underlying stock (''convertible security''), the ratio between the option component(s) and the underlying security (stock or ETF) or convertible security is greater than eight-to-one (8.00).

[20] *See* Exchange Rule 515(g)(3).

[21] *See* Exchange Rule 515(g)(3)(i).

[22] *See* Exchange Rule 515(g)(3)(ii).

[23] *See* Exchange Rule 515(g)(3)(iii).

[24] *See* Exchange Rule 515(g)(3)(iv).

[25] *See* Exchange Rule 515(g)(2).

[26] *See Id.*

[27] *See* Exchange Rule 515(g)(4).

[28] *See* Exchange Rule 515(g)(4)(i).

[29] *See* Exchange Rule 515(g)(4)(ii).

[30] *See* Exchange Rule 515(g)(4)(iii).

[31] *See* Exchange Rule 515(g)(4)(iv).

[32] *See* Exchange Rule 515(g)(4)(v).

automatically executed upon entry provided that each specific crossing order satisfies the requirements unique to that type of crossing order as described.

Trading Floor

The Exchange operates a physical Trading Floor located in Miami, Florida. Only Qualified Floor Orders (''QFOs'') may be transacted on the Trading Floor.[33] QFOs may also be complex orders as defined in Rule 518(a) with no more than the applicable number of legs, as determined by the Exchange and communicated to Participants via Regulatory Circular.[34] Additionally, Rule 2040(b) provides that all QFOs must be announced to the trading crowd, as provided in Rule 2030(e)(2), prior to the QFO being submitted to the Exchange's System to facilitate post-trade workflows.

Proposal

The Exchange now proposes to amend Rule 2040(a)(4) to remove the reference to paragraph (a) of Rule 518. Paragraph (a) of Rule 518 provides a generic definition of what a ''complex order'' is on the Exchange.[35] Exchange Rule 518(b), however, provides a list of specific types of complex orders including Complex Customer Cross Order[36] and Complex Qualified Contingent Cross Order.[37] The Exchange proposes to remove the reference to paragraph (a) so that it is not mistakenly interpreted as excluding the complex order types enumerated in paragraph (b).

Crossing Orders

The Exchange also proposes to amend Exchange Rule 2040 to permit Floor Brokers to execute the Crossing Orders (as identified in this proposal) on the Trading Floor immediately, without being announced to the trading crowd as required by Rule 2040(b), provided that the requirements that allow each of the Crossing Orders to be executed immediately on the electronic market are similarly satisfied on the Trading Floor.

Customer Cross Orders

Specifically, the Exchange proposes to adopt Interpretation and Policy .11 to Exchange Rule 2040 related to Customer Cross Orders. The Exchange proposes to adopt rule text to provide that, ''[n]otwithstanding Exchange Rule 2040(b), Customer Cross Orders, as defined in Exchange Rule 516(i), may be executed on the Trading Floor immediately without announcement to the trading crowd provided that the execution (i) is at or between the best bid and offer on the Exchange; (ii) is not at the same price as a Priority Customer Order on the Exchange's Simple Order Book; (iii) will not trade at a price inferior to the NBBO; and (iv) no trading interest exists on the Exchange's Simple Order Book that is subject to the Managed Interest Process pursuant to Rule 515(d)(2). Rule 520, Interpretation and Policy .01 applies to Floor Broker execution of Customer Cross Orders.'' The requirements that a Floor Broker must satisfy to immediately execute Customer Cross Orders on the Trading Floor are identical to those required in the electronic market pursuant to Exchange Rule 515(g)(1),[38] with one minor exception that is not applicable to the Trading Floor due to the separate and distinct execution processes that exist between the electronic market and the Trading Floor. Specifically, the Exchange does not propose to adopt the provision in Exchange Rule 515(g)(1) that states, ''Customer Cross Orders will be automatically canceled if they cannot be executed.'' In the electronic market, Electronic Exchange Members[39] will submit a Customer Cross Order directly into the System for execution, and if an order fails to satisfy the requirements of Exchange Rule 515(g)(1), the System will automatically cancel the order. By contrast, a Customer Cross Order may be executed immediately on the Trading Floor prior to the order being submitted into the System for post-trade validation. If an order fails the post-trade validation, the order will be invalidated and returned to the Floor Broker. The processes are substantively similar in that they both ensure that all the requirements necessary to immediately execute a Customer Cross Order are satisfied. Therefore, the Exchange does not propose to adopt the automatic cancellation provision in proposed Interpretation and Policy .11 to Exchange Rule 2040 as a similar mechanism already exists on the Trading Floor. Additionally, the Exchange notes that at least one other options exchange with a trading floor has a rule substantially similar to proposed Interpretation and Policy .11 to Exchange Rule 2040, that requires that the execution (i) be at or between the best bid and offer on the Exchange; (ii) is not at the same price as a Priority Customer Order on the Exchange's Simple Order Book; and (iii) will not trade at a price inferior to the NBBO.[40]

Complex Customer Cross Orders

The Exchange proposes to adopt Interpretation and Policy .12 to Exchange Rule 2040 related to Complex Customer Cross (''cC2C'') Orders. The Exchange proposes to adopt rule text to provide that, ''[n]otwithstanding Exchange Rule 2040(b), cC2C Orders, as defined in Exchange Rule 518(b)(3), with a conforming ratio, may be executed on the Trading Floor immediately without announcement to the trading crowd provided that the requirements of Rule 518(c)(1)(iv) are satisfied and the cC2C Order improves

[33] *See* Exchange Rule 2040(a)(2).

[34] *See* Exchange Rule 2040(a)(4).

[35] A ''complex order'' is any order involving the concurrent purchase and/or sale of two or more different options in the same underlying security (the ''legs'' or ''components'' of the complex order), for the same account, in a conforming or non-conforming ratio as defined below for the purposes of executing a particular investment strategy. Mini-options may only be part of a complex order that includes other mini-options. Only those complex orders in the classes designated by the Exchange and communicated to Members via Regulatory Circular with no more than the applicable number of legs, as determined by the Exchange on a class-by-class basis and communicated to Members via Regulatory Circular, are eligible for processing. The term complex order also includes stock-option orders. A stock-option order is an order to buy or sell a stated number of units of an underlying security (stock or Exchange Traded Fund Share (''ETF'')) or a security convertible into the underlying stock (''convertible security'') coupled with the purchase or sale of options contract(s) on the opposite side of the market representing either (i) the same number of units of the underlying security or convertible security, or (ii) the number of units of the underlying stock necessary to create a delta neutral position where the ratio represents the total number of units of the underlying security or convertible security in the option leg to the total number of units of the underlying security or convertible security in the stock leg. A stock-option order may have a conforming or non-conforming ratio as defined below, and is subject to the limitations set forth in Interpretation and Policy .01 of this Rule. Only those stock-option orders in the classes designated by the Exchange and communicated to Members via Regulatory Circular with no more than the applicable number of legs as determined by the Exchange on a class-by-class basis and communicated to Members via Regulatory Circular, are eligible for processing.'' *See* Exchange Rule 518(a).

[36] *See* Exchange Rule 518(b)(3).

[37] *See* Exchange Rule 518(b)(4).

[38] Exchange Rule 515(g)(1) provides that ''Customer Cross Orders, as defined in Rule 516(i), are automatically executed upon entry provided that the execution (i) is at or between the best bid and offer on the Exchange; (ii) is not at the same price as a Priority Customer Order on the Exchange's Simple Order Book; and (iii) will not trade at a price inferior to the NBBO.''

[39] The term ''Electronic Exchange Member'' or ''EEM'' means the holder of a Trading Permit who is a Member representing as agent Public Customer Orders or Non-Customer Orders on the Exchange and those non-Market Maker Members conducting proprietary trading. Electronic Exchange Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[40] *See e.g.* PHLX Rulebook, Options 8, Section 30(f) (providing, in relevant part, that ''Customer Cross Orders are automatically executed upon entry provided that the execution is at or between the best bid and offer on the Exchange and (i) is not at the same price as a Public Customer Order on the Exchange's limit order book and (ii) will not trade through the NBBO.'')

the best price available on the Exchange's Strategy Book.'' The Exchange also proposes to adopt paragraph (a) to Interpretation and Policy .12 to provide that, ''cC2C Orders may be executed in minimum trading increments of $0.01.'' The Exchange proposes to adopt paragraph (b) to Interpretation and Policy .12 to provide that, ''cC2C Orders are only available on the Trading Floor in the option classes announced by the Exchange as provided for in Exchange Rule 515(g)(3)(iv).'' The Exchange proposes to adopt paragraph (c) to Interpretation and Policy .12 to provide that, ''Rule 520, Interpretation and Policy .01 applies to Floor Broker execution of cC2C Orders.'' The requirements that a Floor Broker must satisfy to immediately execute cC2C Orders on the Trading Floor are identical to those required in the electronic market pursuant to Exchange Rule 515(g)(3),[41] with two minor exceptions. The first exception is related to one of the requirements in Rule 515(g)(3) that is not applicable to the Trading Floor due to the separate and distinct execution processes that exist between the electronic market and the Trading Floor. Specifically, the Exchange does not propose to adopt the provision in Exchange Rule 515(g)(3)(i) that states, ''cC2C Orders will be automatically canceled if they cannot be executed.'' In the electronic market, Electronic Exchange Members will submit a cC2C Order directly into the System for execution, and if an order fails to satisfy the requirements of Exchange Rule 515(g)(3), the System will automatically cancel the order. By contrast, a cC2C Order may be executed immediately on the Trading Floor, prior to the order being submitted into the System for post-trade validation. If an order fails the post-trade validation, the order will be invalidated and returned to the Floor Broker. The processes are substantively similar in that they both ensure that all the requirements necessary to immediately execute a cC2C Order are satisfied. Therefore, the Exchange does not propose to adopt the automatic cancellation provision in proposed Interpretation and Policy .12 to Exchange Rule 2040 as a similar mechanism already exists on the Trading Floor. The second exception is that only Complex Customer Cross Orders with a conforming ratio would be permitted to be executed on the Trading Floor immediately without announcement to the trading crowd, as provided in proposed Interpretation and Policy .12. By contrast, today, two Priority Customer Orders in open outcry pursuant to proposed Exchange Rule 2040(a)(4)may be in either conforming or non-conforming ratios.[42] The Exchange proposes to permit only Complex Customer Cross Orders with a conforming ratio to be executed on the Trading Floor immediately without announcement to the trading crowd in order to align its rules to that of another options exchange that provides a trading floor.[43] The Exchange notes that Floor Brokers may continue to cross two Priority Customer Orders in open outcry pursuant to Exchange Rule 2040(a)(4). This would be necessary if a Floor Broker desired to cross two Priority Customer Orders with non-conforming ratios. The Exchange notes that at least one other options exchange with a trading floor has a substantially similar rule that allows for the immediate execution of Complex Customer Cross Orders provided that the order is in a conforming ratio and the order will not trade ahead of a Priority Customer Order on the Simple Order Book without improving the SBBO of at least one option component of the complex strategy.[44]

Qualified Contingent Cross Orders

The Exchange proposes to adopt Interpretation and Policy .13 to Exchange Rule 2040 related to Qualified Contingent Cross Orders. The Exchange proposes to adopt rule text to provide that, ''[n]otwithstanding Exchange Rule 2040(b), Qualified Contingent Cross Orders, as defined in Exchange Rule 516(j), may be executed on the Trading Floor immediately without announcement to the trading crowd provided that the execution (i) is not at the same price as a Priority Customer Order on the Exchange's Simple Order Book; (ii) is at or between the NBBO; and (iii) no trading interest exists on the Exchange's Simple Order Book that is subject to the Managed Interest Process pursuant to Rule 515(d)(2).'' The requirements that a Floor Broker must satisfy to immediately execute Qualified Contingent Cross Orders on the Trading Floor are identical to those required in the electronic market pursuant to Exchange Rule 515(g)(2)[45] with one minor exception that is not applicable to the Trading Floor due to the separate and distinct execution processes that exist between the electronic market and the Trading Floor. Specifically, the Exchange does not propose to adopt the provision in Exchange Rule 515(g)(2) that states, ''Qualified Contingent Cross Orders will be automatically canceled if they cannot be executed.'' In the electronic market, Electronic Exchange Members will submit a Qualified Contingent Cross Order directly into the System for execution, and if an order fails to satisfy the requirements of Exchange Rule 515(g)(2), the System will automatically cancel the order. By

[41] Exchange Rule 515(g)(3) provides that ''cC2C Orders, as defined in Rule 518(b)(3), are automatically executed upon entry provided that: (A) a cC2C Order with a conforming ratio will be executed in accordance with Rule 518(c)(1)(iv) and will improve the best price available on the Strategy Book; and (B) a cC2C Order with a non-conforming ratio will be executed in accordance with Rule 518(c)(1)(v) and will improve the best price available on the Strategy Book. (i) cC2C Orders will be automatically canceled if they cannot be executed. (ii) cC2C Orders may only be entered in minimum trading increments of $0.01. (iii) Rule 520, Interpretation and Policy .01, applies to the entry and execution of cC2C Orders. (iv) The Exchange will determine, on a class-by-class basis, the option classes in which cC2C Orders are available for trading on the Exchange, and will announce such classes to Members via Regulatory Circular.''

[42] As mentioned above, proposed Exchange Rule 2040(a)(4) provides that ''QFOs may be complex orders as defined in Rule 518 . . .'' Floor Brokers may execute complex orders such as Complex Customer Cross Orders on the Trading Floor. Exchange Rule 518(b)(3) states that ''. . . [t]rading of cC2C Orders is governed by Rule 515(g)(3).'' Pursuant to Exchange Rule 515(g)(3), cC2C Orders can be entered into the System in either conforming or non-conforming ratios.

[43] *See* PHLX Rulebook, Options 8, Section 30(g) (providing, in relevant part, that ''Only Complex Customer Cross Orders with a conforming ratio as defined in Options 1, Section 1(b)(13) will be accepted.'').

[44] *See e.g.* PHLX Rulebook, Options 8, Section 30(g) (providing, in relevant part, that ''Complex Orders may be entered as Customer Cross Orders, as defined in Options 8, Section 32(g). Such orders will be automatically executed upon entry so long as: (i) the price of the transaction is at or within the best bid and offer for the same complex startegy on the Complex Order Book; (ii) there are no Public Customer Complex Orders for the same strategy at the same price on the Complex Order Book; and (iii) the options legs can be executed at prices that comply with the provisions of Options 3, Section 14(c)(2). '') Options 3, Section 14(c)(2)(i) provides that Complex Options Strategies may be executed at a total credit or debit price with one other member organization without giving priority to bids or offers established on the Exchange that are no better than the bids or offers in the individual options series comprising such total credit or debit; provided, however, that if any of the bids or offers established on the Exchange consist of a Public Customer Order, the price of at least one leg of the complex stategy must trade at a price that is better than the corresponding bid or offer on the Exchange by at least one minimum trading increment for the series as defined in Options 3, Section 3. Options 8, Section 30(g) also provides that only Complex Customer Cross Orders with a conforming ratio as defined in Options 1, Section 1(b)(13) will be accepted. The Exchange notes that only Complex Customer Cross Orders with a conforming ratio would be permitted to executed on the Trading Floor immediately without annoucement to the trading crowd as provided in proposed Interpretation and Policy .12, which is substantively similar to PHLX Rulebook, Options 8, Section 30(g).

[45] Exchange Rule 515(g)(2) provides that ''Qualified Contingent Cross Orders, as defined in Rule 516(j), are automatically executed upon entry provided that the execution (i) is not at the same price as a Priority Customer Order on the Exchange's Simple Order Book; and (ii) is at or between the NBBO . . .''

contrast, a Qualified Continent Cross Order may be executed immediately on the Trading Floor, prior to the order being submitted into the System for post-trade validation. If an order fails the post-trade validation, the order will be invalidated and returned to the Floor Broker. The processes are substantively similar in that they both ensure that all the requirements necessary to immediately execute a Qualified Contingent Cross Order are satisfied. Therefore, the Exchange does not propose to adopt the automatic cancellation provision in proposed Interpretation and Policy .13 to Exchange Rule 2040 as a similar mechanism already exists on the Trading Floor. Additionally, the Exchange notes at least one other options exchange with a trading floor has a rule substantially similar to proposed Interpretation and Policy .13 to Exchange Rule 2040 that requires that the execution (i) is not at the same price as a Priority Customer Order on the Exchange's Simple Order Book; and (ii) is at or between the NBBO.[46]

Complex Qualified Contingent Cross Orders

The Exchange proposes to adopt Interpretation and Policy .14 to Exchange Rule 2040 related to Complex Qualified Contingent Cross (''cQCC'') Orders. The Exchange proposes to adopt rule text to provide that, ''[n]otwithstanding Exchange Rule 2040(b), cQCC Orders, as defined in Exchange Rule 518(b)(4), may be executed on the Trading Floor immediately without announcement to the trading crowd provided that, with respect to each option leg of the cQCC Order, the execution (i) is not at the same price as a Priority Customer Order on the Exchange's Simple Order Book; and (ii) is at or between the NBBO.'' The Exchange proposes to adopt paragraph (a) to Interpretation and Policy .14 to provide that, ''cQCC Orders may only be executed in the minimum trading increments applicable to complex orders under Exchange Rule 518(c)(1)(i) or 518(c)(1)(ii) if the cQCC Order includes the stock component upon entry.'' The Exchange proposes to adopt paragraph (b) to Interpretation and Policy .14 to provide that, ''cQCC Orders are only available on the Trading Floor in the option classes announced by the Exchange as provided for in Exchange Rule 515(g)(4)(iii).'' The Exchange proposes to adopt paragraph (c) to Interpretation and Policy .14 to provide that, ''a cQCC Order may be executed with or without the stock component. A cQCC Order executed without the stock component will be treated as a complex strategy with only option components. A cQCC Order executed with the stock component shall be subject to Exchange Rule 518, Interpretation and Policy .01(a). A Member that submits a cQCC Order to the Exchange's System (with or without the stock component) represents that such order satisfies the requirements of a qualified contingent trade (as described in Interpretations and Policies .01 of Exchange Rule 516) and agrees to provide information to the Exchange related to the execution of the stock component as determined by the Exchange and communicated via Regulatory Circular.'' The Exchange proposes to adopt paragraph (d) to Interpretation and Policy .14 to provide that, ''a cQCC Order with a conforming ratio will be executed in accordance with Exchange Rule 518(c)(1)(iv).'' The Exchange proposes to adopt paragraph (e) to Interpretation and Policy .14 to provide that, ''a cQCC Order with a non-conforming ratio will be executed in accordance with Exchange Rule 518(c)(1)(v).'' The requirements that a Floor Broker must satisfy to immediately execute cQCC Orders on the Trading Floor are identical to those required in the electronic market pursuant to Exchange Rule 515(g)(4)[47] with one minor exception that is not applicable to the Trading Floor due to the separate and distinct execution processes that exist between the electronic market and the Trading Floor. Specifically, the Exchange does not propose to adopt the provision in Exchange Rule 515(g)(4) that states, ''cQCC Orders will be automatically canceled if they cannot be executed.'' In the electronic market, Electronic Exchange Members will submit a cQCC Order directly into the System for execution, and if an order fails to satisfy the requirements of Exchange Rule 515(g)(4), the System will automatically cancel the order. By contrast, a cQCC Order may be executed immediately on the Trading Floor, prior to the order being submitted into the System for post-trade validation. If an order fails the post-trade validation, the order will be invalidated and returned to the Floor Broker. The processes are substantively similar in that they both ensure that all the requirements necessary to immediately execute a cQCC Order are satisfied. Therefore, the Exchange does not propose to adopt the automatic cancellation provision in proposed Interpretation and Policy .14 to Exchange Rule 2040 as a similar mechanism already exists on the Trading Floor. Additionally, the Exchange notes at least one other options exchange with a trading floor has a rule substantially similar to proposed Interpretation and Policy .14 to Exchange Rule 2040 that requires, with respect to each option leg of the cQCC Order, that the execution (i) is not at the same price as a Priority Customer Order on the Exchange's Simple Order Book; and (ii) is at or between the NBBO.[48]

The purpose of the proposed rule changes is to align and harmonize the rules governing the electronic market and Trading Floor. The Exchange's proposal would permit Floor Brokers to immediately execute the Crossing Orders pursuant to proposed Interpretations and Policies .11 through .14 to Exchange Rule 2040 utilizing the same order entry requirements as the Members that transact business electronically pursuant to Exchange Rule 515(g)(1) through (4). The requirements that a Floor Broker must satisfy to immediately execute the Crossing Orders on the Trading Floor are identical to those required in the electronic market with certain exceptions that are not applicable to the Trading Floor due to the separate and distinct execution processes that exists between the electronic market and the Trading Floor. The Exchange notes that at least one other options exchange with a trading floor has substantially similar rules.[49]

[46] *See e.g.* PHLX Rulebook, Options 8, Section 30(e) (providing, in relevant part, that ''A Floor Qualified Contingent Cross Order shall be transacted as specified in Options 3, Section 12(c) and (d).''). Options 3, Section 12(c) states that ''Qualified Contingent Cross Orders are automatically executed upon entry provided that the execution (i) is not at the same price as a Public Customer Order on the Exchange's limit order book and (ii) is at or between the better of the internal PBBO or the NBBO.''

[47] Exchange Rule 515(g)(4) provides that ''cQCC Orders, as defined in Rule 518(b)(4), are automatically executed upon entry provided that, with respect to each option leg of the cQCC Order, the execution (i) is not at the same price as a Priority Customer Order on the Exchange's Simple Order Book; and (ii) is at or between the NBBO . . .''

[48] *See e.g.* PHLX Rulebook, Options 8, Section 30(e) (providing, in relevant part, that ''[a] Floor Qualified Contingent Cross Order shall be transacted as specified in Options 3, Section 12(c) and (d).''). Options 3, Section 12(d) provides, in relevant part, that ''Complex Options Orders may be entered as Qualified Contingent Cross Orders so long as . . . (iii) the options legs can be executed at prices that (A) are at or between the better of the internal PBBO or the NBBO for the individual series, and (B) comply with the provisions of Options 3, Section 14(c)(2)(i), provided that no legs of the Complex Options Order can be executed at the same price as a Public Customer Order on the Exchange in the individual options series.''

[49] *See supra* notes 40, 44, 46, and 48.

QFO With an ISO Designation

The Exchange proposes to adopt Interpretation and Policy .10 to Exchange Rule 2040 to explicitly state that a two-sided order (''Qualified Floor Order'' or ''QFO'') with an Intermarket Sweep Order (''ISO'') [50] designation can be executed on the Trading Floor and entered into the Exchange's System to facilitate post-trade workflow. The Exchange proposes to add this explicit reference and description of the behavior of a QFO with an ISO designation into the Exchange Rulebook to provide greater detail to the Rulebook.

An Intermarket Sweep Order (''ISO''), as defined in Exchange Rule 1400(i),[51] is a limit order that is designated by a Member as an ISO in the manner prescribed by the Exchange, and is executed within the System by Members without respect to Protected Quotations [52] of other Eligible Exchanges [53] as defined in Rule 1400(q) and (g).[54] A Member may submit an ISO to the Exchange only if it has simultaneously routed one or more additional ISOs to execute against the full displayed size of any Protected Bid,[55] in the case of a limit order to sell, or Protected Offer,[56] in the case of a limit order to buy, for an options series with a price that is superior to the limit price of the ISO.

The Exchange notes that it currently allows a Floor Broker to execute a QFO with an ISO designation. The Exchange now proposes to add this explicit reference and description of the behavior of a QFO with an ISO designation to provide greater detail within the Rulebook. Specifically, the Exchange proposes to adopt Interpretation and Policy .10 to Exchange Rule 2040 to provide that notwithstanding Exchange Rule 2040(e), a QFO with an ISO designation will be processed without regard for better priced Protected Bids or Protected Offers (as defined in Exchange Rule 1400) because the Member submitting the QFO to the Exchange's System has simultaneously transmitted one or more ISOs, as necessary, to execute against the full displayed size of any Protected Bid or Protected Offer. The Exchange processes the QFO with an ISO designation in the same manner that it currently processes QFOs without an ISO designation, except that it accepts the QFOs with an ISO designation without protecting away prices. The Member submitting the QFO with an ISO designation shall bear the responsibility to clear all better priced interest away simultaneously with the submission of the QFO with an ISO designation to the Exchange.

The proposed rule change to add an explicit reference and description of the behavior of a QFO with an ISO designation to the Exchange Rulebook is intended to provide greater detail within the Exchange's Rulebook.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[57] in general, and furthers the objectives of Section 6(b)(5) [58] of the Act in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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 proposal to add an explicit reference and description of the behavior of a QFO with an ISO designation to the Exchange's Rulebook is designed to provide greater detail within the Exchange's Rulebook. The proposal to amend Exchange Rule 2040(a)(4) is to ensure that it is not mistakenly interpreted as excluding the complex order types enumerated in paragraph (b). These proposed rule changes are not as a result of any changes made to the Exchange functionality, operations, policies or procedures, but are rather designed to provide greater detail and better reflect the current operation of the Exchange's Trading Floor in the Exchange's Rulebook. These proposed non-substantive changes would ensure that the Exchange's Rules are clear, concise, and easier to understand. In addition, the proposed rule changes would reduce potential investor and market participant confusion and therefore remove impediments to and perfect the mechanism of a free and open market and a national market system by ensuring that investors and market participants can more easily navigate, understand and comply with the Exchange's Rules. The Exchange also believes that the proposed rule changes would remove impediments to and perfects the mechanism of a free and open market by ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the Exchange's Rules. The proposed rule changes are consistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from the increased transparency and clarity, thereby reducing potential confusion.

Permitting Floor Brokers to immediately execute Crossing Orders (as defined herein) without having to first announce the order to the trading crowd is consistent with the Act because it would permit Floor Brokers to execute these orders similarly to how these orders are executed on the electronic market, provided similar requirements for each specific order type are similarly satisfied. The Exchange believes that the proposed rule changes would remove impediments to and perfect the mechanism of a free and open market by placing Floor Brokers on equal footing with Members that trade Crossing Orders electronically. The proposed rule changes are consistent with the public interest and the protection of investors because it would harmonize the

[50] An Intermarket Sweep Order or ''ISO'', as defined in Rule 1400(i), is a limit order that is designated by a Member as an ISO in the manner prescribed by the Exchange, and is executed within the System by Members without respect to Protected Quotations of other Eligible Exchanges as defined in Rule 1400(q) and (g). ISOs are immediately executable within the System and shall not be eligible for routing. ISOs that are not designated as immediate or cancel will be cancelled by the System if not executed upon receipt. Simultaneously with the routing of an ISO to the System, one or more additional limit orders, as necessary, are routed by the entering Member to execute against the full displayed size of any Protected Bid or Protected Offer (as defined in Rule 1400(p)) in the case of a limit order to sell or buy with a price that is superior to the limit price of the limit order identified as an ISO. These additional routed orders must be identified as ISOs. An ISO is not valid during the Opening Process described in Rule 503. *See* Exchange Rule 516(f).

[51] Rule 1400 contained in Chapter XIV of MIAX Options Exchange Rulebook is incorporated by reference into MIAX Sapphire Options Exchange Rulebook and therefore is a MIAX Sapphire Rule applicable to MIAX Sapphire Members. *See* Chapter XIV of the MIAX Sapphire Options Exchange Rulebook.

[52] ''Protected Quotation'' means a Protected Bid or Protected Offer. *See* Exchange Rule 1400(q).

[53] ''Eligible Exchange'' means a national securities exchange registered with the SEC in accordance with Section 6(a) of the Exchange Act that: (1) is a Participant Exchange in OCC (as that term is defined in Section VII of the OCC by-laws); (2) is a party to the OPRA Plan (as that term is described in Section I of the OPRA Plan); and (3) if the national securities exchange is not a party to the Options Order Protection and Locked/Crossed Markets Plan as defined below, is a participant in another plan approved by the Commission providing for comparable Trade-Through and Locked and Crossed Market protection. *See* Exchange Rule 1400(g).

[54] *See* Exchange Rule 516(f).

[55] ''Protected Bid'' or ''Protected Offer'' means a Bid or Offer in an options series, respectively, that: (a) is disseminated pursuant to the OPRA Plan; and (b) is the Best Bid or Best Offer, respectively, displayed by an Eligible Exchange. *See* Exchange Rule 1400(p).

[56] *See Id.*

[57] 15 U.S.C. 78f(b).

[58] 15 U.S.C. 78f(b)(5).

requirements for immediate execution of Crossing Orders on the Trading Floor to those of the electronic market, with certain exceptions as discussed above.

Customer Cross Orders

Identical to Members that transact electronically, with one minor exception that is not applicable to the Trading Floor due to the separate and distinct execution processes, Floor Brokers may immediately execute Customer Cross Orders on the Trading Floor provided the requirements mandated for automatic execution in the electronic market are similarly satisfied on the Trading Floor. Specifically, a Customer Cross Order may be executed immediately on the Trading Floor so long as the execution (i) is at or between the best bid and offer on the Exchange; (ii) is not at the same price as a Priority Customer Order on the Exchange's Simple Order Book; (iii) will not trade at a price inferior to the NBBO; and (iv) no trading interest exists on the Exchange's Simple Order Book that is subject to the Managed Interest Process pursuant to Rule 515(d)(2).[59] The Exchange does not propose to adopt the provision in Exchange Rule 515(g)(1) that states, ''Customer Cross Orders will be automatically canceled if they cannot be executed.'' In the electronic market, Electronic Exchange Members will submit a Customer Cross Order directly into the System for execution, and if an order fails to satisfy the requirements of Exchange Rule 515(g)(1), the System will automatically cancel the order. By contrast, a Customer Cross Order may be executed immediately on the Trading Floor, prior to the order being submitted into the System for post-trade validation. If an order fails the post-trade validation, the order will be invalidated and returned to the Floor Broker. The processes are substantively similar in that they both ensure that all the requirements necessary to immediately execute a Customer Cross Order are satisfied. Therefore, the Exchange does not propose to adopt the automatic cancellation provision in proposed Interpretation and Policy .11 to Exchange Rule 2040 as a similar mechanism already exists on the Trading Floor.

Complex Customer Cross Orders

Additionally, identical to Members that transact electronically, with two minor exceptions, Floor Brokers may immediately execute cC2C Orders on the Trading Floor provided the requirements mandated for automatic execution in the electronic market are similarly satisfied on the Trading Floor. Specifically, a cC2C Order may be executed immediately on the Trading Floor so long as: the requirements of Rule 518(c)(1)(iv) are satisfied and the cC2C Order improves the best price available on the Exchange's Strategy Book.[60] The first exception is related to one of the requirements in Rule 515(g)(3) that is not applicable to the Trading Floor due to the separate and distinct execution processes that exist between the electronic market and the Trading Floor. The Exchange does not propose to adopt the provision in Exchange Rule 515(g)(3)(i) that states, ''cC2C Orders will be automatically canceled if they cannot be executed.'' In the electronic market, Electronic Exchange Members will submit a cC2C Order directly into the System for execution, and if an order fails to satisfy the requirements of Exchange Rule 515(g)(3), the System will automatically cancel the order. By contrast, a cC2C Order may be executed immediately on the Trading Floor, prior to the order being submitted into the System for post-trade validation. If an order fails the post-trade validation, the order will be invalidated and returned to the Floor Broker. The processes are substantively similar in that they both ensure that all the requirements necessary to immediately execute a cC2C Order are satisfied. Therefore, the Exchange does not propose to adopt the automatic cancellation provision in proposed Interpretation and Policy .12 to Exchange Rule 2040 as a similar mechanism already exists on the Trading Floor. The second exception is that the Exchange would permit only cC2C Orders with a conforming ratio to be executed on the Trading Floor immediately without announcement to the trading crowd in order to align its rules with those of other options exchanges. The Exchange notes that at least one other options exchange similarly permits only Complex Customer Cross Orders with a conforming ratio to be executed on the Trading Floor immediately without announcement to the trading crowd.[61]

Qualified Contingent Cross Orders

Identical to Members that transact electronically, with one minor exception that is not applicable to the Trading Floor due to the separate and distinct execution processes, Floor Brokers may immediately execute Qualified Contingent Cross Orders on the Trading Floor provided the requirements mandated for automatic execution in the electronic market are similarly satisfied on the Trading Floor. Specifically, a Qualified Contingent Cross Order may be executed immediately on the Trading Floor so long as the execution (i) is not at the same price as a Priority Customer Order on the Exchange's Simple Order Book; (ii) is at or between the NBBO; and (iii) no trading interest exists on the Exchange's Simple Order Book that is subject to the Managed Interest Process pursuant to Rule 515(d)(2).[62] The Exchange does not propose to adopt the provision in Exchange Rule 515(g)(2) that states, ''Qualified Contingent Cross Orders will be automatically canceled if they cannot be executed.'' In the electronic market, Electronic Exchange Members will submit a Qualified Contingent Cross Order directly into the System for execution, and if an order fails to satisfy the requirements of Exchange Rule 515(g)(2), the System will automatically cancel the order. By contrast, a Qualified Contingent Cross Order may be executed immediately on the Trading Floor, prior to the order being submitted into the System for post-trade validation. If an order fails the post-trade validation, the order will be invalidated and returned to the Floor Broker. The processes are substantively similar in that they both ensure that all the requirements necessary to immediately execute a Qualified Contingent Cross Order are satisfied. Therefore, the Exchange does not propose to adopt the automatic cancellation provision in proposed Interpretation and Policy .13 to Exchange Rule 2040 as a similar mechanism already exists on the Trading Floor.

Complex Qualified Contingent Cross Orders

Identical to Members that transact electronically, with one minor exception that is not applicable to the Trading Floor due to the separate and distinct execution processes, Floor Brokers may immediately execute cQCC Orders on the Trading Floor provided the requirements mandated for automatic execution in the electronic market are similarly satisfied on the Trading Floor. Specifically, a cQCC Order may be executed immediately on the Trading Floor so long as: with respect to each option leg of the cQCC

[59] *See* proposed Interpretation and Policy .11 to Exchange Rule 2040.

[60] *See* proposed Interpretation and Policy .12 to Exchange Rule 2040.

[61] *See* PHLX Rulebook, Options 8, Section 30(g) (providing, in relevant part, that ''Only Complex Customer Cross Orders with a conforming ratio as defined in Options 1, Section 1(b)(13) will be accepted.'').

[62] *See* proposed Interpretation and Policy .13 to Exchange Rule 2040.

Order, the execution (i) is not at the same price as a Priority Customer Order on the Exchange's Simple Order Book; and (ii) is at or between the NBBO.[63] The Exchange does not propose to adopt the provision in Exchange Rule 515(g)(4) that states, ''cQCC Orders will be automatically canceled if they cannot be executed.'' In the electronic market, Electronic Exchange Members will submit a cQCC Order directly into the System for execution, and if an order fails to satisfy the requirements of Exchange Rule 515(g)(4), the System will automatically cancel the order. By contrast, a cQCC Order may be executed immediately on the Trading Floor, prior to the order being submitted into the System for post-trade validation. If an order fails the post-trade validation, the order will be invalidated and returned to the Floor Broker. The processes are substantively similar in that they both ensure that all the requirements necessary to immediately execute a cQCC Order are satisfied. Therefore, the Exchange does not propose to adopt the automatic cancellation provision in proposed Interpretation and Policy .14 to Exchange Rule 2040 as a similar mechanism already exists on the Trading Floor.

Further, the Exchange believes it is consistent with the Act and the protection of investors to permit the Crossing Orders to be executed on the Trading Floor immediately without announcement to the trading crowd. This would place them on equal footing with Members that trade these orders electronically. With this proposal, Floor Brokers may only immediately execute cC2C Orders (without announcement) if such orders are in conforming ratios as proposed in Interpretation and Policy .12 to Exchange Rule 2040, however Floor Brokers would be able to continue to cross two Priority Customer Orders in open outcry pursuant to Exchange Rule 2040(a)(4). This would be necessary if a Floor Broker desired to cross two Priority Customer Orders with non-conforming ratios because under proposed Interpretation and Policy .12 to Exchange Rule 2040 only Complex Customer Cross Orders with a conforming ratio are accepted for electronic processing. The Exchange proposes to permit only Complex Customer Cross Orders with a conforming ratio to be executed on the Trading Floor immediately without announcement to the trading crowd in order to align its rules with that of another options exchange that has a trading floor. Specifically, the Exchange notes that at least one other options exchange similarly permits only Complex Customer Cross Orders with a conforming ratio to be executed on the Trading Floor immediately without announcement to the trading crowd.[64]

Permitting Floor Brokers to only submit cQCC Orders with a stock/ETF component if such orders comply with the Qualified Contingent Trade Exemption from Rule 611(a) of Regulation NMS is consistent with the Act and the protection of investors.[65] Proposed Interpretation and Policy.14(c) to Exchange Rule 2040 will require that Floor Brokers submitting such orders with a stock/ETF component represent that such orders comply with the Qualified Contingent Trade Exemption. This proposal is consistent with today's treatment of Complex Orders with a stock/ETF component and is not changing the manner in which a Complex Order with a stock/ETF component is treated today on the Exchange.[66]

Section 11(a) and the rules thereunder generally prohibit members of an exchange from effecting transactions on the exchange for their own account, the account of an associated person, or an account with respect to which it or an associated person thereof exercises investment discretion unless an exemption applies.[67] With respect to the application of the Crossing Orders to Section 11(a) of the Act and the rules thereunder, the Exchange notes that the entry and execution of the Crossing Orders raises no novel issues under Section 11(a) and the rules thereunder from a compliance, surveillance or enforcement perspective. Floor Brokers are required to comply and the Exchange surveils for compliance with Section 11(a) and the rules thereunder when using Exchange systems to effect transactions using existing order types, and they will be required to comply with Section 11(a) and the rules thereunder when using the Crossing Orders as amended.[68]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange believes the proposed rule changes do not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes to add an explicit reference and description of the behavior of a QFO with an ISO designation to the Exchange's Rulebook and amend Exchange Rule 2040(a)(4) to remove the reference to paragraph (a) of Rule 518 are not intended to address competitive issues but rather are concerned solely with making clarifying changes to the rule text with no proposed changes to related functionality. The proposal to permit Floor Brokers to execute certain Crossing Orders on the Trading Floor immediately without announcement to the trading crowd does not impose any burden on intramarket competition because today Members that transact electronically are subject to identical rules, with certain exceptions that are not applicable to the Trading Floor due to the distinct execution processes, and may enter such orders without exposing such orders. The proposal does not impose an undue burden on intramarket competition because all Floor Brokers may similarly execute Crossing Orders.

Intermarket Competition

The Exchange believes the proposed rule changes do not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes to add an explicit reference and description of the behavior of a QFO with an ISO designation to the Exchange's Rulebook and amend Exchange Rule 2040(a)(4) to remove the reference to paragraph (a) of Rule 518 are not intended to address competitive issues but rather are concerned solely with making clarifying changes to the rule text with no proposed changes to related functionality. The proposal to permit Floor Brokers to execute certain Crossing Orders on the Trading Floor immediately without announcement to the trading crowd does not impose any burden on intermarket competition because at least one other options

[63] *See* proposed Interpretation and Policy .14 to Exchange Rule 2040.

[64] *See supra* note 43.

[65] *See* proposed Interpretation and Policy .14(c) of Exchange Rule 2040.

[66] *See* Interpretation and Policy .01 of Exchange Rule 518.

[67] *See* 15 U.S.C. 78k(a). Section 11(a) contains multiple exemptions, including exemptions for those acting in the capacity of market makers, as odd-lot dealers, and those engaged in stabilizing conduct; there are also rule-based exemptions such as the ''effect vs. execute'' exception under SEC Rule 11a2–2(T) under the Act. See 17 CFR 240.11a2–2(T).

[68] *See also* Interpretation and Policy .05 of Exchange Rule 2040.

exchange with a trading floor has similar rules.[69]

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[70] and Rule 19b–4(f)(6)[71] 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[72] and Rule 19b–4(f)(6)[73] thereunder.

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[74] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[75] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange states that waiving the operative delay will allow the Exchange to make clarifying changes to its rule text immediately, which will benefit investors and the public interest because such changes would add clarity to the Exchange's rules and therefore alleviate potential investor or market participant confusion. Further, the Exchange states that waiver of the operative delay will permit Floor Brokers immediately to execute Crossing Orders on the Trading Floor without requiring prior announcement to the trading crowd, to the benefit of market participants, and would align and harmonize its rules governing its electronic market and its Trading Floor, thereby placing Floor Brokers on an equal footing with Members that trade Crossing Orders electronically. The Exchange also states that another options exchange with a trading floor has similar rules.[76] For these reasons, and because the proposal raises no new or novel legal or regulatory issues, the Commission finds that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change to be operative immediately upon filing.[77]

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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–SAPPHIRE–2026–19 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–2026–19. 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–2026–19 and should be submitted on or before May 29, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[78]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2026–09130 Filed 5–7–26; 8:45 am]

BILLING CODE 8011–01–P

[69] *See supra* notes 40, 44, 46, and 48.

[70] 15 U.S.C. 78s(b)(3)(A).

[71] 17 CFR 240.19b–4(f)(6).

[72] 15 U.S.C. 78s(b)(3)(A).

[73] 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.

[74] 17 CFR 240.19b–4(f)(6).

[75] 17 CFR 240.19b–4(f)(6)(iii).

[76] *See supra* notes 40, 44, 46, and 48.

[77] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[78] 17 CFR 200.30–3(a)(12) and (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105374; File No. SR–LCH SA–2026–002]

Self-Regulatory Organizations; LCH SA; Order Approving Proposed Rule Change Relating to the CDS Clearing Rules (AMF Outsourcing; EMIR SITG; EU CCPRR)

May 5, 2026.

I. Introduction

On March 10, 2026, Banque Centrale de Compensation, which conducts business under the name LCH SA (''LCH SA''), filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to submit for Commission approval to amend its CDS Clearing Rule Book (''Rule Book''). The proposed rule change was published for comment in the **Federal Register** on March 26, 2026.[3] The Commission did not receive comments regarding the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

LCH SA is a clearing agency registered with the Commission.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 105066 (March 23, 2026), 91 FR 14731 (March 26, 2026) (File No. SR–LCH SA–2026–002) (''Notice'').

Through its CDSClear business unit, LCH SA provides central counterparty services for security-based swaps, including credit default swaps (''CDS'') and options on CDS. LCH SA is an affiliate of LCH, Ltd, through common ownership by LCH Group Holdings Limited (''LCH Group''). LCH SA's ultimate parent company is London Stock Exchange Group.

As an entity based in France, LCH SA is subject to relevant provisions of French and European Union law. LCH SA is proposing to amend its CDS Clearing Rule Book (''Rule Book'')[4] to be consistent with certain provisions of French and European Union law, as discussed below.

A. Outsourcing by Clearing Members

LCH proposes to amend the Rule Book in order to modify the conditions under which LCH SA's Clearing Members may outsource clearing operations, including to certain providers who are not themselves clearing members. LCH SA states that it is proposing these changes to ensure it complies with regulations belonging to the French Financial Markets Authority.[5] Currently, Articles 2.2.5.2 and 2.2.5.3 set out the conditions under which clearing members may outsource clearing operations. LCH SA proposes to amend these articles and adopt new articles 2.2.5.4 and 2.2.5.5.

LCH SA proposes to change a provision in its Rule Book, Article 2.2.5.2, which currently authorizes clearing members to outsource the ''performance of all or part of [their] clearing activities'' subject to certain restrictions. Currently, Article 2.2.5.2 permits Clearing Members to outsource their clearing activities, subject to remaining responsible for the performance of all such activities and complying with certain other conditions. Although current Article 2.2.5.2 imposes certain conditions on Clearing Members seeking to outsource, it does not apply any specific conditions to the entities providing the outsourcing. Accordingly, LCH SA proposes to allow Clearing Members to outsource their activities to only certain entities, as described in amended Article 2.2.5.2. These entities include other Clearing Members; legal entities controlled by, or controlling, Clearing Members; or any other third-party legal entity, subject to complying with the conditions in Articles 2.2.5.2 through 2.2.5.5.

Additionally, LCH SA proposes to amend Article 2.2.5.3 of the Rule Book to require LCH SA to give prior consent to the outsourcing of clearing operations, a change from the current rule requiring only that LCH SA give such consent when a Clearing Member outsources a ''material part'' of its clearing activities. Amendments to Article 2.2.5.3 state that LCH SA may deny authorization for outsourcing activities or withdraw its authorization in the event that conditions of, or a failure in, the outsourcing arrangement could result in the Clearing Member unable to comply with its obligations under the Rule Book. Currently, Article 2.2.5.3 does not specify that LCH SA may withdraw already-given consent, but instead only explains when LCH SA may refuse consent in the first place (where failure in such an arrangement could materially impair the ongoing financial soundness, or performance expectations, of the CDS Clearing Service). LCH SA further proposes to include within Article 2.2.5.3 that an authorization request by a Clearing Member must be sufficiently detailed as to the activities outsourced and the means of control and supervision which the clearing member would exercise. Where the outsourcing provider is not a Clearing Member itself, the Clearing Member outsourcing the activity must ensure that relevant risks are assessed, a written agreement is entered into, and a formalized policy for control over the outsourcing provider and an outsourcing register, are in place.

Other relevant changes to the Rule Book include the addition of two new articles, Articles 2.2.5.4 and 2.2.5.5. The former states that Clearing Members are liable for outsourced activities, including obligations to their own clients. The latter requires that Clearing Members and their outsourcing providers sign an agreement, through a template written by LCH SA, requiring the outsourcing provider to grant access of information related to outsourced activities to certain regulatory bodies, including the AMF, the Autorite de Controle Prudentiel et de Resolution (''ACPR''),[6] which is the financial supervisory authority of the Bank of France, and other recognized equivalent foreign authorities. Additionally, new Article 2.2.5.5 requires that, where the outsourcing provider is not itself a Clearing Member, the Clearing Member outsourcing the activity must ensure that the provider follows a set of requirements, such as having adequate capabilities to provide the outsourcing activities, protecting the confidentiality of information, and informing the Clearing Member of events that could materially impact the ability to perform the outsourcing activities.

Finally, LCH SA is making technical changes to Article 2.3.3.3 to conform to these amendments related to outsourcing.

B. LCH SA Contribution

LCH SA also proposes to amend the definition of the term ''LCH SA Contribution''. The LCH SA Contribution is an amount of money that LCH SA can use to offset Damage incurred by LCH SA resulting from a declaration of an Event of Default by a clearing member in certain circumstances. Under the current definition, the LCH SA Contribution is fixed at €20 million. LCH SA proposes that while it will still be at least €20 million, LCH SA will adjust the amount periodically in line with other regulatory regimes. These regulatory regimes include the European Market Infrastructure Regulation (''EMIR''),[7] which is European Union legislation designed to regulate certain derivative products, and a European Commission Delegated Regulation No 153/2013,[8] which deals with regulatory standards involving central counterparties.

Finally, LCH SA is making technical changes to Articles 4.3.3.1 and 4.4.3.6 to conform to these amendments to the definition of LCH SA Contribution.

C. Recovery and Resolution Related Amendments

LCH SA also is proposing amendments, including new definitions and new articles, to its Rule Book to implement certain provisions of Regulation (EU) 2021/23 of the European Parliament and of the Council of 16 December 2020 (''CCP Recovery and Resolution Regulation'').[9]

[4] In order to formalize the relationship between LCH SA and its clearing members, LCH SA adopted the Rule Book. *See* LCH SA's website for the latest version of the LCH SA CDS Clearing Rule Book. *https://www.lseg.com/en/post-trade/clearing/clearing-resources/rulebooks/lch-sa#t-over-the-counter-credit-default-swaps.* Capitalized terms not otherwise defined herein have the meanings assigned to them in Rule Book.

[5] Notice, 91 FR at 14732. The *Autorité des Marchés Financiers,* or AMF, regulates the French financial market and is the securities commission of France. *See https://www.amf-france.org/en.*

[6] The Autorite de Controle Prudential et de Resolution, or ACPR, exercises oversight over the French banking and insurance sectors. *See https://acpr.banque-france.fr/en.*

[7] The European Market Infrastructure Regulation, or EMIR, lays down rules on over the counter derivatives, central counterparties and trade repositories. *See https://finance.ec.europa.eu/financial-markets/financial-markets-policy/post-trade-services/derivatives-emir_en.*

[8] *See https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0153-20240307&qid=1763483974839.*

[9] Notice, 91 FR at 14372. The EU CCP Recovery and Resolution Regulation creates a framework for managing central counterparty failures. *See https://*

Beginning with definitions, LCH SA is adding the new defined term ''Non Default Event'' to refer to scenarios where LCH SA incurs losses for events other than an Event of Default, including business, custody, investment, legal, operational, and fraud. LCH SA is also adding a new defined term for ''Resolution Authority'' and specifying that the relevant ''Resolution Authority'' is the ACPR. LCH SA also proposes to add a defined term ''Resolution Measure'', which means certain resolution tools or resolution powers decided or exercised by the Resolution Authority.

LCH SA also proposes adding new articles to the Rule Book related to the CCP Recovery and Resolution Regulation. LCH SA proposes including these new articles in a new Chapter 4 to Title I of the Rule Book.

Article 1.4.1.1 requires that LCH SA establish and maintain a recovery plan pursuant to the CCP Recovery and Resolution Regulation. Article 1.4.1.1 also requires that LCH SA receive approval from its Board of Directors when it proposes to take, or proposes to refrain from taking, certain measures provided for in its recovery plan.

Article 1.4.2.1 sets the conditions in which Non-Defaulting Clearing Members can be required by the Resolution Authority to contribute additional cash funds to LCH SA. Overall, the amount that the Resolution Authority can require Non-Default Clearing Members to contribute is limited to up to twice the amount equivalent to their Contribution.[10] The actual amount of the contribution will depend on whether the contribution is being applied to address an Event of Default or a Non-Default Event. As LCH SA has stated, the CCP Recovery and Resolution Regulation allows for cash to be raised provisionally until a definitive valuation is determined, with new Article 1.4.2.1 providing for the return of excess funds, as appropriate, once a definitive valuation is made.[11] Article 1.4.2.1 also allows the Resolution Authority to require LCH SA to declare an Event of Default with respect to a Non-Defaulting Clearing Member that does not pay the required contribution in cash. In that case, LCH SA may use that Clearing Member's Initial Margin and Default Fund Contribution to make up the deficit.

Article 1.4.2.2 sets the conditions wherein the Resolution Authority, in accordance with the CCP Recovery and Resolution Regulation, can reduce the amounts LCH SA is obligated to pay Non-Defaulting Clearing Members. This authority only applies to amounts that arise from gains due to Variation Margin, net present value payments, or a payment that has a similar economic effect. LCH SA refers to this as the ''VM Haircut Tool.'' [12] Article 1.4.2.2 sets governance surrounding the use of the VM Haircut Tool, include how amounts are calculated and communicated to Non-Defaulting Clearing Members. The article also obligates Non-Defaulting Clearing Members to notify their own clients regarding the application of the tool and how it may affect them. Like the additional cash contribution described above, the Resolution Authority may base a reduction in payment obligations on a provisional valuation and require LCH SA to reimburse Non-Defaulting Clearing Members, as appropriate, once a definitive valuation is made.

Articles 1.4.2.3 through 1.4.2.5 allow the Resolution Authority to alter rights belonging to parties who contract with LCH SA under certain circumstances. Article 1.4.2.3 allows the Resolution Authority to suspend any payment or delivery obligations of LCH SA if it is placed under resolution, for a certain period as provided for in Article 72 of the CCP Recovery and Resolution Regulation, with payments that would have been due during the suspension period becoming immediately payable upon expiry of the suspension period. Article 1.4.2.4 allows the Resolution Authority to suspend the termination rights of any party to a contract with LCH SA under the same circumstances, although payment, delivery, and collateral obligations would still be in effect. Article 1.4.2.5 allows the Resolution Authority to reduce or eliminate LCH SA debt in certain circumstances, if it were placed under resolution.

Finally, LCH SA is also proposing to add Articles 1.4.2.6 and 1.4.2.7. Article 1.4.2.6 lists tools the Resolution Authority could empower LCH SA to use under the CCP Recovery and Resolution Regulation, such as position and loss allocation, write down mechanisms, or sale of business. Prior to using any of these tools, the Resolution Authority is required to enforce any existing and outstanding rights of LCH SA, including any contractual obligations by Non-Defaulting Clearing Members to meet recovery cash calls, to provide additional resources to LCH SA, or to take on positions of Defaulting Clearing Members. New Article 1.4.2.7 states that Clearing Members agree to be bound by the use of tools undertaken by the Resolution Authority under certain circumstances outlined in the CCP Recovery and Resolution Regulation without such actions constituting an LCH SA default so long as substantive obligations by LCH SA continue to be performed.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act requires the Commission to approve a proposed rule change of a self-regulatory organization if it finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the organization.[13] Under the Commission's Rules of Practice, the ''burden to demonstrate that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder . . . is on the self-regulatory organization ['SRO'] that proposed the rule change.'' [14]

The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,[15] and any failure of an SRO to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Exchange Act and the applicable rules and regulations.[16] Moreover, ''unquestioning reliance'' on an SRO's representations in a proposed rule change is not sufficient to justify Commission approval of a proposed rule change.[17]

After carefully considering the proposed rule change, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to LCH SA. More specifically, for the reasons given below, the Commission finds that the proposed rule change is consistent with Section

finance.ec.europa.eu/regulation-and-supervision/financial-services-legislation/implementing-and-delegated-acts/ccp-recovery-and-resolution-regulation_en. See also the latest consolidated version at: *https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R0023*.

[10] Contribution is a defined term the Rule Book and generally means the amount calculated by LCH SA and payable by each Clearing Member to LCH SA to fund the CDS Default Fund.

[11] Notice, 91 FR at 14733.

[12] Notice, 91 FR at 14733.

[13] 15 U.S.C. 78s(b)(2)(C).

[14] Rule 700(b)(3), Commission Rules of Practice, 17 CFR 201.700(b)(3).

[15] *Id.*

[16] *Id.*

[17] *Susquehanna Int'l Group, LLP* v. *Securities and Exchange Commission,* 866 F.3d 442, 447 (D.C. Cir. 2017).

17A(b)(3)(F) of the Act,[18] and Rules 17Ad–22(e)(1), 17Ad–22(e)(3)(ii), and 17Ad–22(e)(17)(i) thereunder, as described in detail below.[19]

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of LCH SA be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, as well as to assure the safeguarding of securities and funds which are in the custody or control of LCH SA or for which it is responsible.[20]

As discussed above, rules governing LCH SA's relationship to outsourcing providers, and specifically the requirements imposed on these providers and the oversight by LCH SA on their compliance help maintain the resiliency of LCH SA operations and thereby contribute to the prompt and accurate clearance and settlement of securities transactions. For example, amendments to the Rule Book require that LCH SA must give consent to outsourcing of activities, allow LCH SA to withdraw such consent, and require outsourcing activities to be detailed, including with information regarding the control and supervision exercised on outsourcing providers by Clearing Members. These requirements give both LCH SA and its Clearing Members greater control, and thereby make them accountable, over outsourcing activities that can create risk to clearing operations. Additional risk controls mandated by LCH SA's amendments make Clearing Members liable for outsourced activities, and require that outsourcing providers provide relevant records to certain regulatory bodies, both of which would foster greater oversight of outsourcing activities.

Outsourcing arrangements, if not properly managed, could disrupt LCH SA's clearing services. For example, an outsourcing provider that lacks sufficient operational controls or capacity may be unable to perform as expected, therefore disrupting a Clearing Member's submission of transactions to LCH SA and LCH SA's clearance and settlement of those transactions. In helping to improve the oversight of outsourced activities, the amendments described above help LCH SA to manage and mitigate these risks, consistent with the prompt and accurate clearance and settlement of securities transactions. Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act.[21]

B. Consistency With Rule 17ad–22(e)(1)

Exchange Act Rule 17ad–22(e)(1) requires, among other things, that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for a well-founded, clear, transparent, and enforceable legal basis for each aspect of its activities in all relevant jurisdictions.[22]

Amendments proposed by LCH SA are designed, in part, to comply with regulatory obligations and oversight in its home jurisdiction, as it falls under both French, and more broadly, European Union authority. For example, new Article 2.2.5.5 would require that outsourcing providers grant access of information to the ACPR and the AMF, as well as other recognized foreign authorities. Similarly, proposed new Articles 1.4.1.1 and 1.4.2.1 through 1.4.2.7 have been designed to accommodate the requirements of the CCP Recovery and Resolution Regulation and the Resolution Authority to which LCH SA must answer. The Resolution Authority, as outlined by LCH SA, must adhere to the CCP Recovery and Resolution Regulation. Additionally, LCH SA has proposed amending the LCH SA Contribution in order to conform to EMIR standards, as well as to the European Commission Delegated Regulation. In so drafting its amendments, LCH SA has ensured that it has a well-founded, clear, transparent, and enforceable legal basis for its operations in its home jurisdiction.

Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of Exchange Act Rule 17ad–22(e)(1).[23]

C. Consistency With Rule 17ad–22(e)(3)(ii)

Exchange Act Rule 17ad–22(e)(3)(ii) requires, among other things, that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the LCH SA, which includes plans for the recovery and orderly wind-down of the covered clearing agency necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses.[24]

LCH SA's proposed Article 1.4.1.1 requires that LCH SA establish and maintain a recovery plan pursuant to the CCP Recovery and Resolution Regulation. Articles 1.4.2.1 through 1.4.2.7 contemplate strenuous financial conditions and losses affecting LCH SA which require the Resolution Authority to relieve LCH SA of certain financial obligations and limit the rights of parties to whom LCH SA has obligations. For example, the VM Haircut Tool would reduce the amounts LCH SA is obligated to pay Clearing Members from events including market gains and net present value changes. Article 1.4.2.3 specifically would allow the Resolution Authority to broadly suspend all payments and delivery of obligations of LCH SA under a resolution. These provisions are designed to grant LCH SA an opportunity to recover from adverse financial affects, such as credit losses, liquidity shortfalls, and other losses. More specifically, they preserve LCH SA's liquidity during extreme and plausible stress scenarios, and prevent the depletion of assets, which promotes LCH SA's operational capacity and thereby allows for continuing clearing and settlement services, fulfillment of obligations, and, ultimately, its viability as a clearing firm.

Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of Exchange Act Rule 17ad–22(e)(3)(ii).[25]

D. Consistency With Rule 17ad–22(e)(17)(i)

Exchange Act Rule 17ad–22(e)(17)(i) requires, among other things, that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to manage its operational risks by identifying the plausible sources of operational risk, both internal and external, and mitigating their impact through the use of appropriate systems, policies, procedures, and controls.[26]

LCH SA has identified risks posed by outsourcing providers to its operations and established written rules, through article amendments to its Rule Book. Outsourcing arrangements present operational risk because an outsourcing

[18] 15 U.S.C. 78q–1(b)(3)(F).

[19] 17 CFR 240.17ad–22(e)(1), (e)(3)(ii), and (e)(17)(i).

[20] 15 U.S.C. 78q–1(b)(3)(F).

[21] *Id.*

[22] 17 CFR 240.17Ad–22(e)(1).

[23] *Id.*

[24] 17 CFR 240.17Ad–22(e)(3)(ii).

[25] *Id.*

[26] 17 CFR 240.17Ad–22(e)(17)(i).

provider's failure could disrupt the systems of a Clearing Member, and, consequently, the Clearing Member's ability to perform tasks relevant to the clearing relationship with LCH SA. This would impair LCH SA's ability to perform clearing and settlement operations in a timely and accurate manner. By creating a system where LCH SA must obtain details on outsourced operations, grant or withhold approval, withdraw previously agreed approval, and hold Clearing Members liable for activities they outsource, LCH SA has created an oversight system where it retains a degree of control and oversight of activities that have been outsourced. In this way, it is able to assess provider resiliency as well as enforce necessary standards, which ultimately mitigates operational risk to LCH SA in providing accurate and timely clearing and settlement services.

Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of Exchange Act Rule 17ad–22(e)(17)(i).[27]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A(b)(3)(F) of the Act,[28] and Rules 17Ad–22(e)(1),[29] 17Ad–22(e)(3)(ii),[30] and 17Ad–22(e)(17)(i)[31] thereunder.

It is therefore ordered pursuant to Section 19(b)(2) of the Act[32] that the proposed rule change (SR–LCH SA–2026–002) be, and hereby is, approved.[33]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2026–09128 Filed 5–7–26; 8:45 am]

BILLING CODE 8011–01–P

[27] *Id.*

[28] 15 U.S.C. 78q–1(b)(3)(F).

[29] 17 CFR 240.17Ad–22(e)(1).

[30] 17 CFR 240.17Ad–22(e)(3)(ii).

[31] 17 CFR 240.17Ad–22(e)(17)(i).

[32] 15 U.S.C. 78s(b)(2).

[33] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[34] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0465]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Rule 104

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C.§ 3501 *et seq.*), the Securities and Exchange Commission (SEC or ''Commission'') is submitting to the Office of Management and Budget (OMB) this request for an extension of the proposed collection of information in Rule 104 of Regulation M (17 CFR 242.104), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 104—Stabilizing and Other Activities in Connection with an Offering—permits stabilizing by a distribution participant during a distribution so long as the distribution participant discloses information to the market and investors. This rule requires disclosure in offering materials of the potential stabilizing transactions and that the distribution participant inform the market when a stabilizing bid is made. It also requires the distribution participants (*i.e.,* the syndicate manager) to maintain information regarding syndicate covering transactions and penalty bids and disclose such information to the Self-Regulatory Organization (SRO).

There are approximately 634 respondents per year that require an aggregate total of approximately 127 hours per year to comply with this rule. Each respondent makes an estimated 1 annual response. Each response takes approximately 0.20 hours (12 minutes) to complete. Thus, the total hour burden per year is approximately 127 hours. The total estimated internal labor cost of compliance for the respondents is approximately $20,828 per year, resulting in an estimated internal cost of compliance for each respondent per response of approximately $32.85 (*i.e.,* $20,828/634 respondents).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

The public may view and comment on this information collection request at: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202602-3235-006* or email comment to *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov* within 30 days of the day after publication of this notice, by June 8, 2026.

Dated: May 5, 2026.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2026–09121 Filed 5–7–26; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2026–0496; Notice 1]

Kawasaki Motors Corp., U.S.A., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Kawasaki Motors Corp., U.S.A. (Kawasaki) has determined that certain model year (MY) 1979–1981 and MY 2017–2025 Kawasaki motorcycles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 122, *Motorcycle Brake Systems.* Kawasaki filed a noncompliance report dated November 4, 2025, and subsequently petitioned NHTSA (the ''Agency'') on November 5, 2025, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of Kawasaki's petition.

DATES: Send comments on or before June 8, 2026.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.

• *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.

• Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Joshua Ulbricht, General Engineer, NHTSA, Office of Vehicle Safety Compliance, *joshua.ulbricht@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Overview: Kawasaki determined that certain MY 1979–1981 Kawasaki Police 1000, MY 1980 Kawasaki KZ750, MY 1980 Kawasaki 1000 Shaft Drive, MY 1980 Kawasaki 1000 LTD, MY Kawasaki Z1 Classic, MY 1980 Kawasaki KZ1000, MY 1980 Kawasaki Z1R, MY 2024–2026 Kawasaki Ninja ZX–6R, MY 2017–2025 Kawasaki Z125 Pro, MY 2022–2025 Kawasaki KLR 650 do not fully comply with paragraph S.5.1.9(d) of FMVSS No. 122, *Motorcycle Brake Systems* (49 CFR 571.122).

Kawasaki filed a noncompliance report dated November 4, 2025, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Kawasaki petitioned NHTSA on November 5, 2026, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of Kawasaki's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or another exercise of judgment concerning the merits of the petition.

II. Motorcycles Involved: Approximately 125,585 of the following Kawasaki motorcycles manufactured between January 2, 1979, and July 28, 2025, were reported by the manufacturer:

- MY 1979–1981 Kawasaki Police 1000
- MY 1980 Kawasaki KZ750
- MY 1980 Kawasaki 1000 Shaft Drive,
- MY 1980 Kawasaki 1000 LTD
- MY 1980 Kawasaki Z1 Classic
- MY 1980 Kawasaki KZ1000
- MY 1980 Kawasaki Z1R
- MY 2024–2026 Kawasaki Ninja ZX–6R
- MY 2017–2025 Kawasaki Z125 Pro
- MY 2022–2025 Kawasaki KLR 650

III. Rule Requirements: Paragraph S5.1.9(d) of FMVSS No. 122 includes the requirements relevant to this petition. The rule requires that motorcycles using hydraulic braking systems must have a statement on the master cylinder which reads:

> ''Warning: Clean filler cap before removing. Use only *(fluid type as specified in accordance with 49 CFR 571.116)* fluid from a sealed container.''

The required statement must be permanent, easily visible, or within 4 inches of the brake-fluid filler plug or cap, and of a contrasting color with its background if not engraved or embossed.

IV. Noncompliance: Kawasaki explains that certain Kawasaki motorcycles equipped with a front and rear master brake cylinder do not comply with paragraph S5.1.9(d) of FMVSS 122. It was discovered that the wording engraved on some rear brake fluid reservoir caps did not match the statement required by the FMVSS as it omitted the words ''Warning:'' and ''. . . from a sealed container'' and the phrase ''[c]lean filler cap before removing.''

V. Summary of Kawasaki's Petition: The following views and arguments presented in this section, ''V. Summary of Kawasaki's Petition,'' are the views and arguments provided by Kawasaki. They have not been evaluated by the Agency and do not reflect the views of the Agency. Kawasaki describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

Kawasaki provides background information on the noncompliant motorcycles. The subject motorcycles have a front and rear hydraulic brake master cylinder, each with its own brake fluid cap used to refill the brake fluid. While the front fluid cap was found to be fully compliant in all cases, some of the rear caps on the motorcycles were found to be missing part of the text required by paragraph S5.1.9(d) FMVSS 122. While the rear caps met all other relevant requirements, they did not include the word ''Warning'' or the phrase ''[c]lean filler cap before removing''; as well, they did not include the complete sentence ''[u]se only (fluid type) fluid from a sealed container.''

Kawasaki states that they will correct the filler caps on all remaining motorcycles being produced for MY 2026 and for all following model years, but they do not consider noncompliant filler caps from previous model years an increased safety risk. Kawasaki suggests that having the compliant text on the front filler cap, as well recommending that the users regularly monitor the fluid level and have the fluid changed by a qualified technician should reduce any risk to safety that this noncompliance may have produced.

Kawasaki provides a description of the noncompliance alongside pictures of the noncompliant fuel caps and portion of the relevant FMVSS text. Kawasaki states that while some rear fluid caps display most, but not all text required by the FMVSS, all front caps have the full required text. As well, says Kawasaki, both sets of caps have the information and the necessary DOT brake fluid type engraved at a letter size that meets FMVSS requirements in the direct view of the user.

Kawasaki states that the required information is easily available to users through other sources. As the front filler cap has the required engraved statement that the user should clean the filler cap before removing and use brake fluid only from a sealed container, Kawasaki believes that it is ''illogical'' for the operator to conclude that these steps are

only needed when replacing brake fluid in the front brake cylinder and not the rear cylinder as well.

Kawasaki also states that they advise users to have the brake fluid in their motorcycle changed by a qualified technician every two years. Kawasaki presumes that a trained technician would know to follow the established protocol of cleaning the cap and using the correct fluid from a sealed container regardless of the missing language on the cap. Kawasaki notes that, while most of the noncompliant motorcycles were produced in the last few years, about a third of the noncompliant motorcycles were produced several decades ago and are unlikely to still be in service.

Kawasaki believes that certain features of the subject motorcycles reduce opportunities for users to inadvertently contaminate the brake system. Kawasaki recommends that users check the motorcycle's vehicle brake fluid level daily and have their brake fluid changed by a qualified technician; because motorcycle's brake fluid level can be checked through a clear reservoir container without the need to open the filler cap, the users would not need to regularly, if ever, open the fuel cap themselves. Additionally, Kawasaki claims that because the filler cap is held to the master cylinder by a set of screws, removing the filler cap would require intentional action on the part of the user and be unlikely to occur accidentally.

Kawasaki provides an example of an inconsequential noncompliance granted by NHTSA that they believe serves as precedent for granting their petition. NHTSA granted a petition from Jaguar Land Rover in 2019 [1] for vehicles that used a removable brake fluid warning label over the neck of the brake fluid reservoir instead of the permanently affixed label required by the FMVSS. Kawasaki states that NHTSA granted the petition because the chance of the label detaching from the filler neck was ''highly improbable,'' the same information was available in other locations and sources, and ''most important[ly]'' a marking on the brake fluid cap indicating the required brake fluid type.

Kawasaki also provides an example of a petition [2] that was denied by NHTSA in 2023 and makes the case that their petition is substantively different from this petition. The denied petition in question was for vehicles that omitted the required statement entirely as well as the indication of the brake fluid type on the filler cap. Kawasaki states that their petition is different because the subject motorcycles have all the required statement on the front cap, most of the required statement on the rear cap, and indicate the proper brake fluid type on both caps.

Kawasaki concludes by stating its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety and its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject motorcycles that Kawasaki no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant motorcycles under their control after Kawasaki notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2026–09151 Filed 5–7–26; 8:45 am]

BILLING CODE 4910–59–P

[1] 84 FR. 13095, April 3, 2019.

[2] 88 FR. 57169, August 22, 2023.

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

[Docket ID Number DOT–OST–2014–0031]

Agency Information Collection: Activity Under OMB Review; Report of Traffic and Capacity Statistics—The T–100 System

AGENCY: Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, Public Law 104–13, the Bureau of Transportation Statistics invites the general public, industry and other governmental parties to comment on the continuing need for and usefulness of DOT requiring U.S. and foreign air carriers to file traffic and capacity data pursuant to 14 CFR 241.19 and Part 217, respectively. These reports are used to measure air transportation activity to, from, and within the United States.

DATES: Written comments should be submitted by June 8, 2026.

Comments: Comments should identify the associated OMB approval #2138–0040 and Docket ID Number DOT–OST–2014–0031. Persons wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on OMB #2138–0040, Docket—DOT–OST–2014–0031. The postcard will be date/time stamped and returned.

ADDRESSES: You may submit comments identified by DOT Docket ID Number DOT–OST–2014–0031 by any of the following methods:

Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Mail: Docket Services: U.S. Department of Transportation, 1200 New Jersey Avenue 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 Avenue SE, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

Fax: 202–366–3383.

Instructions: Identify docket number, DOT–OST–2014–0031, at the beginning of your comments, and send two copies. To receive confirmation that DOT received your comments, include a self-addressed stamped postcard. Internet users may access all comments received by DOT at *http://www.regulations.gov.* All comments are posted electronically without charge or edits, including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* or the street

address listed above. Follow the online instructions for accessing the dockets.

Electronic Access

You may access comments received for this notice at *http://www.regulations.gov,* by searching docket DOT–OST–2014–0031.

FOR FURTHER INFORMATION CONTACT: Jennifer Rodes, Office of Airline Information, RTS–42, Room E34–420, OST–R, BTS, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, Telephone Number (202) 366–8513, Fax Number (202) 366–3383 or Email *jennifer.rodes@dot.gov.*

SUPPLEMENTARY INFORMATION:

OMB Approval No. 2138–0040.

Title: Report of Traffic and Capacity Statistics—The T–100 System.

Form No.: Schedules T–100 and T–100(f).

Type of Review: Extension of a currently approved collection.

Respondents: Certificated, commuter and foreign air carriers that operate to, from or within the United States.

T100 Form

Number of Respondents: 125.
Number of Annual Responses: 1,500.
Total Burden per Response: 6 hours.
Total Annual Burden: 9,000 hours.

T100F Form

Number of Respondents: 233.
Number of Annual Responses: 2,796.
Total Burden per Response: 2 hours.
Total Annual Burden: 5,592 hours.
Needs and Uses:

Airport Improvement

The Federal Aviation Administration uses enplanement data for U.S. airports to distribute the annual Airport Improvement Program (AIP) entitlement funds to eligible primary airports, *i.e.,* airports which account for more than 0.01 percent of the total passengers enplaned at U.S. airports. Enplanement data contained in Schedule T–100/T–100(f) are the sole data base used by the FAA in determining airport funding. U.S. airports receiving significant service from foreign air carriers operating small aircraft could be receiving less than their fair share of AIP entitlement funds. Collecting Schedule T–100(f) data for small aircraft operations will enable the FAA to distribute these funds more fairly.

Air Carrier Safety

The FAA uses traffic, operational and capacity data as important safety indicators and to prepare the air carrier traffic and operation forecasts that are used in developing its budget and staffing plans, facility and equipment funding levels, and environmental impact and policy studies. The FAA monitors changes in the number of air carrier operations as a way to allocate inspection resources and in making decisions as to increased safety surveillance. Similarly, airport activity statistics are used by the FAA to develop airport profiles and establish priorities for airport inspections.

Acquisitions and Mergers

While the Justice Department has the primary responsibility over air carrier acquisitions and mergers, the Department reviews the transfer of international routes involved to determine if they would substantially reduce competition, or determine if the transaction would be inconsistent with the public interest. In making these determinations, the proposed transaction's effect on competition in the markets served by the affected air carriers is analyzed. This analysis includes, among other things, a consideration of the volume of traffic and available capacity, the flight segments and origins-destinations involved, and the existence of entry barriers, such as limited airport slots or gate capacity. Also included is a review of the volume of traffic handled by each air carrier at specific airports and in specific markets which would be affected by the proposed acquisition or merger. The Justice Department uses T–100 data in carrying out its responsibilities relating to airline competition and consolidation.

Traffic Forecasting

The FAA uses traffic, operational and capacity data as important safety indicators and to prepare the air carrier traffic and operation forecasts. These forecasts are used by the FAA, airport managers, the airlines and others in the air travel industry as planning and budgeting tools.

Airport Capacity Analysis

The mix of aircraft types are used in determining the practical annual capacity (PANCAP) at airports as prescribed in the FAA Advisory Circular *Airport Capacity Criteria Used in Preparing the National Airport Plan.* The PANCAP is a safety-related measure of the annual airport capacity or level of operations. It is a predictive measure which indicates potential capacity problems, delays, and possible airport expansions or runway construction needs. If the level of operations at an airport exceeds PANCAP significantly, the frequency and length of delays will increase, with a potential concurrent risk of accidents. Under this program, the FAA develops ways of increasing airport capacity at congested airports.

Airline Industry Status Evaluations

The Department apprizes Congress, the Administration and others of the effect major changes or innovations are having on the air transportation industry. For this purpose, summary traffic and capacity data as well as the detailed segment and market data are essential. These data must be timely and inclusive to be relevant for analyzing emerging issues and must be based upon uniform and reliable data submissions that are consistent with the Department's regulatory requirements.

Mail Rates

The Department is responsible for establishing international and intra-Alaska mail rates. International mail rates are set based on scheduled operations in four geographic areas: Trans-border, Latin America, operations over the Atlantic Ocean and operations over the Pacific Ocean. Separate rates are set for mainline and bush Alaskan operations. The rates are updated every six months to reflect changes in unit costs in each rate-making entity. Traffic and capacity data are used in conjunction with cost data to develop the required unit cost data.

Essential Air Service

The Department reassesses service levels at small domestic communities to assure that capacity levels are adequate to accommodate current demand.

System Planning at Airports

The FAA is charged with administering a series of grants that are designed to accomplish the necessary airport planning for future development and growth. These grants are made to state metropolitan and regional aviation authorities to fund needed airport systems planning work. Individual airport activity statistics, nonstop market data, and service segment data are used to prepare airport activity level forecasts.

Review of IATA Agreements

The Department reviews all of the International Air Transport Association (IATA) agreements that relate to fares, rates, and rules for international air transportation to ensure that the agreements meet the public interest criteria. Current and historic summary traffic and capacity data, such as revenue ton-miles and available ton-miles, by aircraft type, type of service, and length of haul are needed to conduct these analyses: to (1) develop the volume elements for passenger/

cargo cost allocations, (2) evaluate fluctuations in volume of scheduled and charter services, (3) assess the competitive impact of different operations such as charter versus scheduled, (4) calculate load factors by aircraft type, and (5) monitor traffic in specific markets.

Foreign Air Carriers Applications

Foreign air carriers are required to submit applications for authority to operate to the United States. In reviewing these applications, the Department must find that the requested authority is encompassed in a bilateral agreement, other intergovernmental understanding, or that granting the application is in the public interest. In the latter cases, T–100 data are used in assessing the level of benefits that carriers of the applicant's homeland presently are receiving from their U.S. operations. These benefits are compared and balanced against the benefits U.S. carriers receive from their operations to the applicant's homeland.

Air Carrier Fitness

The Department determines whether U.S. air carriers are and continue to be fit, willing and able to conduct air service operations without undue risk to passengers and shippers.

The Department monitors a carrier's load factor, operational, and enplanement data to compare with other carriers with similar operating characteristics. Carriers that expand operations at a high rate are monitored more closely for safety reasons.

International Civil Aviation Organization

Pursuant to an international agreement, the United States is obligated to report certain air carrier data to the International Civil Aviation Organization (ICAO). The traffic data supplied to ICAO are extracted from the U.S. air carriers' Schedule T–100 submissions.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

Issued on May 6, 2026.

Edward Strocko,

Acting Director, Bureau of Transportation Statistics, Bureau of Transportation Statistics, U.S. Department of Transportation, Washington, DC.

[FR Doc. 2026–09195 Filed 5–7–26; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Extension of a Currently Approved Information Collection: Application by Survivors for Payment of Bond or Check Issued Under the Armed Forces Leave Act of 1946, as Amended

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Application By Survivors for Payment of Bond or Check Issued Under the Armed Forces Leave Act of 1946, as amended.

DATES: Written comments should be received on or before July 7, 2026 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, T1–G, P.O. Box 1328, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application By Survivors for Payment of Bond or Check Issued Under the Armed Forces Leave Act of 1946, as amended.

OMB Number: 1530–0038.

Form Number: FS Form 2066.

Abstract: The information is requested to support payment of an Armed Forces Leave Bond or check issued under Section 6 of the Armed Forces Leave Act of 1946, as amended, where the owner died without assigning the bond to the Administrator of Veterans Affairs prior to payment, or without presenting the check for payment.

Current Actions: Revision of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 100.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 50.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: 1. 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; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. 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 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 6, 2026.

Bruce A. Sharp,

Bureau PRA Clearance Officer.

[FR Doc. 2026–09185 Filed 5–7–26; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Extension of a Currently Approved Information Collection: Request To Reissue U.S. Savings Bonds To a Personal Trust

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Request to Reissue U.S. Savings Bonds to a Personal Trust.

DATES: Written comments should be received on or before July 7, 2026 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, T1–G, P.O. Box 1328, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Request to Reissue U.S. Savings Bonds to a Personal Trust.

OMB Number: 1530–0036.

Form Number: FS Form 1851.

Abstract: The information is necessary to support a request for reissue of savings bonds in the name of the trustee of a personal trust estate.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 10,600.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 2,650.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: 1. 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; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. 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 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 6, 2026.

Bruce A. Sharp,

Bureau PRA Clearance Officer.

[FR Doc. 2026–09184 Filed 5–7–26; 8:45 am]

BILLING CODE 4810–AS–P

FEDERAL REGISTER

Vol. 91 Friday,

No. 89 May 8, 2026

Part II

Department of Justice

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Part 478

Revising Firearms Transaction Record, ''Form 4473'': Proposed Rule; Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection; Firearms Transaction Record—ATF Form 5300.9 and 5300.9A (''Form 4473''); Notice

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Part 478

[Docket No. ATF–2026–0001; ATF 2025R–01P]

RIN 1140–AA82

Revising Firearms Transaction Record, ''Form 4473''

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms, and Explosives (''ATF'') is proposing to amend Department of Justice (''Department'') regulations governing ATF Form 5300.9, Firearms Transaction Record, (''Form 4473''). Specifically, ATF proposes streamlining identity and residence verification requirements and documents; doubling the performance timeframe for transactions under Form 4473 following a National Instant Criminal Background Check System (''NICS'') check; permitting electronic forms and notice, auto-populating, and attached copies; addressing private party transfers and firearms handler checks; incorporating ATF rulings and other guidance; further aligning regulations with statutory text; and making minor technical revisions.

DATES: Comments must be submitted in writing, and must be submitted on or before (or, if mailed, must be postmarked on or before) August 6, 2026. Commenters should be aware that the federal e-rulemaking portal comment system will not accept comments after midnight Eastern Time on the last day of the comment period.

ADDRESSES: You may submit comments, identified by RIN 1140–AA82, by either of the following methods—

- *Federal e-rulemaking portal: https://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* ATF Rulemaking Comments; Mail Stop 6N–518, Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave. NE, Washington, DC 20226; *ATTN: RIN 1140–AA82*.

Instructions: All submissions must include the agency name and number (RIN 1140–AA82) for this notice of proposed rulemaking (''NPRM'' or ''proposed rule''). ATF may post all properly completed comments received from either of the methods described above, without change, to the federal e-rulemaking portal, *https://www.regulations.gov*. This includes any personally identifying information (''PII'') or business proprietary information (''PROPIN'') submitted in the body of the comment or as part of a related attachment they want posted. Commenters who submit through the federal e-rulemaking portal and do not want any of their PII posted on the internet should omit it from the body of their comment and any uploaded attachments that they want posted. If online commenters wish to submit PII with their comment, they should place it in a separate attachment and mark it at the top with the marking ''CUI//PRVCY.'' Commenters who submit through mail should likewise omit their PII or PROPIN from the body of the comment and provide any such information on the cover sheet only, marking it at the top as ''CUI//PRVCY'' for PII, or as ''CUI//PROPIN'' for PROPIN. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at *https://www.regulations.gov*. Commenters must submit comments by using one of the methods described above, not by emailing the address set forth in the following paragraph.

FOR FURTHER INFORMATION CONTACT: Office of Regulatory Affairs, by email at *ORA@atf.gov,* by mail at Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave. NE, Washington, DC 20226, or by telephone at 202–648–7070 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Attorney General is responsible for enforcing the Gun Control Act of 1968 (''GCA''), as amended. This responsibility includes the authority to promulgate regulations necessary to enforce the provisions of the GCA.[1] *See* 18 U.S.C. 926(a). Congress and the Attorney General have delegated the responsibility for administering and enforcing the GCA to the Director of ATF (''Director''), subject to the direction of the Attorney General and the Deputy Attorney General. *See* 28 U.S.C. 599A(b)(1), (c)(1); 28 CFR 0.130(a)(1)–(2); Treas. Order No. 221(2)(a), (d), 37 FR 11696–97 (June 10, 1972).[2] Accordingly, ATF has promulgated regulations to implement the GCA in 27 CFR part 478.

The GCA prohibits certain persons from shipping, transporting, receiving, or possessing firearms. All persons, including federal firearms licensees (''FFLs'' or ''licensees''), are prohibited from transferring firearms to persons prohibited under the law from possessing firearms. FFLs, as well as non-licensed sellers, are also subject to other restrictions regarding disposing of a firearm to an unlicensed person under the GCA. For example, a person may be prohibited from receiving a firearm based upon the person's age or residence state.

Prior to transferring a firearm, FFLs must determine if non-licensed transferees/buyers may lawfully receive the firearm. *See* 18 U.S.C. 922(b)–(d); 27 CFR 478.99. In addition, FFLs are generally required to conduct background checks—through the Federal Bureau of Investigation's (''FBI's'') National Instant Criminal Background Check System (''NICS'')—on prospective firearm recipients to prevent prohibited persons from receiving firearms and to maintain transaction records for crime-gun tracing purposes. *See* 18 U.S.C. 922(t), 923(g)(1)(A). FFLs may do the background check directly through NICS or through a state point of contact (''POC''), depending on the requirements of the state in which the FFL has its business premises.

Within ATF's implementing regulations, § 478.124, Firearms transaction record, implements these statutory requirements for FFLs and establishes Form 4473 as the means by which to meet these requirements. Currently, licensees use Form 4473 for firearm transfers when the seller is licensed under 18 U.S.C. 923 and the transferee is an unlicensed person, or when the FFL is facilitating a private-party transfer between two unlicensed persons.

[1] Some GCA provisions still refer to the ''Secretary of the Treasury.'' However, the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, transferred the functions of ATF from the Department of the Treasury to the Department of Justice, under the general authority of the Attorney General. 26 U.S.C. 7801(a)(2); 28 U.S.C. 599A(c)(1). Thus, for ease of reference, this proposed rule refers to the Attorney General where relevant.

[2] In Attorney General Order Number 6353–2025, the Attorney General delegated authority to the Director to issue regulations pertaining to matters within ATF's jurisdiction, including under the GCA, National Firearms Act, and Title XI of the Organized Crime Control Act. ATF's jurisdiction also includes those portions of sec. 38 of the Arms Export Control Act pertaining to the permanent import of defense articles and defense services and the Contraband Cigarette Trafficking Act.

The information and certification requested on Form 4473 are designed so that the FFL may determine if it may lawfully sell or deliver a firearm to the non-licensed transferee listed on the form, and to alert the transferee of certain restrictions about receiving and possessing firearms. *See* 27 CFR 478.124. The form also serves FFLs as a way to ensure they have the information required for the NICS background check and as a record that they collected the necessary information and performed the requisite checks to comply with the law and implementing regulations. Currently, FFLs complete section A of Form 4473 by recording identifying information for the firearm(s) the transferee is acquiring. The transferee completes section B to determine if they are eligible to receive the firearm. If those answers indicate that the transferee is not prohibited from receiving a firearm, the FFL completes section C and contacts NICS or, if applicable, their POC [3] to determine if the firearm can be legally transferred to the transferee/buyer. ATF also uses the information on the form to conduct firearm traces when requested by law enforcement officers.

II. Proposed Rule

If this rule is finalized as proposed, it would supersede ATF Rulings 2001–5, 2016–2, 2022–1, Procedure 2020–1, and 2020–2.[4]

In conjunction with this proposed rule, ATF is also proposing significant revisions to Form 4473 itself (which would include the electronic version). The form is being revised through the normal Paperwork Reduction Act process, and it is being published concurrently with this rule in the **Federal Register** as an information collection under Office of Management and Budget (''OMB'') control number 1140–0020, with a 60-day public comment period. After the public comment period for the notice and Form 4473 ends, ATF will address the comments and publish the information collection for a second notice, open for 30 days of additional public comments to OMB. Thereafter, OMB will review the information collection renewal request and determine whether to approve the proposed changes.

In addition, in conjunction with this proposed rule, ATF would update references to approved information collection requests within the sections the would be revised by this rule.

A. State of Residence and County, Political Subdivision, or City Limits

1. Definition of ''Identification Document''

The GCA, throughout 18 U.S.C. 922, establishes certain requirements or limits certain activities on the basis of the state in which a person resides. For example, with certain exceptions, section 922(b)(3) makes it unlawful for an FFL to sell or deliver a firearm to a person who does not reside in (or, if a business entity, does not maintain a place of business in) the state in which the FFL's place of business is located. But one exception allows in-person sale of shotguns or rifles to a resident of another state if the sale does not violate the laws of either state. As a result, FFLs must determine in which state prospective transferees reside. Similarly, FFLs are required by section 922(b)(5) to record in their official firearms transaction records the buyer's place of residence (or equivalent information if the person is a business entity).

Therefore, ATF regulations at 27 CFR part 478 include requirements for FFLs to obtain information on the state in which a person resides. ATF's regulations at § 478.11 currently define an ''identification document,'' in part, as a document that contains the holder's name, residence address, birthdate, and photograph. The identification document under this definition thus provides a source by which an FFL may verify both the person's identity and place (including state) of residence. However, it is not necessary for the identification document itself to serve both purposes. Under the statute, the identification document must include a photograph and be government-issued to serve identity verification purposes. 18 U.S.C. 922(t)(1)(D). Other documents, however, can be used to verify a person's residence, and in certain circumstances might be more accurate. For example, a member of the Armed Forces, a student studying out of state, or a person with two residences may have multiple states of residence for purposes of the GCA. In these circumstances, ATF has held that a person's residence state is the place where the person is actually living when the firearms transaction occurs. *See* ATF Ruling 2001–5.[5] But such individuals are likely to have driver's licenses, voter registrations, and car registrations from the states in which they are domiciled rather than their second residence address where they are stationed or attending school.

The current requirements narrowly restrict acceptable documents for proving residence, but the included documents need to be updated to align with recent technological and identification developments. To prove residence when a person has multiple residences (or otherwise needs to prove residence), ATF has accepted a combination of documents, but only if those documents are government-issued. *Id.* Thus, ATF accepts a recreation identification card or a fishing or hunting license issued by the government, even though not all issuing authorities verify a person's residence before issuing the document. On the other hand, ATF does not accept leases, telephone bills, or statements from financial institutions, even though these documents often provide the best primary evidence of residence and are routinely the evidentiary basis upon which state governments list a person's address on the driver's license or state identification card. Currently, ATF does accept a utility bill, but only if the utility is run by a government agency.

As a result, ATF is proposing to amend the ''identification document'' requirements in § 478.11 to align with the statutory requirements for verifying identity, and to allow an individual to use an updated set of non-government-issued documents in § 478.124 as primary evidence of residence, such as leases and utility bills. The statute requires that a person provide ''a valid identification document'' for transactions subject to the NICS check provisions. 18 U.S.C. 922(t)(1)(D). An identification document is defined elsewhere as a document made or issued by or under the authority of ''the United States Government, a state,

[3] In states that are POC jurisdictions, when an FFL initiates a background check through the POC, the POC transmits the request for background check via the FBI's National Crime Information Center (''NCIC'') which interfaces with NICS, rather than the licensee contacting NICS directly. *See, e.g.,* 28 CFR 25.6(d).

[4] ATF Ruling 2001–5, *Identification of Transferee, https://www.atf.gov/firearms/docs/ruling/2001-5-identification-transferee/download* [*https://perma.cc/54LN-JSKB*]; ATF Ruling 2016–2, *Electronic ATF Form 4473, https://www.atf.gov/firearms/docs/ruling/2016-2-%E2%80%93-electronic-atf-form-4473/download* [*https://perma.cc/8JP3-2FN5*]; ATF Ruling 2022–1, *Electronic Storage of Forms 4473, https://www.atf.gov/firearms/docs/ruling/2022-01-electronic-storage-forms-4473pdf/download* [*https://perma.cc/7GXS-724Q*]; ATF Ruling, Procedure 2020–1, *Record-keeping Procedure for Non-Over-the-Counter Firearm Sales by Licensees to Unlicensed in-State Residents That Are NICS Exempt, https://www.atf.gov/rules-and-regulations/docs/ruling/atf-proc-2020-1-%E2%80%93-recordkeeping-procedure-non-over-counter-firearm/download* [*https://perma.cc/C2NR-7LA4*]; and ATF Ruling 2020–2, *Record-keeping and Background Check Procedure for Facilitation of Private Party Firearms Transfers, https://www.atf.gov/rules-and-regulations/docs/ruling/atf-proc-2020-2-%E2%80%93-recordkeeping-and-background-check-procedure/download* [*https://perma.cc/WE9M-AAZ8*].

[5] *See* footnote 4, *supra,* ATF Ruling 2001–5.

political subdivision of a State, a sponsoring entity of an event designated as a special event of national significance, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization'' that must be of a type intended or commonly accepted for the purpose of identifying individuals when it is completed with information on a particular individual. 18 U.S.C. 1028(d)(3). Notably, that definition does not require the identification document to have a person's residence address, and many common identification documents (*e.g.,* passports) lack that information. Consequently, ATF is proposing to remove the words ''residence address'' from this definition, as a residence address is not required by the statute. The definitions do require that the identification document include a photo, so ATF is also proposing to add the word ''photo'' to the definition's title to help clarify this point and make it easier for persons to recognize the difference between documents for identity and documents for residence. Individuals could use a photo identification document to establish both identity and residence if the document includes their residence address, but they would no longer be required to do so. This would expand photo identification options to include those—like passports—that do not include the holder's residence address. As discussed below, ATF will still require proof of residence when a photo identification document lacks a residence address. But contrary to prior practice, ATF will allow primary and best evidence to prove residence, including leases, utility bills, and financial institution statements.

Due to advancements in technology, some states have begun issuing digital forms of photo identification documents. As a result of these developments, and in response to requests from industry, ATF is also adding digital identification documents to this definition if they are issued by one of the listed government or quasi-government authorities and if the state in which the licensee's business premises is located allows such digital documents as a commonly accepted document for identification purposes. ATF is also proposing to change the term from ''identification document'' to ''photo identification document'' as described below in section II.D.4 of this preamble.

2. Definition of ''State of Residence''

Section 478.11 also defines ''state of residence'' as the state in which an individual resides. This definition clarifies that individuals reside in a state if they are present and intend to make a home there. The GCA requires only residence; a person may be a resident of a state for purposes of the GCA even if the person is not domiciled in the state. It further clarifies that, if individuals are members of the Armed Forces, their residence state is the state in which their permanent duty station is located, as stated in 18 U.S.C. 921(b). ATF has also stated that, if members of the Armed Forces maintain a home in one state and their permanent duty station is in a nearby state to which they commute each day, then the members have two states of residence and may, under federal law, purchase a firearm in either state. *See* ATF Licensee Quick Reference and Best Practices Guide, ATF Publication 5300.15, at p. 198 (2014). For example, if a military member is assigned to a base in North Carolina but lives in South Carolina, the member may purchase firearms in both states. However, this military-related information is not reflected in the regulatory definition.

ATF therefore proposes to amend the § 478.11 definition of ''state of residence.'' First, ATF proposes changing the term to ''residence state'' for plain writing purposes. Second, to avoid any confusion about applying the definition in military-related situations, ATF proposes to change, in the sentence about members of the Armed Forces, the phrase ''state of residence is'' to the phrase ''residence states include.'' Thus, for persons in the Armed Forces, their residence state would ''include the state in which their permanent duty station is located.'' The word ''is'' could mistakenly suggest that a military member's residence state is limited to only that state. Substituting the word ''includes'' for ''is'' avoids any such implication. ATF is also proposing to add more examples in the definition to add clarity for Armed Forces personnel.

3. Political Subdivision, County, and City Limits Information on Form 4473

ATF is proposing additional revisions to § 478.124(c)(1) that would make corresponding changes—resulting from the definitional changes described above—to the information elements that must be included on Form 4473. These proposed revisions would remove the requirements to include county and whether a person lives within city limits. Individuals would still enter their full residential address. See section II.D.2 of this preamble for detailed discussion of these proposed changes.

B. Amendments to § 478.102, Sales or Deliveries of Firearms

1. Time Limitation for Transactions Using Completed Form 4473

Federal regulations require that a licensee initiate a NICS check (if one is required) when a potential transferee and the licensee complete the initial portions of Form 4473, in accordance with § 478.124 and instructions on the form. Form 4473 may be used for only a single transaction, and for 30 calendar days from the date the parties complete the initial portions of the form and the licensee initiates the background check with NICS. The regulations therefore also provide that the initiated Form 4473 and its accompanying NICS check may be relied upon by an FFL only for use in a single transaction, and only for a period not to exceed 30 calendar days from the date that the Form 4473 was initiated and the FFL initially contacted NICS. If the transaction is not completed within the 30-day period, the licensee must complete a new form and initiate a new NICS check prior to completing the transfer. 27 CFR 478.102(c).

Several circumstances also narrow the effective time period in which a person can retrieve a firearm after purchasing. For example, some states require FFLs to delay transactions for a longer period than the minimum 3-day (or ten-day, if the transaction involves a person under 21 years old) federal delay or until the FFL has received a response from NICS. Additionally, based on data from ATF records, while an average of 91 percent of transactions receive an instant response from NICS (based on NICS numbers for 2022–2024), some require more time.

Internal records also show that the 30-day time limit is causing many technical violations for FFLs. Over the past five years, 619 inspections have recorded 1,050 violations of the 30-day rule. This § 478.102(c) technical violation, which has been cited among other substantive violations, contributed to revoking 95 federal firearms licenses, with another 237 FFLs receiving warning conferences. Of the 1,050 violations, 78 percent were within two calendar months of the original check.

As a result, ATF is proposing to extend the time period during which an initiated Form 4473 and its accompanying NICS background check would continue to be valid for a purchase, from the current 30 days to two months. ATF does not believe that extending the validity of Form 4473 and

its accompanying NICS check by approximately one more month will adversely impact public safety. In theory, there is a risk that a person could become prohibited between the first and second months after the background check, and there are no available statistics for how many purchasers who lawfully purchase firearms become prohibited persons between the first and second month after purchasing. But ATF has no evidence (even anecdotal evidence) suggesting that the risk is high. The proposed two-month validity of Forms 4473 and accompanying NICS checks is also far shorter than the Brady Act's provision for alternative permits, which can remain valid for up to five years from the date they were issued. 18 U.S.C. 922(t)(3)(A)(i)(II). Given that an additional month will prevent the majority of regulatory violations for stale forms and NICS checks, ATF thinks the two-month period strikes a better balance between avoiding unnecessary regulatory violations while preserving public safety.

In addition, ATF is proposing to simplify the method used to calculate this time period to avoid confusion that has, in the past, led to inadvertent mistakes. Specifically, this rule proposes to amend § 478.102(c) to replace the phrases ''30 calendar days'' and ''30-day'' with ''two calendar months'' and ''two-month.'' This essentially doubles the length of time in which the transaction can occur once NICS has been contacted. It will also prevent errors calculating time periods that are caused by calendar months having different numbers of days.

To calculate two months, FFLs will use the same date on which they and the transferees complete the initial Form 4473 sections and the FFLs contact NICS to initiate the background check, such as the 4th, but apply it in the second month after the month in which they initiate the form. So, if the FFL and transferee complete the initial form steps and the FFL contacts NICS on June 4, the transaction can be completed through August 4 without initiating a new form and a new NICS check. Likewise, if the FFL and transferee complete the initial form steps and the FFL contacts NICS on February 4, the FFL can complete the transaction through April 4.

The only potential sources of confusion under this proposed calculation method are forms and NICS contacts initiated at the end of December and July because the second month thereafter does not have the same number of days. Thus, ATF is clarifying that—under this proposed rule—if the FFL and transferee complete the initial form steps and the FFL contacts NICS on December 29, 30, or 31, the licensee can complete the relevant transaction through the last day of the following February (February 28 or, in a leap year, February 29) without requiring a new form and NICS check. Similarly, if the FFL and transferee complete the initial form steps and the FFL contacts NICS on July 31, the licensee can complete the relevant transaction through September 30.

To facilitate this change, the proposed rule also includes clarifying language in paragraph (c) to better show the relationship between Form 4473 and the NICS check, including a cross-reference to § 478.124 (which requires a Form 4473 for transfers to non-licensees along with the NICS check), and to reduce any confusion about whether the time limitation applies only to the background check or to both the check and the form that triggers it. In addition, the rule proposes to update Example 3 for paragraph (c) to more clearly illustrate the time limitation. Finally, ATF is proposing minor technical changes to update the years used in all the examples for paragraph (c) from 1998 or 1999 to 2024 or 2025, as the dates are more than 25 years old, and to make other minor technical edits in § 478.102(c) to improve readability.

2. Exceptions to NICS Background Checks

The proposed rule amends § 478.102(e) to add the paragraph heading ''Documenting an exception to NICS check'' to make it structurally consistent with the rest of part 478, comply with CFR requirements, and identify the topic within the paragraph.

ATF is issuing a separate proposed rule on amending subsection (d), governing Brady alternative permits.

C. Amendments to § 478.96, Non-Over-the-Counter Transfers

ATF is proposing to revise and restructure § 478.96 to break up the long paragraph in § 478.96(b) to make it easier to read and to help better identify the requirements for non-over-the-counter (''NOTC'') transfers (when a licensee transfers a firearm to an unlicensed person who does not appear in person at the licensee's business premises). These changes would include revising the applicability provisions in paragraph (a) to clarify when NOTC transfers may occur. It would also keep the requirements for conducting a NOTC transfer in paragraph (b) but would move the requirements for subsequent notice to law enforcement into paragraph (c) for easier reading. The rule then proposes redesignating the current paragraph (c) content on out-of-state transfers as paragraph (d). ATF is also proposing to revise the section heading to bring it up to date by removing the reference to mail order transactions and to reflect the order of the topics covered in the section. The rule also proposes minor plain language revisions, sub-divisions, and adding clarifying paragraph headings throughout the section.

In addition, ATF is proposing to amend the notification requirements currently in § 478.96(b). Currently, under the GCA at 18 U.S.C. 922(c), licensees conducting a NOTC firearms transfer must mail a copy of Form 4473 to the chief law enforcement officer (''CLEO'') in the jurisdiction in which the transferee resides, to notify the CLEO of the prospective transfer. Licensees must wait seven days after receiving a return receipt or notice of failed delivery from the U.S. Postal Service before they can ship or deliver the firearm to the transferee. 18 U.S.C. 922(c). ATF implemented these statutory requirements in § 478.96(b). However, in December 2024, Congress amended 18 U.S.C. 922(c)[6] to permit licensees to electronically notify the CLEO and verify that the CLEO received the Form 4473 prior to shipping the firearm to the transferee. This rule proposes to include this change in the regulations under § 478.96(b) (which would now be under § 478.96(c) under this rule's proposed restructuring) by adding the option to electronically submit the notice and receive confirmation from the CLEO. In addition, this rule proposes clarifying information on what to do when delivery fails, as that was implicit in the existing regulation but is less clear with electronic notice included. ATF proposes to add that, if delivery fails but is not refused, the licensee must take appropriate steps to resolve the situation until they receive the required return receipt, response, or refusal, or not complete the transaction. Such actions could include requesting corrected contact information from the transferee, looking up the CLEO's email address online, calling the CLEO to get correct contact information, etc.

ATF also proposes to change this section to incorporate and rescind ATF Ruling 2020–1.[7] This procedural ruling provided guidance to licensed importers, manufacturers, and dealers

[6] Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025, § 5211, Public Law 118–159, 138 Stat. 1773, 2444 (Dec. 23, 2024) (''NDAA 2025'').

[7] *See* footnote 4, *supra,* ATF Procedure 2020–1

on completing Form 4473 and recording sales when selling to an unlicensed person in a NICS-exempt transaction. This rule proposes to reflect these procedures in § 478.96(b).

D. Amendments to § 478.124, Firearms Transaction Records

1. Restructuring § 478.124

ATF proposes to structurally revise § 478.124, which addresses the firearms transaction record, to make it easier for people to follow. To that end, ATF is proposing to add paragraph headings to better identify topics of interest and to break apart longer paragraphs into sub-paragraphs. In addition, ATF is proposing to consolidate the content into the following paragraphs:

(a) Overall requirement and exceptions—which contains the existing requirement that FFLs must use Form 4473 for all firearms transactions, with certain exceptions, and includes those exceptions. ATF is also proposing to update the exceptions for clarity and readability.

(b) Transfers to other FFLs—which contains the existing provision on such transfers;

(c) Transfers to in-state residents—which combines the existing requirements for completing Forms 4473 that are common to both over-the-counter and NOTC transactions, thereby removing duplicative provisions and making it easier for people to determine what information they must provide and steps they must follow. This paragraph also incorporates updates to § 478.96 on notices to law enforcement in NOTC transactions described in section II.C of this preamble.[8] This paragraph also groups together what information licensees must gather from purchasers—including the current paragraph (g), on who should provide such information for a purchaser that is not an individual—and the verification steps the FFLs must follow thereafter. In addition, this paragraph includes proposed sub-paragraphs that distinguish between verifying identity and verifying residence, in line with the proposed changes discussed in earlier parts of this preamble.

The proposed rule would also amend paragraph (c) to no longer require that FFLs include verification document information on Form 4473. While licensees may still re-write all such information (type of document, date issued, date expired, document number) by hand on Form 4473, ATF proposes adding a new sub-paragraph that also allows them to copy the document and attach the copy directly to Form 4473.

The proposed paragraph (c) would also remove the requirement that licensees certify that they do not know or have reason to believe the transferee intends to sell or dispose of the firearm to a prohibited person or intends to use the firearm in furtherance of a felony, terrorism, or drug trafficking. ATF proposes removing this certification because it is covered under the proposed new Form 4473's FFL general certification. In relevant part, the licensee certifies that ''it is not unlawful for me to sell, deliver, transport, or otherwise dispose of the firearm(s) listed on this form.'' Retaining the additional certification requirement described above is unnecessary, redundant, and refers to only a single potential violation of law in a firearms transaction. Form 4473 does not identify every potential violation of law in a firearms transaction, so specifying one for certification is unnecessary and could lead to misunderstandings about whether licensees are certifying to only this one;

(d) Transfers to out-of-state residents—which contains the existing provisions itemizing the two types of transfers an FFL can make to out-of-state residents and clarifies that both must be made in compliance with paragraph (c). ATF also proposes streamlining edits to these provisions to remove duplicative language;

(e) Private-party transfers—which contains proposed new language on how FFLs can use Form 4473 to effectuate a NICS background check for a firearm transfer between two unlicensed persons (private parties). ATF proposes that licensees check a box at the top of the form to indicate that the form will be used for this purpose, which in turn would immediately inform ATF and the licensee that the form would not be subject to inspection by ATF.[9] Although not included in this proposed rule because it is included in another notice of proposed rulemaking on retention periods, ATF would also require licensees to generally retain Forms 4473 used for private party transfers for 90 days, which corresponds with the period of time until the NICS system purges transaction information. During that period, NICS can research a ''delayed'' response and potentially resolve the check, so retaining the forms for that period could permit additional sales for checks that are delayed. But if the background check results in a ''denied'' response from NICS, licensees would retain the denied Form 4473 for five years. This reflects the statute of limitations for unlawful possession and making a false statement and also provides adequate time for any state prosecutions.

Licensees may also need to comply with state law record-keeping requirements independently. ATF also includes proposed language to inform the licensee that they would still need to comply with paragraph (c) to ensure they have the necessary information to initiate a valid NICS check. If these rules are finalized, licensees could use Form 4473 to facilitate a private-party background check only if they do not take possession of the firearm and, thus, are not selling or delivering a firearm to the transferee;

(f) Voluntary firearms handler checks (''FHCs'')—which contains proposed new language on how licensees can use Form 4473 to effectuate a NICS background check on current or prospective FFL employees who would be handling firearms. The Department, through the FBI, are calling these background checks FHCs. ATF proposes that licensees check a box at the top of the form to indicate that the form will be used for an FHC, which in turn would immediately inform ATF and the licensee that the form would not be subject to inspection. Although not included in this proposed rule because it is included in another ATF notice of proposed rulemaking on retention periods, licensees would retain Forms 4473 used for this purpose for 90 days, which corresponds with the period of time until the NICS system purges transaction information. During that period, NICS can research a ''delayed'' response and potentially resolve the check, so retaining the forms for that period could permit additional resolution for employees. ATF also includes proposed language to inform

[8] ATF notes that it is publishing another proposed rule, ''Revising Non-Over-the-Counter Transaction Requirements,'' that proposes additional revisions to § 478.96. Section 478.96 currently permits NOTC transfers that are NICS-exempt. The proposed rule would permit and set out requirements for NOTC that are subject to NICS background checks. It would also include proposed cross-references to sections in this Form 4473 proposed rule, to both §§ 478.96 and 478.124. ATF expects to publish final rules on both at about the same time.

[9] ATF notes that licensees must conduct private-party transfers in accordance with this proposed rule and a pending upcoming FBI rule for such purposes. Although ATF would not routinely inspect Forms 4473 that are used for private-party transfers, ATF retains the authority to review the forms if needed within the 90-day period to clarify regulatory compliance. For example, ATF might need to clarify that a NICS check entry on an audit log from FBI correlates with the number on a private-party transfer form so the licensee does not appear to have run a NICS check without completing a Form 4473, or might need to see the private-party form to clarify that the licensee did not transfer a firearm without running a background check or completing a Form 4473.

the licensee and employee that they would still need to comply with paragraph (c) except that they would not need to include information on firearms, since the employee would not be purchasing firearms as part of this activity. The licensee would also need to attach a supplemental statement to Forms 4473 used for this purpose, demonstrating that the employee gave informed, written consent for the FHC. *See* 34 U.S.C. 40901(b)(2)(B);

(g) Proving residence—which contains a new list of documents purchasers may provide to prove they are residents of the state (described in more detail below);

(h) Electronic Forms 4473—which permits licensees to use electronic Forms 4473 and includes Form 4473-specific requirements from previous ATF rulings, in addition to requiring licensees to comply with electronic record-keeping system standards in a new § 478.130, which is concurrently being proposed in a separate rulemaking. The proposed section includes requirements to use the most current version of e-Form 4473, conduct daily back-ups of the forms, including pending and incomplete ones, to save e-Forms 4473 in an unalterable format and how to effectuate any necessary changes to a form, to print e-Form 4473 if the electronic signature does not work, and to make the forms available to ATF for inspection; and

(i) Record-keeping organization—which contains the existing requirement for licensees to retain their Forms 4473 in either alphabetical, chronological, or numerical order.

ATF is also proposing to remove the current provision at § 478.124(i), which contains information on ordering forms. This provision is obsolete and persons may obtain this and other forms from ATF's website at *https://www.atf.gov/firearms/forms*.

2. Changes in Conjunction With Definitional Changes

Section 478.124(c)(1) requires that FFLs obtain a Form 4473 from the transferee that includes, in relevant part, the transferee's ''name, sex, residence address (including county or similar political subdivision and whether they reside within city limits), . . . [and] the transferee's state of residence . . . .'' Form 4473 functions as a standardized mechanism by which FFLs collect all information required to make a legal transfer and to provide to NICS to facilitate a background check.

The requirement that the form include ''county'' has been in the regulations and on the form since 1988, but ''similar political subdivision and whether they reside within city limits'' was added because of the 2022 NICS Denial Notification Act (''NDNA''), Public Law 117–103, 136 Stat. 49. The NDNA requires the Attorney General to report to the applicable state, local, or tribal law enforcement when NICS provides a ''denied'' response to a background check, meaning that it would violate the law for that person in their jurisdiction to receive a firearm. *See* 18 U.S.C. 925B. Identifying the subdivision or city limits in which a person resides allows ATF to identify the correct law enforcement authority to notify. As a result, ATF added this clause to the regulation to assist with this notification.

However, this addition to Form 4473 has led to many inadvertent form violations as transferees are often unsure how to answer the question or whether they live within formal city limits, in the county, or in another political subdivision. Many responses show that transferees often misread the word ''county'' as ''country'' as well. These issues make administering the form more complex and reduce the question's usefulness. In addition, ATF and FBI do not need to have the information recorded on the form. There are many online sources that can provide necessary information about a person's political subdivision using the person's residence address. Using these sources will reduce errors and enable the agency to have more accurate information. Consequently, there is no investigative need to have the transferee record this information.

Therefore, ATF is proposing to remove the parenthetical from § 478.124(c)(1) that transferees must include the ''county or similar political subdivision and whether they reside within city limits.'' Because the FBI, through NICS, may still query the transferee's subdivision, there is space on page four for the dealer to record it. But this is optional.

The proposed rule also amends paragraph (c)(1) to remove the phrase ''the transferee's state of residence'' as one of the required information elements on Form 4473. ATF has determined that this no longer needs to be a separate item on the form from the person's address, which already includes their state. It was included as a separate item originally because a person could have multiple homes in different states, creating the need for the licensee to identify which state was their residence. This also applied in the context of military persons who live in a state pursuant to their military duty but also maintain their home state as their state of record. But the changes discussed in section II.A.2 of this preamble, allowing these persons to have multiple residence states under certain circumstances, means that the person can record the relevant address to meet both requirements and a separate entry is no longer necessary.

3. Auto-Populating Information

ATF recognizes that ATF Ruling 2016–2 and previous policy decisions were incomplete, in that they did not allow auto-populating fields on the electronic Form 4473. Accordingly, ATF proposes to add a provision to § 478.124, paragraph (c), clarifying that licensees may auto-populate information on Form 4473. This proposed rule would permit software that allows most data to automatically populate. For example, a dealer might scan a driver's license, thereby capturing a person's name and address. Or a software vendor might link its software to a database of addresses, allowing the address to automatically populate after a few keystrokes. A dealer might also have a person's information from previous transactions. Allowing licensees to auto-populate these fields would improve efficiency and eliminate errors caused by entering the information manually.

To allow licensees to auto-populate, the proposed rule requires certain safeguards concerning automatically populated data. The software must allow the user to view any data that will be populated automatically. The user must then certify that the information is complete and correct. The user must also have the opportunity to override any inaccurate information. For example, if a driver's license lacks a person's full name (*e.g.,* ''Smith, John D.''), the person must have the opportunity to complete the entry (''Smith, John Doe''). A scannable driver's license, as another example, may contain an old address, and the jurisdiction that issued the driver's license may have issued a non-scannable paper update card. In that circumstance, the person must be able to update the address. Similarly, a person with two residences may have a driver's license address at one residence and separate proofs of residence at the secondary residence. When the person buys a firearm while residing in the secondary residence, the electronic system must allow the person to enter the present residence address.

ATF had previously issued informal oral guidance to FFLs that they were not permitted to automatically populate data. This resulted from concerns that it might be difficult to prosecute individuals for making false statements if they did not personally enter the data.

But these concerns are mitigated by these proposed requirements that any automatically populated data be clearly presented to the person, that the person must be able to revise any incorrect or incomplete auto-populated data, and that the person must certify that the data is both complete and accurate.

The regulation would bar some data from being automatically populated. Persons must themselves affirmatively enter signatures and certifications. Persons must also certify any question addressing whether the person is prohibited from possessing or purchasing a firearm under 18 U.S.C 922(g) or (n). For example, an electronic record-keeping system cannot automatically populate that a person has not been convicted of a crime punishable by more than one year. For these and similar questions, it must be clear that the person has read the statement, understood it, and affirmatively answered it.

4. Proving Residence

The REAL ID Act,[10] passed in 2005, established minimum security standards for state-issued driver's licenses and identification cards. It also prohibited federal agencies from accepting licenses and IDs from states that do not meet these standards for official purposes. Since May 7, 2025, a REAL ID or another acceptable form of identification (such as a passport or military ID) has been required for domestic air travel and to access certain federal facilities. For this reason, many states have produced lists of acceptable identification documents.

ATF proposed above to separate photo identification documents necessary to prove a person's identity from documents that can prove residence. This was, in part, because photo identification documents to prove identity must be issued by a government agency, and some primary documents for that purpose, such as passports, do not include a residence address. It was also in part because people might have multiple residence locations that would meet state and ATF requirements for residence, as discussed above. Finally, some of the documents included in previous ATF guidance for residence purposes are no longer sufficient. As a result, ATF is proposing to include in ATF's regulations a list of documents for proving residence that align with those accepted by most states for REAL ID compliance purposes.

Accordingly, this rule proposes to amend § 478.124(c) to reflect the change in terminology from ''identification document'' to ''photo identification document'' to verify a person's identity. In addition, this rule proposes to amend § 478.124(c) to account for situations in which someone does not have a valid, government-issued document with their residence address on it. The proposed new language would read, ''verify proof of residence using the photo identification document, or the documents listed in paragraph (g) if the photo identification document does not contain a residence address or does not contain the current residence address that is the basis of the firearm purchase.'' The proposed rule adds new paragraph (g) to § 478.124 to list acceptable alternative documents by which a person may prove their residence.

5. Electronic Forms 4473

Pursuant to 18 U.S.C. 923(g) and regulations, ATF issued ATF Ruling 2016–2 authorizing FFLs to utilize an electronic version of Form 4473 in lieu of the ATF-furnished paper version when creating a record of a firearm transaction, provided certain requirements are met. Additionally, ATF issued ATF Ruling 2022–1 authorizing FFLs to retain electronically completed Forms 4473 in electronic format, again provided certain requirements were met. Since implementing these rulings, a significant number of FFLs have chosen to use electronic Forms 4473 and to store forms electronically.

In issuing these rulings, ATF noted the myriad ways in which using an electronic system to complete Forms 4473 would benefit members of the regulated firearms industry. Allowing Form 4473 to be completed electronically, while a customer is present at the business premises, is convenient for both the FFL and the purchaser and may also facilitate better inventory accountability and reduce the potential for recording errors on Form 4473. Additionally, ATF recognized that electronically storing Forms 4473 saves space, time, and money in record-keeping and auditing expenses for FFLs. Most businesses computerize their inventory, sales, customer lists, and other business records. As businesses have moved to a paperless environment to store these important documents and business records, electronically storing Forms 4473 is convenient for FFLs. Further, electronically retained forms may be more secure from environmental damage, loss, or destruction and easier to access, sort, and review for many FFLs.

These factors continue to remain valid and have only increased since ATF issued those rulings. As a result, ATF is proposing to add a new paragraph (h) in § 478.124 to address using e-Form 4473. This new paragraph contains several of the requirements from the rulings, including requiring that licensees use the most current electronic version of e-Form 4473; that licensees print, use, and retain a paper form if some or all of the electronic form is not working; and that licensees provide e-Forms 4473 upon request by an ATF official in the requested format. ATF is issuing a separate proposed rule that adds a new § 478.130 allowing licensees to use electronic records. As a result, the new paragraph also includes a provision requiring that licensees maintain e-Forms 4473 in a system and manner that meets the requirements for electronic records in § 478.130. However, e-Forms 4473 must be backed up daily, including pending and incomplete forms, to a physical storage device at the licensee's premises, instead of the combined backup requirements in the proposed § 478.130 (*i.e.,* incremental backups on days when the licensee makes a change to their records and the general monthly backup) rule for other A&D records.

E. Rescinding § 478.131, Firearms Transactions Not Subject to a NICS Check

This rule proposes to remove and reserve § 478.131 in its entirety. ATF is proposing to remove this section because the content duplicates information contained in §§ 478.96, 478.102, and 478.124. The proposed revisions above, combined with removing this section, eliminate duplicative provisions and help incorporate information applicable to firearms transactions not subject to a NICS check.

F. Removing Obsolete Forms From § 478.134, Selling Firearms to Law Enforcement Officers

ATF is proposing minor technical changes to this section to remove references in paragraphs (a) and (c) to the obsolete Form 5300.35 (Statement of Intent to Obtain a Handgun(s)), for the reasons discussed above, and to revise the section heading for plain writing purposes.

III. Statutory and Executive Order Review

A. Executive Orders 12866 and 13563

Executive Order 12866 (Regulatory Planning and Review) directs agencies to assess the costs and benefits of

[10] REAL ID Act of 2005, Public Law 109–13 (2005).

available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits.

Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of agencies quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting public flexibility.

This proposed rule would amend 27 CFR part 478 to streamline and reduce requirements and limitations involved with completing Forms 4473. The proposed rule would also permit modernizing actions like electronic record-keeping, auto-populating, and electronic notifications to law enforcement, that further reduce burden on the public.

The Office of Management and Budget (''OMB'') has determined that this rule would not be a ''significant regulatory action'' under Executive Order 12866. Therefore, it did not review this rule. ATF provides the following analysis to comply with Executive Orders 12866 and 13563.

1. Need Statement

This rule proposes several simplifying and deregulatory amendments related to Forms 4473. These proposed amendments are necessary to reduce burdens on the public and regulated industry and increase public understanding and compliance, while minimizing public safety implications.

2. Benefits

The proposed changes would reduce burdens involved in entering data on Form 4473, and would reduce potential confusion for licensees calculating the time in which they could transfer a firearm after transferees initiate a Form 4473 and licensees initiate accompanying NICS checks—by doubling the time period and using calendar months instead of counted days.

Time Limitation for Transaction Under Completed Form 4473

27 CFR 478.102(c) and 478.124 combined require that FFLs and transferees must complete certain portions of Form 4473 and then initiate a NICS background check, that FFLs may rely upon the Form 4473 and accompanying background check only for use in a single transaction, and for a period not to exceed 30 calendar days from the date that the form steps were completed and NICS was initially contacted. Expanding the validity of Forms 4473 and NICS background checks from 30 days to two months, as proposed, would eliminate situations in which transferees are afforded a narrow purchase window, such as when there is an extended background check delay. The extension allows a more flexible time period in which to complete transactions and lawfully transfer firearms.

Additional benefits include fewer instances in which FFLs must process repeat submissions because applicants did not complete a transaction in the current 30-day window.

FFLs and their employees would also receive fewer § 478.102(c) violation notices for completing transactions beyond the currently permissible 30 days—which burden FFLs and their employees even though violation notices do not carry financial penalties. Based on ATF data in Table 1 below, ATF has identified an annual average of 132 violations of § 478.102(c) per year. These are violations for which ATF found an FFL transferred a firearm to a person after 30 days from the initial NICS check.

TABLE 1—SECTION 478.102(C) VIOLATIONS BY YEAR

	27 CFR 478.102(c) violations
2020	151
2021	96
2022	73
2023	190
2024	148
Average	132

Proving Residence—Documentation and Real ID Act Conformity

The proposed rule amends section 478.124(c)(3)(ii) to account for the situation in which someone does not have a valid, government-issued document with their residence address on it. The proposed rule would provide a list of acceptable documents to verify a transferee's residence address in such a case. In addition, it would remove the requirement to specify the transferee's county or similar political subdivision and whether they reside within city limits, as well as the duplicative question regarding the transferee's residence state. These proposed changes would similarly add convenience and flexibility, particularly by expanding acceptable documents for verifying residence and simplifying the Form 4473 for individuals who have more than one residence state, such as members of Congress, university students, and military service members.

3. Costs

ATF expects the costs associated with the proposed rule to be minimal.

The primary cost impacts anticipated by ATF as a result of the proposed time extension during which Forms 4473 and accompanying NICS checks would remain valid for a purchase could be in the form of potential public safety risk associated with outdated background checks. Under the current baseline, the 30-day validity period may be inconvenient for buyers who want to pick up their firearms weeks after submitting their application while the background check is still pending. By contrast, the only potential downside of the proposed rule change is a minimal, though uncertain, risk of enabling prohibited persons to acquire firearms.

A longer validity period might increase the chance that a buyer could become prohibited (*e.g.* felony charge, restraining order, mental health commitment) after the initial check is completed but before the transfer occurs. However, the risk of this from the additional one-month extension is likely to be minor. Some persons who would not be denied during an initial background check could become prohibited sometime during the first 30 days. Under the current 30-day purchasing validity period, if those persons did not purchase the firearm by day 30, they would have to complete a new Form 4473 and undergo a second NICS check initiated on day 31 in order to purchase a firearm between days 31–60. If they became prohibited during the previous 30 days, that prohibition would be captured in the second NICS check and they would not be able to receive the firearm. Under the proposed rule, this segment of persons would not have to complete a new Form 4473 and undergo a second background check until after day 60, and could thus receive a firearm after becoming a prohibited person during the first 30 days. In such a case, a prohibited person who obtains a firearm under the proposed rule and, hypothetically, uses that firearm to inflict mass casualties, would have been prevented under the current baseline requirement to renew the background check. ATF does not have any data on persons who might fall into this situation. However, ATF believes the number of such persons is negligible because of other data ATF does have on denials.

For example, the number of ''delayed denials'' is very small. Delayed denials are cases in which the initial NICS background check resulted in a determination that the buyer was prohibited but the denial did not get

completed until after the buyer had received the firearm.[11] These are persons who were already prohibited persons at the time the initial NICS check occurred, rather than the arguably smaller set of persons who might initiate transfer of a firearm and then become prohibited between that initial check and day 30.

NICS data on the number of delayed denials during the past five years is presented below in the first column of Table 2. Of those cases, only some would be impacted by having a two-month validity period instead of a one-month one (the other delayed denials are issued before or after the relevant time period affected by this rule). The number of prohibited persons that acquired firearms due to delayed background checks between 2020 and 2024 was 14,632. Of these, on average, 1,797, or 12 percent of delayed denials, were completed between 30 and 60 days. Under the current 30-day validity period, those prohibited persons could receive a firearm within the first 30 days because their denial did not arrive until after the validity period. Under the proposed rule, these prohibited persons would have more time in which to receive a firearm before the denial arrives. So, for example, a prohibited person whose denial arrived on day 40 would now be able to receive a firearm through day 39 instead of day 30. This would not include all prohibited persons whose denials arrive within the day 31–60 period, which for year 2020 was 468 persons, but some subset of that number (some might still receive the firearm within the first 30 days and others might not receive the firearm before their denial arrives, even within days 31–60). This data on delayed denials helps to illustrate the parallel likely small risk of a similar subset of persons becoming prohibited after initiating a firearms transfer during the first 30 days, but not being denied on the basis of the initial background check and not receiving the firearm during the first 30 days, then receiving a firearm during days 31–60 on the basis of the initial NICS check without undergoing a second NICS check due to this proposed rule.

Both total delayed denials and those completed in this timeframe have declined yearly, with 30-to-60-day cases dropping from 468 in 2020 to 298 in 2024. Nevertheless, under the proposed rule, these cases, approximately 360 per year on average, out of an estimated 22.5 million firearms [12] transactions, demonstrate that the potential risk of prohibited persons receiving firearms by allowing a 60-day validity period is very small.

TABLE 2—DELAYED DENIALS BETWEEN 31–60 DAYS

Year	Delayed denials	Cases between 31–60 days	Percentage between 31–60 days
2020	4,484	468	10
2021	3,671	362	10
2022	2,621	325	12
2023	2,181	344	16
2024	1,679	298	18
Total	14,636	1,797	12

In addition, any such risk is also offset by other factors, similar to the likely offset to the estimated benefits discussed under section III.A.3 of this preamble. With respect to the potential risks involved by extending the validity of the initial Form 4473 and its accompanying NICS background check, individual states as well as individual vendors have imposed their own restrictions on firearm transfers. These restrictions often extend beyond the federally mandated three-day waiting period for NICS background checks that aren't instantly completed. For example, some vendors have set a policy that they will not transfer a firearm until they receive a ''proceed'' response on a NICS background check. Several states prohibit individuals from collecting firearms if a background check is delayed (or ''open,'' see 28 CFR 25.2 defining ''delayed'' and ''open'' transactions). These states aim to prevent gun sales while a background check is pending.[13] These states extend the time investigators have to complete background checks, ensuring that fewer firearms are transferred without a completed background check. These states have a combined population of 123,784,590, based on the 2024 Census, which was approximately 36 percent of the total US population in the same year. In such states, or with such vendors, extending the Form 4473 and accompanying NICS background check validity period would pose even less risk because the person would be prohibited by state or vendor policy from collecting their firearm while that delay is in place, or until they are cleared by NICS to do so.

4. Regulatory alternatives

The primary alternative considered to this proposed rule was to continue the status quo of requiring additional information fields on Forms 4473, maintaining a 30-day validity period for the forms and for the NICS background checks, limiting the forms of identification and proof of address accepted ahead of purchases, and not permitting electronic documents. This is also known as the no-action alternative, which was deemed to be more of a burden on the public while not materially increasing public safety.

B. Executive Order 14192

Executive Order 14192 (Unleashing Prosperity Through Deregulation) requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed or revised when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation that qualifies as an Executive Order 14192 regulatory action (defined in OMB Memorandum M–25–20 as a final significant regulatory action under section 3(f) of Executive Order 12866 that imposes total costs greater than

[11] *See* 18 U.S.C. 922(t)(1)(A)–(B) (providing generally that a licensed importer, manufacturer, or dealer must not transfer a firearm before contacting NICS and either receiving an identification number or waiting three business days).

[12] These estimates are based on responses and data from FBI NICS and internal ATF offices.

[13] States that have restricted the ability to transfer firearms after three business days without a completed background check include California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Hawaii, Illinois, Massachusetts, Maryland, Minnesota, New Jersey, New York, Pennsylvania, Rhode Island, Tennessee, Utah, Washington, and Wisconsin.

zero). In furtherance of this requirement, section 3(c) of Executive Order 14192 requires that any new incremental costs associated with such new regulations must, to the extent permitted by law, also be offset by eliminating existing costs associated with at least ten prior regulations. However, this rule would not be an Executive Order 14192 regulatory action because it is not a significant regulatory action as defined by Executive Order 12866 and it would not impose total costs greater than zero. In addition, ATF expects this proposed rule, if finalized as proposed, to qualify as an Executive Order 14192 deregulatory action (defined in OMB Memorandum M–25–20 as a final action that imposes total costs less than zero).

C. Executive Order 14294

Executive Order 14294 (Fighting Overcriminalization in Federal Regulations) requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to each element of those offenses. This proposed rule would not create a criminal regulatory offense and is thus exempt from Executive Order 14294 requirements.

D. Executive Order 13132

This proposed rule would not have substantial direct effects on the states, the relationship between the federal government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132 (Federalism), the Director has determined that this rule would not impose substantial direct compliance costs on state and local governments, preempt state law, or meaningfully implicate federalism. It thus does not warrant preparing a federalism summary impact statement.

E. Executive Order 12988

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform).

F. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–612, agencies are required to conduct a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements unless the agency head certifies, including a statement of the factual basis, that the proposed rule would not have a significant economic impact on a substantial number of small entities. Small entities include certain small businesses, small not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Director certifies, after consideration, that this proposed rule would not have a significant economic impact on a substantial number of small entities. That is because the proposed rule is primarily introducing difficult-to-quantify benefits to affected populations and does not impose quantifiable costs on any segment. In addition, ATF estimates that a significant percentage of the rule's benefits would accrue to the benefit of small businesses, as the majority of FFLs are small businesses. This proposed rule is deregulatory, would not impose any additional costs on the industry as a whole, and would therefore not impose a significant economic impact on small businesses.

G. Unfunded Mandates Reform Act of 1995

This proposed rule does not include a federal mandate that might result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it would not significantly or uniquely affect small governments.

Therefore, ATF has determined that no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

H. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (''PRA''), 44 U.S.C. 3501–3521, agencies are required to submit to OMB, for review and approval, any information collection requirements a rule creates or any impacts it has on existing information collections. As defined in 5 CFR 1320.3(c), an information collection includes any reporting, record-keeping, monitoring, posting, labeling, or other similar actions an agency requires of the public. This proposed rule creates the need to revise an existing information collection under the PRA. The title and description of the information collection follow.

Form 4473 is currently covered under OMB control number 1140–0020, which includes the requirement to complete and submit the form and examine and note the verification documents. This information collection would need to be revised if this rule is finalized as proposed. ATF is publishing the proposed revised information collection request (ICR) through the standard PRA process in conjunction with this proposed rule. The first ICR notice for this collection will publish concurrently with this proposed rule for a 60-day public comment period. In addition to substantive changes that would flow from the changes in this proposed rule if finalized as drafted, ATF is proposing revisions to the ICR that make the form easier to use and more streamlined. Those proposed changes include re-designing the form to allow transferees to fill out one page while licensees complete a separate page, thereby saving time, simplifying instructions throughout the form so they are faster and easier to read, grouping questions on the same topic together, eliminating unnecessary questions, reducing the number of check-boxes, and other similar changes. The combined changes flowing from this proposed rule and these additional revisions would reduce the time burden from 30 minutes to 15 minutes per form.

Title: Firearms Transaction Record.

OMB control number: 1140–0020.

Form number: ATF Form 5300.9 (''Form 4473'').

Summary of the information collection: Federal firearms licensees—manufacturers, importers, dealers, and collectors—must create and maintain a firearms transaction record for each firearm they transfer. Licensees use ATF Form 5300.9, Firearms Transaction Record (''Form 4473''), for this purpose, and to help them ensure they are complying with statutory requirements and not transferring to prohibited persons.

Need for information: The Gun Control Act (GCA) requires FFLs to maintain, at their place of business, sale or other disposition records for firearms, one kind of which are Forms 4473, in accordance with prescribed regulations. Section 923(g)(1)(A) of the GCA requires licensed importers, manufacturers, and dealers to maintain these records in such form as prescribed by regulation. ATF regulations at 27 CFR 478.102 and 478.124 prescribe that licensees must use Form 4473 to meet this statutory requirement and establish the requirements for using the form.

Proposed use of information: ATF uses Forms 4473 for regulatory enforcement purposes to verify that licensees are complying with statutory and regulatory requirements on acquiring and disposing of firearms.

I. Congressional Review Act

This proposed rule would not be a major rule as defined by the Congressional Review Act, 5 U.S.C. 804.

IV. Public Participation

A. Comments Sought

ATF requests comments on the proposed rule from all interested persons. ATF specifically requests comments on the clarity of this proposed rule and how it may be made easier to understand. In addition, ATF requests comments on the costs or benefits of the proposed rule and on the appropriate methodology and data for calculating those costs and benefits.

All comments must reference this document's RIN 1140–AA82 and, if handwritten, must be legible. If submitting by mail, you must also include your complete first and last name and contact information. If submitting a comment through the federal e-rulemaking portal, as described in section IV.C of this preamble, you should carefully review and follow the website's instructions on submitting comments. Whether you submit comments online or by mail, ATF will post them online. If submitting online as an individual, any information you provide in the online fields for city, state, zip code, and phone will not be publicly viewable when ATF publishes the comment on *https://www.regulations.gov.* However, if you include such personally identifying information (''PII'') in the body of your online comment, it may be posted and viewable online. Similarly, if you submit a written comment with PII in the body of the comment, it may be posted and viewable online. Therefore, all commenters should review section IV.B of this preamble, ''Confidentiality,'' regarding how to submit PII if you do not want it published online. ATF may not consider, or respond to, comments that do not meet these requirements or comments containing excessive profanity. ATF will retain comments containing excessive profanity as part of this rulemaking's administrative record, but will not publish such documents on *https://www.regulations.gov.* ATF will treat all comments as originals and will not acknowledge receipt of comments. In addition, if ATF cannot read your comment due to handwriting or technical difficulties and cannot contact you for clarification, ATF may not be able to consider your comment.

ATF will carefully consider all comments, as appropriate, received on or before the closing date.

B. Confidentiality

ATF will make all comments meeting the requirements of this section, whether submitted electronically or on paper, and except as provided below, available for public viewing on the internet through the federal e-rulemaking portal, and subject to the Freedom of Information Act (5 U.S.C. 552). Commenters who submit by mail and who do not want their name or other PII posted on the internet should submit their comments with a separate cover sheet containing their PII. The separate cover sheet should be marked with ''CUI//PRVCY'' at the top to identify it as protected PII under the Privacy Act. Both the cover sheet and comment must reference this RIN 1140–AA82. For comments submitted by mail, information contained on the cover sheet will not appear when posted on the internet, but any PII that appears within the body of a comment will not be redacted by ATF and may appear on the internet. Similarly, commenters who submit through the federal e-rulemaking portal and who do not want any of their PII posted on the internet should omit such PII from the body of their comment and in any uploaded attachments. However, PII entered into the online fields designated for name, email, and other contact information will not be posted or viewable online.

A commenter may submit to ATF information identified as proprietary or confidential business information by mail. To request that ATF handle this information as controlled unclassified information (''CUI''), the commenter must place any portion of a comment that is proprietary or confidential business information under law or regulation on pages separate from the balance of the comment, with each page prominently marked ''CUI//PROPIN'' at the top of the page.

ATF will not make proprietary or confidential business information submitted in compliance with these instructions available when disclosing the comments that it receives, but will disclose that the commenter provided proprietary or confidential business information that ATF is holding in a separate file to which the public does not have access. If ATF receives a request to examine or copy this information, it will treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). In addition, ATF will disclose such proprietary or confidential business information to the extent required by other legal process.

C. Submitting Comments

Submit comments using either of the two methods described below (but do not submit the same comment multiple times or by more than one method). Hand-delivered comments will not be accepted.

- *Federal e-rulemaking portal:* ATF recommends that you submit your comments to ATF via the federal e-rulemaking portal at *https://www.regulations.gov* and follow the instructions. Comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that is provided after you have successfully uploaded your comment.
- *Mail:* Send written comments to the address listed in the **ADDRESSES** section of this document. Written comments must appear in minimum 12-point font size, include the commenter's first and last name and full mailing address, and may be of any length. *See also* section IV.B of this preamble, ''Confidentiality.''

D. Request for Hearing

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director within the 90-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing is necessary.

Disclosure

Copies of this proposed rule and the comments received in response to it are available through the federal e-rulemaking portal, at *https://www.regulations.gov* (search for RIN 1140–AA82).

Severability

Consistent with the Administrative Procedure Act, the issues raised in this proposed rule may be finalized, or not, independently of each other, after consideration of comments received. ATF has determined that this proposed rule implements and is fully consistent with governing law. However, in the event this proposed rule is finalized, if any provision of that final rule, an amendment or revision made by that rule, or the application of such provision or amendment or revision to any person or circumstance, is held to be invalid or unenforceable by its terms, the remainder of that final rule, the amendments or revisions made by that rule, and application of the provisions of the rule to any person or circumstance shall not be affected and

shall be construed so as to give them the maximum effect permitted by law.

List of Subjects in 27 CFR Part 478

Administrative practice and procedure, Arms and munitions, Exports, Freight, Imports, Intergovernmental relations, Law enforcement officers, Military personnel, Penalties, Reporting and record-keeping requirements, Research, Seizures and forfeitures, Transportation.

For the reasons discussed in the preamble, ATF proposes to amend 27 CFR part 478 as follows:

PART 478—COMMERCE IN FIREARMS AND AMMUNITION

■ 1. The authority citation for 27 CFR part 478 continues to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 847, 921–931; 44 U.S.C. 3504(h).

■ 2. Amend § 478.11 by revising the definition ''Identification document'', including its heading, and revising the definition ''state of residence'', including its heading.

The revisions read as follows:

§ 478.11 Meaning of terms.

* * * * *

Photo identification document. A document that contains the name, birthdate, and photograph of the holder, that was made or issued by or under the authority of the United States government, a state, political subdivision of a state, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization, and that, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identifying individuals. The photo identification document may be a digital identification document if issued by one of the authorities above, and if the jurisdiction that issued the document considers it a commonly accepted document for identification purposes.

* * * * *

Residence state. The state in which an individual resides. An individual resides in a state if the individual is present in a state with the intention of making a home in that state. A person may be a resident of a state for purposes of the Gun Control Act even if the person is not domiciled in that state. For individuals on active duty as members of the Armed Forces, their residence states include the states in which their permanent duty stations are located. 18 U.S.C. 921(b). The following scenarios illustrate this definition:

Example (1) for residence state.

A maintains a home in state X. A travels to state Y on a hunting, fishing, business, or other type of trip. A does not become a resident of state Y because of such trip.

Example (2) for residence state.

A maintains a home in state X and a home in state Y. A resides in state X except for weekends or the summer months of the year and in state Y for the weekends or the summer months of the year. During the time that A actually resides in state X, A is a resident of state X, and during the time that A actually resides in state Y, A is a resident of state Y.

Example (3) for residence state.

A, an alien eligible to possess firearms, travels to the United States on a three-week vacation to state X. A is not a resident of state X because A does not have the intention of making a home in state X while on vacation. This is true regardless of the length of the vacation.

Example (4) for residence state.

A, an alien eligible to possess firearms, travels to the United States to work for three years in state X. A rents a home in state X, moves A's personal possessions into the home, and A's family resides with A in the home. A intends to reside in state X during the three-year period of A's employment. A is a resident of state X.

Example (5) for residence state.

A, a member of the Armed Forces on active duty, is assigned to a permanent duty station in state X. A also has A's residence in state X. A is a resident of state X. If A resides on base in state X, A should use A's on-base residence address on Form 4473. If A resides off base in state X, A should use A's off-base residence address on Form 4473.

Example (6) for residence state.

A, a member of the Armed Forces on active duty, is assigned to a permanent duty station in state Y. However, A resides off-base in state X, from which A commutes to duty in state Y. A is a resident of both state X and state Y.

Example (7) for residence state.

A maintains a home in state X. However, A is also a member of the Armed Forces on active duty and is assigned to a permanent duty station across the country, in state Y. During the time that A actually resides in state X, A is a resident of state X and state Y. During the time that A actually resides in state Y, A is a resident of state Y only. A should use A's residence address on Form 4473 and also either attach A's permanent change of station (PCS) orders showing the duty station or note the duty station address in the form's PCS section.

Example (8) for residence state.

A lives with A's parents at a home in state X but lives in state Y during the fall and spring semesters while enrolled as a student in college there. During the time that A actually resides in state X, A is a resident of state X, and during the time that A actually resides in state Y, A is a resident of state Y.

* * * * *

■ 3. Revise § 478.96, including its heading, to read as follows:

§ 478.96 Non-over-the-counter and out-of-state sales.

(a) *Applicability.* This section's provisions apply when a licensee transfers or delivers a firearm to a person not otherwise prohibited by the Act from purchasing or receiving it. Licensees must retain records of these transactions in accordance with §§ 478.124(h) and (i), as applicable.

(b) *Non-over-the-counter (NOTC) transactions.*

(1) Licensed importers, manufacturers, or dealers may transfer firearms to a non-licensee who is not subject to the provisions of § 478.102(a) due to an exception in § 478.102(d) and who does not appear in person at the licensee's business premises, if the non-licensee meets the following requirements:

(i) Is a resident of the same state in which the licensee's business premises are located;

(ii) Provides a Form 4473 to the licensee as required by § 478.124 of this part;

(iii) Submits with Form 4473 an executed sworn statement in the form prescribed by 18 U.S.C. 922(c)(1); and

(iv) Submits with Form 4473 a true copy of any permit and other information required pursuant to any statute of the state and published ordinance applicable to the locality in which the non-licensee resides.

(2) The licensee must ensure the transferee has completed all transferee portions of the form, and:

(i) Document on the form the applicable NICS exception;

(ii) Comply with requirements in §§ 478.124(c), (g), (h), and (i) of this part as applicable, including verifying the transferee's identity and residence;

(iii) Complete the rest of the form as applicable; and

(iv) Check the appropriate box on the form to indicate that this is a non-over-the-counter transaction.

(c) *Law enforcement notice for NOTC transfers.* Once the licensee receives all the information required under

paragraph (b) of this section, and prior to shipping or delivering the firearm to a transferee who is receiving it through a NOTC transaction, the licensee must:

(1) Forward by registered or certified mail (return receipt requested) or by verified electronic notice as defined in 18 U.S.C. 921(a)(38), a copy of the Form 4473, true copies of the documents provided under paragraph (b) of this section, and the sworn statement required by statute, to the principal or chief law enforcement officer (''CLEO'') the transferee named in Form 4473.

(2) Receive a response showing that the CLEO accepted the notice documents or showing that delivery failed or was refused:

(i) For documents sent by mail, receive U.S. Postal Service return receipt or receive the Form 4473 copy back, along with notification that the delivery failed or that the CLEO refused delivery, in accordance with U.S. Postal Service regulations; or

(ii) For documents sent electronically, receive an electronic response from the law enforcement officer indicating the CLEO received or refused the transmission or receive a delivery failure notice (such as an email bounce-back).

(3) If delivery fails (but is not refused), take steps to resolve the situation, as appropriate, until receiving the required return receipt, response, or refusal, or do not complete the transfer. But if the CLEO refuses delivery, continue to complete the transfer.

(4) Delay shipping or delivering the firearm to the transferee for a period of at least seven days after receiving the return receipt or response under paragraph (c)(2) and (3) of this section.

(5) Retain the original Form 4473, sworn statement, true copies of any permit or license, or other required information, and evidence that the CLEO received or did not accept the Form 4473 copy sent to the CLEO, as part of the records subpart H of this part requires licensees to keep.

(d) *Out-of-state transactions.*

(1) A licensed importer, manufacturer, or dealer may sell or deliver a rifle or shotgun, and a licensed collector may sell or deliver a rifle or shotgun that is a curio or relic, to a non-licensed resident of a state other than the state in which the licensee's place of business is located if:

(i) The purchaser meets with the licensee in person at the licensee's premises to transfer, sell, and deliver the rifle or shotgun;

(ii) The licensed importer, manufacturer, or dealer complies with the provisions of § 478.102;

(iii) The purchaser furnishes to the licensed importer, manufacturer, or dealer the firearms transaction record, Form 4473, required by § 478.124 and complies with other applicable provisions under § 478.124; and

(iv) Selling, delivering, and receiving the rifle or shotgun fully comply with the legal conditions of sale in both states.

(2) For purposes of paragraph (d)(1) of this section, any licensed manufacturer, importer, or dealer is presumed, in the absence of evidence to the contrary, to have actual knowledge of the state laws and published ordinances of both states.

(Approved by the Office of Management and Budget under control number 1140–0020)

■ 4. Amend § 478.102 by revising the section heading and revising paragraphs (c) and (e) to read as follows.

§ 478.102 Selling or delivering firearms.

* * * * *

(c) *Time limitation on NICS checks and Forms 4473.* When a NICS check is required, the licensee must initiate a NICS check once the transferee and licensee complete the initial portions of Form 4473, Firearm Transaction Record, in accordance with § 478.124 of this part and the instructions on the form. Form 4473 is valid for only a single transaction, and for a period of two calendar months from the date the parties complete these portions of Form 4473 and the licensee initiates the NICS check or until the form is used to complete a firearm transfer, whichever occurs earlier. As a result, the licensee may rely upon an accompanying NICS check conducted in accordance with paragraph (a) of this section only for use in the same single transaction, and for the same period, as the accompanying Form 4473. The two-month period ends on (and includes) the same date in that second month as the date the transferee certified Form 4473 and initiated the background check. For transactions that occur during the last three days of December, the two-month period concludes on the last day of February, either February 28 or 29. For transactions that occur on July 31, the two-month period concludes on September 30. If the transaction is not completed within the two-month period, the transferee and licensee must complete a new Form 4473 and the licensee must initiate a new NICS check prior to completing the transfer.

Example 3 for paragraph (c).

A purchaser and licensee initiate Form 4473 on December 15, 2024, and the licensee initiates a NICS check on that date. The licensee is informed by NICS three days later that the information available to the system does not indicate that it would violate law for the transferee to receive the firearm, and NICS provides a unique identification number. However, the purchaser does not return to pick up the firearm until February 21, 2025. The purchaser and licensee must initiate a new Form 4473 and the licensee must initiate another NICS check before transferring the firearm to the purchaser because the two-month period elapsed on February 15, 2025. The licensee and another purchaser initiate a Form 4473 on February 10, 2025, at which time the licensee also initiates a NICS check. The licensee receives a response from NICS on March 12 that the information available to the system does not indicate that it would violate law for the transferee to receive the firearm. The purchaser returns to buy the firearm on April 10, 2025. The purchaser and licensee do not have to initiate a new Form 4473 and the licensee does not have to initiate another NICS check before transferring the firearm to this purchaser because the purchaser returned on the last day of the two-month period.

Example 4 for paragraph (c).

Purchaser 1 and the licensee initiate Form 4473 on December 29 prior to a leap year, and the licensee initiates a NICS check on that date. In addition, purchaser 2 and the licensee initiate Form 4473 on December 30, again with a NICS check initiated on that date, and purchaser 3 and the licensee initiate Form 4473 on December 31, again with a NICS check initiated on that date. NICS informs the licensee that the information available to the system does not indicate that it would violate law for any of these purchasers to receive the firearms, and NICS provides a unique identification number for each one. Purchaser 1 returns to purchase their firearm on February 29. The purchaser and licensee do not have to complete a new Form 4473 and the licensee does not have to conduct another NICS check before transferring the firearm to this purchaser because purchaser 1 returned on the last day of the two-month period as it applies to February in a leap year.

Purchasers 2 and 3, however, return to purchase their firearms on March 1. They and the licensee must each initiate a new Form 4473 and the licensee must initiate another NICS check for each of them before transferring firearms to these purchasers because they returned after the last date in February, the second month, on which they could purchase the firearm. Similarly, purchaser 4 and the licensee initiate

Form 4473 on July 31, and the licensee initiates a NICS check on that date. NICS informs the licensee that the information available to the system does not indicate it would violate law for this purchaser to receive the firearm, and NICS provides a unique identification number. The purchaser returns to purchase the firearm on October 1. The purchaser and licensee must initiate another Form 4473 and the licensee has to initiate another NICS check before transferring a firearm to this purchaser because the purchaser returned after the last date in September, the second month, on which the purchaser could purchase the firearm.

Example 5 for paragraph (c).

A purchaser and licensee initiate Form 4473 on January 25, 2025, to purchase one firearm. The licensee initiates the NICS check on that date. NICS subsequently informs the licensee that the information available to the system does not indicate it would violate law for this purchaser to receive the firearm, and NICS provides a unique identification number. The state imposes a seven-day waiting period on all firearms transactions, and the purchaser returns to pick up the firearm on February 15, 2025. Before the licensee executes Form 4473 and the purchaser receives the firearm, the purchaser decides to purchase an additional firearm. The licensee may add the second firearm to Form 4473, and transfer that firearm without conducting another NICS check, because transferring these two firearms constitutes a single transaction under these circumstances and the two-month purchase period has not ended.

Example 6 for paragraph (c).

A purchaser and licensee initiate Form 4473 on February 15, 2025, and the licensee initiates a NICS check that same day. Within a few minutes, NICS informs the licensee that the information available to the system does not indicate it would violate law for this purchaser to receive the firearm, and NICS provides a unique identification number. A few minutes later, the licensee executes Form 4473, and the purchaser receives the firearm. On February 20, 2025, the purchaser returns to the licensee's premises and wishes to purchase a second firearm. Purchasing the second firearm in this case is a separate transaction; thus, the purchaser and licensee must complete a new Form 4473 and the licensee must initiate a new NICS check.

* * * * *

(e) *Documenting an exception to NICS check.* A licensed importer, manufacturer, or dealer who sells, delivers, or transfers a firearm pursuant to the alternative provisions of § 478.102(d) that is not subject to a NICS check prescribed by § 478.102(a), must retain a copy of the document referred to in paragraphs (d)(1) or (3) of this section, or must record the required information from the document in accordance with the provisions of § 478.124(c)(4)(iv).

(Approved by the Office of Management and Budget under control number 1140–0020)

■ 5. Revise § 478.124 to read as follows:

§ 478.124 Firearms transaction record.

(a) *Overall requirement and exceptions.* A licensed importer, manufacturer, or dealer may not sell or otherwise dispose of, temporarily or permanently, any firearm to any person, unless the licensee records the transaction on either an electronic or paper ATF Form 5300.9, Firearms Transaction Record (''Form 4473''). However, this requirement does not apply to:

(1) Returning a firearm (or replacement firearm) to the person from whom the licensee received it, when the firearm was delivered to the licensee for the sole purpose of repairing or customizing it;

(2) Selling or disposing of a firearm—

(i) To another licensed importer, manufacturer, or dealer;

(ii) To a licensed collector, if the firearm is a curio or relic;

(iii) By a sole proprietor transferring a firearm to the proprietor's personal collection or otherwise as a personal firearm in accordance with § 478.125a; or

(iv) To a governmental official, agent, or employee, or to a governmental agency, for official duty use. *See* § 478.134.

(b) *Transfers to other licensees.* When a licensee transfers a firearm to another licensee, the licensee must comply with the verification and record-keeping requirements in § 478.94 and this subpart.

(c) *Transfers to in-state residents.* Prior to transferring a firearm to a non-licensee who is a resident of the state in which the licensee's business premises are located, the licensed importer, manufacturer, or dealer transferring the firearm must obtain Form 4473 from the transferee.

(1) *Required information.* Form 4473 must show the transferee's:

(i) Name, sex, residence address;

(ii) Birthdate and birthplace;

(iii) Height, weight, and race;

(iv) Citizenship country;

(v) DHS-issued alien number or admission number (if applicable);

(vi) Certification that the transferee is not prohibited by the Act from receiving a firearm which has been shipped or transported in interstate or foreign commerce, possessing a firearm in or affecting commerce, or transporting or shipping a firearm in interstate or foreign commerce; and

(vii) For non-over-the-counter transfers, the title, name, and address of the principal or chief law enforcement officer in the locality to which the firearm will be delivered (which the transferee may attach as a supplemental statement).

(2) *Auto-populating information.* When collecting data, licensees and their customers may enter data manually into Form 4473 or other record, or may have that data automatically populate (including by scanning documents or barcodes), subject to the following limitations:

(i) Before automatically populating data, the terminal in which a person is inputting such data must:

(A) Clearly display to the person executing the form (or recording the record) what information will be automatically populated;

(B) Provide the person executing the form (or record) with the opportunity to amend the data, including by adding necessary data and changing incorrect data; and

(C) Require the person executing the form (or record) to acknowledge that the information being auto-populated is complete and correct.

(ii) Persons may not auto-populate any signatures or certifications on the form or any part of the form (or other record). This includes certifying any fact (or answering any question) related to a person's eligibility to possess or acquire a firearm.

(iii) Paragraph (c)(2)(ii) of this section does not apply to auto-populating a person's name, address, and birthdate, including by scanning an identity document, provided the licensee and transferee auto-populated this information in compliance with paragraph (c)(2)(i).

(iv) Any information auto-populated from another document or an electronic file or system of any kind must be fully entered into Form 4473 (or other record) so that the form or record is complete on its own and does not have to connect back to the source to subsequently pull the information.

(3) *Optional information.* To facilitate transferring a firearm and enable NICS to verify the identity of the person acquiring the firearm, Form 4473 also requests certain optional information. This information includes the transferee's social security number.

(4) *Information from entities.* A licensee who sells or otherwise disposes of a firearm to a non-licensee who is other than an individual (*i.e.,* an entity), must obtain from an individual authorized to act on behalf of the transferee the information required by this section. In addition, the licensee must obtain from the individual acting on behalf of the transferee a written statement, executed under the penalties of perjury, that the firearm is being acquired for the transferee's use and will be its property, and showing the transferee's name and address.

(5) *Licensee verifications.* After the transferee has executed the transferee portion of Form 4473, the licensee must:

(i) For over-the-counter transfers, verify the transferee's identity by examining their photo identification document (as defined in § 478.11 of this part), even if the transferee's identification document was used to auto-populate portions of the form;

(ii) For over-the-counter transfers, verify the transferee's residence using the photo identification document, permanent change of station (''PCS'') orders, or two documents listed in paragraph (g) of this section if the photo identification document does not contain a residence address or does not contain the current residence address that is the basis of the firearms purchase;

(iii) For all transfers in which the transferee is an alien admitted to the United States under a non-immigrant visa who states that the alien falls within an exception to, or has a waiver from, the prohibition in section 922(g)(5)(B) of the Act, examine applicable documents establishing the exception or waiver;

(iv) For non-over-the-counter transfers, ensure that the transaction meets the requirements of 18 U.S.C. 922(t)(3) and 27 CFR 478.102(d). Licensees must, as applicable, include a true copy of the permit or license, certify on Form 4473 that the transaction involves only an approved transfer of NFA firearms, or include the Director's certification under § 478.102(d)(3) of this part. Licensees must ensure they comply with all applicable requirements in § 478.96(b) and § 478.102(d) of this part; and

(v) For over-the-counter transfers, comply with the requirements of § 478.102 and record on the form the information the form requires about the date on which the licensee contacted NICS, as well as any response provided by the system, including any identification number provided by the system.

(6) *Documenting verifications.* When a transferee must provide a photo identification document, residence verification, or other document establishing eligibility to acquire a firearm, the licensee must either:

(i) Keep a legible copy of the document (whether in a paper or electronic form) together with Form 4473 in their records; or

(ii) Record on Form 4473 the type of document used, its identifying number, date it was issued, and expiration date, if included on the document.

(iii) In the case of a multiple-page document, such as a lease, the licensee may retain a copy only of the pages necessary to establish the transferee's residence.

(7) *Identifying firearms.* The licensee must identify the firearm being transferred by listing on Form 4473 the manufacturer's name, the importer's name (if imported), and the firearm's type, model, caliber or gauge, and serial number (including any associated license number either as a prefix, or if remanufactured or imported, separated by a semicolon). When a privately made firearm has no manufacturer name identified on it, the licensee must record the words ''privately made firearm'' (or abbreviation ''PMF'') instead of the manufacturer's name.

(8) *Transferee final steps.* Prior to receiving the firearm, the transferee must:

(i) Complete all applicable sections of Form 4473, including those that establish the transferee meets eligibility requirements to possess or receive a firearm under federal law;

(ii) Sign or initial responses and form where required; and

(iii) Certify that all responses and data on the form are complete and correct.

(9) *Licensee signature and transfer.* The licensee must then sign and date the form and then may transfer the firearm described on the form, if the licensee does not know or have reasonable cause to believe that the transferee is disqualified by law from receiving the firearm.

(10) *Non-over-the-counter pre-notification.* For non-over-the-counter transfers, before shipping or delivering the firearm to the transferee, the licensee must comply with additional requirements in § 478.96 for notifying law enforcement and handling Form 4473.

(11) *Retaining records.* In all cases, after the licensee transfers the firearm, the licensee must comply with Form 4473 records retention requirements in this section and in § 478.129.

(d) *Transfers to out-of-state residents.* The Act permits the following transfers to out-of-state residents, but the licensee and transferee must comply with the requirements of paragraph (c) of this section:

(1) Transferring shotguns and rifles over the counter under the provisions contained in § 478.96(d) to a non-licensee who is not a resident of the state in which the licensee's business premises are located; or

(2) Loaning or renting a firearm to use temporarily for lawful sporting purposes under the provisions in § 478.97(a) to any non-licensee who is not a resident of the state in which the licensee's business premises are located.

(e) *Private-party transfers.* To the extent permitted by 28 CFR part 25, a licensee may facilitate a background check for private-party transfers.

(1) A private-party transfer is a transfer between two persons who are not licensed importers, manufacturers, or dealers under the Gun Control Act, and does not involve the licensee in the transfer. Under this provision, the licensee provides services solely to facilitate the background check, not the transfer.

(2) If facilitating a background check for a private-party transfer, the licensee must check the appropriate box at the top of Form 4473 to designate the form is for that purpose. The licensee must comply with paragraph (c) of this section to ensure the licensee collects all the appropriate information for a background check.

(3) A licensee facilitating a background check may not take the firearm into the licensee's inventory, nor may the licensee sell, deliver, or otherwise transfer the firearm to the transferee or facilitate the transfer in any other way.

(4) A licensee may not provide background check services for a private-party transfer if federal law requires that the firearm first be transferred to a licensee, such as for transfers between residents of different states.

(5) Nothing in this subsection authorizes any licensee to facilitate a background check for a private-party transfer in violation of federal, state, or applicable local law.

(f) *Voluntary firearms handler checks (FHCs).* The licensee may voluntarily engage in conducting NICS background checks on the licensee's own employees. The employee must provide written informed consent on Form 4473 that the employee agrees to the background check before the licensee initiates it. The licensee and employees must comply with the requirements of paragraph (c) of this section (except changes necessary to enable FHCs, including that a licensee would not

enter any firearm information on the form). If the licensee is conducting an FHC, the licensee must check the appropriate box at the top of Form 4473 to designate the form is for that purpose.

(g) *Proving residence.*

(1) When the photo identification document presented to the dealer does not include a residence address or does not contain the current residence address that is the basis of the firearm purchase, a transferee may demonstrate residence by providing the licensee with two of the following documents that have the person's name and full residence address:

(i) Bank statement dated within 90 days

(ii) Canceled check, dated within 90 days, with imprinted name and address

(iii) Voter registration

(iv) Vehicle registration card or title

(v) Vehicle insurance card or policy displaying the address

(vi) Utility, telephone, cable, or satellite television bill dated within 90 days

(vii) Checking, savings, or financial account statement

(viii) Property tax bill or receipt

(ix) Mortgage account statement, deed, or other proof of homeownership

(x) Residential rental contract with signatures, including a lease

(xi) Mail from a federal, state, or local government agency dated within 90 days

(xii) Sales tax or business license

(xiii) Credit card statement dated within 90 days

(xiv) Residential service contracts dated within 90 days

(xv) Selective Service Card

(xvi) Copy of a federal or state income tax filing

(xvii) Valid state-issued professional license

(2) Members of the Armed Forces on active duty who claim residence in the state in which their permanent duty stations are located may prove residence by submitting a copy of their PCS orders. They are not required to provide any other residence verification document.

(h) *Electronic Forms 4473.* A licensee may use and maintain electronic Forms 4473, known as e-Forms 4473, provided the licensee meets all of the following requirements:

(1) The licensee uses the most current electronic version of e-Form 4473 from the ATF website or from a qualifying provider (published annually in the **Federal Register** and on ATF's website), except that ATF may authorize licensees to use older forms temporarily when ATF is transitioning between versions of the form.

(2) The licensee maintains e-Forms 4473 in a system and in a manner that complies with the requirements for electronic records in § 478.130 of this part, except that licensees must back up e-Forms 4473, including pending and incomplete forms, to a physical storage device (*e.g.,* hard drive, DVD, server) at the licensee's business premises at least daily and must retain the forms in the system when a transaction is completed or stopped for any reason. Licensees do not have to conduct the back-ups required under § 478.130(e)(1) for Forms 4473.

(3) The licensee saves Form 4473 in an unalterable format and may not delete, amend, replace, or otherwise alter it. If a licensee or transferee subsequently finds errors on the form, they may: make corrections to a copy of the original form (electronic or paper), note the date, time, reason for the correction and name and signature of the person who made the correction on the copy, then include the change copy in the same electronic file as the original (as required for any supplemental document under § 478.130(a)(4)), and comply with the data integrity and audit trail requirements of § 478.130(c).

(4) If the e-signature or any other part of e-Form 4473 is not available or fails to function, the licensee must print a Form 4473 to complete it and then either retain the form on paper or scan and load it to a storage device; and

(5) If an ATF official requests access to required records pursuant to § 478.23 or other legal authority, the licensee must be able to provide e-Forms 4473 immediately and in the format requested by the official (*e.g.,* in electronic form on a physical storage device, by email, or on paper).

(6) The licensee complies with all laws and other regulations applicable to paper Forms 4473 (except changes necessary to enable electronic use).

(i) *Record-keeping requirements.* A licensed manufacturer, importer, or dealer must retain in alphabetical (by name of purchaser), chronological (by date of disposition), or numerical (by transaction number) order, and as a part of their required records: each Form 4473; true copies of any permits or license; sworn statements; and other required information; evidence of CLEO notification when required, along with evidence that the CLEO received or did not accept the Form 4473; and all other documents or copies obtained in the course of transferring the firearms. The licensee must retain these records for the period required in § 478.129 as part of the records subpart H of this part requires the licensee to keep. This section's record-keeping requirements are in addition to any other record-keeping requirement contained in this part.

(Paragraph (c) approved by the Office of Management and Budget under control numbers 1140–0020 and 1140–0060; all other record-keeping approved by the Office of Management and Budget under control number 1140–0020.)

§ 478.131 [Reserved]

■ 6. Remove and reserve § 478.131.

§ 478.134 [Amended]

■ 7. Amend § 478.134 by revising the section heading to read ''Selling firearms to law enforcement officers'' and removing from paragraphs (a) and (c) the words ''or Form 5300.35''.

Robert Cekada,

Director.

[FR Doc. 2026–09182 Filed 5–7–26; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[OMB 1140–0020]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection; Firearms Transaction Record—ATF Form 5300.9 and 5300.9A (''Form 4473'')

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives; Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: ATF encourages comments on this information collection. You may submit written comments until midnight on July 7, 2026.

ADDRESSES: Submit written comments and recommendations for this information collection, especially on the estimated public burden or associated response time, to Jason Gluck, Firearms Industry Programs Branch, by email to *FIPB@atf.gov,* or by mail to 99 New York Avenue NE, 6N–509; Washington, DC 20226. Identify comments by the OMB control number 1140–0020. You may view the proposed information collection instrument online at *https://www.atf.gov/rules-and-regulations/federal-register-actions/forms-and-information-collection.*

FOR FURTHER INFORMATION CONTACT: If you have questions or need a copy of the proposed information collection instrument with instructions or additional information, contact: Jason Gluck, FIPB, either by mail at 99 New York Avenue NE, 6N–509; Washington, DC 20226, by email at *FIPB@atf.gov,* or by telephone at 202–648–7190.

SUPPLEMENTARY INFORMATION: We encourage written comments and suggestions from the public and affected agencies concerning the proposed information collection. Your comments should address one or more of the following four points:

—Evaluate whether the proposed information collection is necessary to properly perform ATF's functions, including whether the information will have practical utility;

—Evaluate the agency's estimate of the proposed information collection's burden for accuracy, including validity of the methodology and assumptions used;

—Evaluate whether, and if so, how, the quality, utility, and clarity of the collected information can be enhanced; and

—Minimize the information collection's burden on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting people to submit electronic responses.

Overview of This Information Collection

1. *Abstract:* Prior to transferring a firearm, a federal firearms licensee (FFL) must determine if the unlicensed transferee may lawfully receive the firearm. The FFL must also initiate a background check. Form 4473 is the vehicle by which transferees provide the necessary information for the FFLs to accomplish both statutorily required tasks. This collection is critical to law enforcement, complying with statutes prohibiting certain persons from possessing firearms, facilitating crime gun traces.

2. *Type of information collection:* revising a previously approved collection.

3. *Title of the form/collection:* Firearms Transaction Record.

4. *Agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 5300.9 and 5300.9A (''Form 4473'').

Component: Bureau of Alcohol, Tobacco, Firearms, and Explosives; U.S. Department of Justice.

5. *Affected public who will be asked or required to respond, as well as the obligation to respond:*

Affected public: individuals or households, private sector for-or not-for-profit institutions.

Obligation to respond: required to obtain a benefit (firearm) and mandatory per 18 U.S.C. 922(b)–(d) and 27 CFR 478.99.

6. *Estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are an estimated 22,500,265 respondents associated with this information collection annually. Each respondent completes the form prior to acquiring a firearm. ATF estimates that it will take each respondent approximately 15 minutes (0.25 hours) to complete the form.

7. *Estimate of the total annual burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 5,625,091 total hours, which is equal to 22,500,365 (total respondents) * 1(# of responses per respondent) * 0.25 (15 minutes).'

8. *Estimate of the total annual other cost burden associated with the collection, if applicable:* $0.

ESTIMATED TOTAL HOURLY BURDEN

Activity	Number of respondents	Frequency	Total annual responses	Time per response (hours)	Total annual burden (hours)
Complete Firearms Transaction Record	22,500,365	1	546,424	.20	109,285

Revisions to This Information Collection

ATF is revising information collection (IC) OMB 1140–0020 to include material changes to the form in its entirety and updates to the hourly burden from the previous renewal. These changes have decreased the hourly burden per respondent by consolidating previously multiple transferee sections into one page, reducing the number of blocks, questions, and information to make it easier to read and respond, reorganizing the questions for faster response and easier reading, and limiting the requested information to items required by statute, in addition to allowing respondents to submit copies of their identification documents, rather than transcribing the information onto the form. More specifically, ATF is making the following changes to Form 4473 as part of this revision to make it easier and faster for respondents and licensees to complete the form and align it more closely with the statute and with plain

writing requirements. The following changes will be implemented:

1. Edits made throughout for plain writing purposes, changes in voice from passive to active language, and punctuation edits throughout.

2. Some items have moved to different locations and been rephrased due to reorganization throughout the document. The new organization allows transferees and FFLs to complete each of their pages, rather than the previous structure, in which sections alternated, requiring pass-backs and more time.

3. Two checkboxes added (if applicable to the transaction) to the top right-hand side of the form.

4. Section headings A—D have all been removed.

5. Firearm information that was initially the first section of the document has been moved to new item 5 on the 2026 version.

6. Transferee will now complete the first four questions on the form (including the transferee's information, transferee's eligibility to receive a firearm, citizenship questions, and certification questions).

7. In transferee information section (which was previously box 14) labeled SEX, non-binary was removed. The only selections are male or female and this is now item 1.

8. Boxes are included for transferee to indicate if their first name is an ''initial only'' or to indicate ''no middle name.''

9. The separate ethnicity and race sections have been combined into one race/ethnicity question (new item 1) with minor changes. Hispanic or Latino is now a checkbox like the others, and a new box has been added for Middle Eastern/North African. These changes are to correspond to Census Bureau categories and recent executive order requiring the updates.

10. The transferee eligibility questions (*i.e.,* those which may prohibit or qualify the transaction) are now item 2 (completed by transferee) and transferee must attest to statements by initialing items 2a through 2d. No longer checkboxes of ''yes'' or ''no.'' The question which was previously item 21a. (eligibility) question ''are you the actual transferee/buyer of the firearm(s) . . .'' no longer precedes the eligibility (prohibiting) questions and is now located in item no. 2 and rephrased as ''not engaging in a straw purchase'', because of statutory changes in 2022.

11. Questions related to citizenship and alien or non-immigrant alien status, (formerly items 21l, m1 and m2) are now part of item 3 (transferee citizenship). Former question 21n, related to making a sale to a nonimmigrant alien not meeting one of the exceptions, has been removed.

12. The transferee's certification that directly followed the eligibility (prohibiting) questions is now item 4 (transferee certification part I). It has been reworded as declarative statements to which the transferee attests, indicating they understand all parts of the transaction and what they are signing. The arrangement of the statements is slightly different.

13. Whether the firearm(s) are handgun, long gun, or other has been removed from the form (formerly item 24). However, there is an optional area in which the FFL may note this on page 4, if they wish.

14. What was formerly item 25 is now item 5, but 'county' has been removed as part of the address. It is not required by the statute.

15. Identification (formerly item 26a) is now item 7, and the FFL must either attach a copy of the document or they can record the information on page 4.

16. Former items 26b (supplemental issued documentation), 26c. (official military orders), and 26d. (exception to nonimmigrant alien prohibition) are now all part of item 7 (with new wording).

17. The notice regarding the under-21 waiting period, right before the NICS section, was removed. However, there is similar wording in a later section of the new form related to 21-and-over or under-21 transactions in item 11.

18. Transferee certification has now been broken into transferee certification part I (item 4) and part II (item 8) (part II is what was formerly called ''recertification'').

19. Transferor certification heading has been changed to FFL certification and has slightly different wording. This is now item 9.

20. The reminder for completing ATF Form 3310.4 (multiple sales report) was removed from the Form 4473.

21. Many instruction sections were removed. They will be available on ATF's website for persons who have questions. The remaining instructions have been shortened significantly and written in plain writing.

If you require additional information, contact: Darwin Arceo, Department Clearance Officer; United States Department of Justice; Justice Management Division, Enterprise Portfolio Management; Two Constitution Square, 145 N Street NE, 4W–218; Washington, DC.

Dated: April 17, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026–09183 Filed 5–7–26; 8:45 am]

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Part III

Department of Education

Comprehensive Centers Program; Notice

DEPARTMENT OF EDUCATION

[Docket ID ED–2026–OESE–0364]

Comprehensive Centers Program

AGENCY: U.S. Department of Education.

ACTION: Final priorities, requirements, and definitions.

SUMMARY: The Department of Education (Department) announces final priorities, requirements, and definitions under the Comprehensive Centers (CC) Program, Assistance Listing Numbers (ALNs) 84.283B and 84.283D. We may use one or more of these priorities, requirements, and definitions for competitions in fiscal year (FY) 2026 and later years. These final priorities, requirements, and definitions are intended to redesign the CC program to better meet its statutory purpose to provide high-quality capacity-building services to State, regional, and local educational agencies and schools that improve educational opportunities and outcomes, close achievement gaps, and improve the quality of instruction for all students.

DATES: The final priorities, requirements and definitions are effective June 8, 2026.

FOR FURTHER INFORMATION CONTACT: Dr. Michelle Daley. Telephone: (202) 987–1057. Email: *OESE.ComprehensiveCenters@ed.gov.*

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION: *Purpose of this Regulatory Action:* On March 3, 2026, the Department published a notice of proposed priorities, requirements, and definitions (NPP) in the **Federal Register** (91 FR 10353). Through this regulatory action, we establish final priorities, requirements, and definitions that the Department may use for competitions in FY 2026 and later years. To the extent not otherwise specified or incorporated herein, this NFP supersedes and revokes the 2024 Notice of Final Priorities, Requirements, Definitions, and Selection Criteria (2024 NFP) published in the **Federal Register** on May 13, 2024 (89 FR 41498) and the 2019 Notice of Final Priorities, Requirements, Definitions, and Performance Measures (2019 NFP) published in the **Federal Register** on April 4, 2019 (84 FR 13122). As discussed below, following the publication of these priorities, requirements, and definitions, the Department may decide to end the current CC awards and run a grant competition to award new CC grants in FY 2026 or in subsequent fiscal years.

Summary of the Major Provisions of This Regulatory Action: The NPP contained background information and our reasons for proposing the priorities, requirements, and definitions. There are changes between the proposed priorities, requirements, and definitions and the final priorities, requirements, and definitions established in this notice of final priorities, requirements, and definitions (NFP), as discussed in the *Analysis of Comments and Changes* section in this document.

Purpose of Program: The purpose of the CC program is to provide capacity-building services to State educational agencies (SEAs), regional educational agencies (REAs), local educational agencies (LEAs), and schools that improve educational opportunities and student outcomes, close achievement gaps, and improve the quality of instruction for all students, particularly for groups of students with the greatest need.

Program Authority: 20 U.S.C. 9601 *et seq.* and 20 U.S.C. 6674.

Public Comment: In response to our invitation in the NPP, the Department received comments from 49 commenters on the proposed priorities, requirements, definitions, and directed questions.

Generally, we do not address technical and other minor changes, or suggested changes that the law does not authorize us to make under applicable statutory authority. In addition, we do not address general comments regarding concerns not directly related to the proposed priorities, requirements, or definitions.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priorities, requirements, and definitions since publication of the NPP follows.

General Comments

Comments: Multiple commenters expressed general support for the proposed priorities for the CC program. A few commenters noted the opportunity for further individualization based on State needs in the proposed model and made suggestions to strengthen the federal technical assistance infrastructure to align more closely with State-identified needs. A few endorsed the concierge style role of the National Center. One commenter appreciated the Department's effort to reduce administrative burden on States by streamlining technical assistance, and noted this model further decentralizes services to ensure access in rural and urban centers serving students with the highest need. Several commenters noted the importance of service providers with appropriate expertise, including deep expertise in implementation and demonstrated results working with State and local clients in improving student outcomes.

Discussion: We appreciate the commenters' support for the priorities. The Department appreciates the support for the prioritization of providing high-quality capacity-building services to State, regional, and local educational agencies and schools that improve educational opportunities and outcomes, close achievement gaps, and improve the quality of instruction for all students. We agree with the importance of applicant expertise in implementation and note Application Requirement 4 which requires applicants to demonstrate expertise in the current research on adult learning principles, coaching, and implementation science. We also emphasize that applicants should have experience working with State and local clients and amend Application Requirement 1 to include demonstration of results in similar projects as evidence of the applicant's ability to provide effective capacity building services.

Changes: We amend Application Requirement 1 to include demonstrating results from prior experience.

Comments: Several commenters discussed the aspects of the notice that promote alignment between the Regional Educational Laboratories (RELs) and Regional Centers, including geographic alignment, alignment of funding cycles, and operational coordination. A few commenters suggested that stronger regional alignment and coordination between RELs and CCs will reduce State burden and further clarify the distinct roles of each provider in supporting State's needs. One commenter noted the proposed priorities would improve coordination and promote greater coherence between the RELs and Regional Centers.

A few commenters also recommended clarification on distinct roles of Regional Centers and RELs where there might be overlapping work. They highlighted the importance of having structures that support continuity of staff, consistent points of contact, collaboration essential for meaningful systems change, strong understanding of the policy, demographic, and operational contexts of the States they serve, the ability to respond to emerging State and federal priorities, and; staffing models support both rapid-response support and sustained, and in-depth

engagement. A few commenters recommended establishing joint coordination and collaboration between RELs and the Comprehensive Center Network (CCNetwork).

Discussion: The Department appreciates the commenters' general support for stronger coordination and agrees that close collaboration between the RELs and CCs is necessary to successfully meet the needs of States and utilize program resources most effectively. We appreciate the commenters that shared preferences for stronger regional alignment to reduce burden on State agencies, support stronger alignment of REL and CC work to State priorities, and more explicitly differentiate support from RELs and CCs. The Department agrees that, where functions align, RELs and CCs can achieve efficiencies in working together to support States in their assigned regions, such as through joint planning, coordinated support of State Learning Agendas, and having a joint Governing/Advisory Board so that both programs advance work driven by State-defined priorities and promote coherence and strategic use of program resources.

We appreciate comments regarding opportunities for stronger coordination between RELs and Regional Centers. The REL and CC programs, both authorized under the Education Sciences Reform Act of 2002 (P.L. 107–279), are related programs with distinct but complementary functions in supporting State educational systems. The RELs are responsible for conducting applied research and developing and disseminating activities, as well as providing related technical assistance. The CCs focus on capacity-building support to facilitate, implement, and provide sustainable evidence-based policies and practices. The Department highlights that Program Requirement 1 for Regional Centers requires collaboration with the REL serving their region, including joint annual planning and establishing joint advisory boards, and Program Requirement 2 for Regional Centers requires partnering with the REL serving their region to work with States to develop or refine State Learning Agendas, which serve as a basis for both REL and CC annual planning. We believe the existing requirements provide a strong basis for ongoing collaboration within the priorities and requirements and do not believe additional changes are needed.

Changes: None.

Comments: A few commenters noted their concerns regarding potential duplication of efforts of Centers within and beyond the CC program and the importance of strong coordination across the CCNetwork, with most comments focusing on the potential role of the National Center in mitigating concerns with duplication and coordination. One commenter argued that issues of duplication of efforts across CCs and RELs and other federally funded initiatives stemmed from a lack of coordination through a single, clearly authorized coordinating entity and suggested this was not sufficiently addressed in the proposed priorities. Another commenter noted the risk of duplication of work created by the overlap in the approach of both RELs and the National Center to manage a cadre of subject matter experts. Additionally, one commenter noted that clearly defining the roles of each type of CC would reduce the possibility of duplicating efforts in service provision across the CCNetwork.

Discussion: The Department appreciates the commenters' feedback regarding the need to reduce or eliminate duplication of efforts across technical assistance providers and ensure strong coordination of services across the CCNetwork. We appreciate the opportunity to clarify and discuss the rationale of how the priorities, requirements, and definitions reduce duplication of effort, particularly through Priority 1 and program requirements related to the National Center. Under Priority 1, the National Center will serve as a lead coordinator across the CC programs to ensure that all technical assistance provided by Centers reflects State-driven technical assistance priorities, reduces burdens and barriers to service for States and beneficiaries, and reflects efficient use of program resources, which includes efforts to reduce duplication of effort both within the CC program and with other Department technical assistance. This function will also include supporting coordination with RELs, including through supports for regional Learning Agenda development, identifying and coordinating support for national needs, and supporting dissemination of information, tools, resources, and best practices across CCs and RELs.

However, the Department agrees that further clarification related to the role of the National Center in reducing duplication and advancing coordination would be helpful to improving client experience, grantee operations, and efficient use of program resources. Specifically, the Department amends Priority 1 to clarify and enhance the coordination responsibilities for the National Center, including promoting overall alignment and coherence of CCNetwork services, conducting analyses of common high-leverage problems, and developing tools and resources to support service delivery across Centers. The Department additionally specifies that the National Center should support multi-State coordination, as needed, and should limit its own service delivery to needs identified through analysis of data, in consultation with its Advisory Board, that are not being addressed by other Centers, to avoid potential duplication.

The Department also amends Priority 1 to explicitly include responsibility to conduct a national needs analysis, to share this information with other Centers for planning purposes, and to use it to inform the identification of high-leverage problems for its own service plan, in consultation with its Advisory Board. To align with these amendments to Priority 1, the Department has added a new Program Requirement 1 for the National Center to clarify that National Center should focus on developing tools and resources to support coordination and collaboration in its first project year, and we have amended Program Requirement 3 for the National Center to incorporate the requirement to conduct and publish annual synthesis of common high-priority needs across states each year of the National Center's grant. The Department also amends the Application Requirement 1 for the National Center to include these additional coordination responsibilities.

The Department also appreciates the feedback from commenters related to the importance of coordination across the CCNetwork, including related to Regional Centers and Content Centers. We highlight that Proposed Priority 2: Regional Centers requires that Regional Centers must effectively work with the National Center, the REL in their region, federal technical assistance providers and Content Centers as appropriate to avoid duplication of efforts. Importantly, the program requirements for both Regional Centers and Content Centers include a focus on coordination with other CCs and other technical assistance providers. Regional Centers must, under the requirements, coordinate with the REL serving their region, including through joint planning and establishing a joint advisory board. Given the focus on coordination within these elements for Regional and Content Centers, the Department does not believe edits to Priority 2, Priority 3, or the requirements for Regional Centers or Content Centers are needed to address the commenters' feedback. The Department will also provide ongoing support to grantees to support efforts to

prevent and address any concerns related to duplication.

Changes: The Department updates Priority 1 language to specify that National Center services must address evidence-based national needs not already addressed by other federal investments and to include additional coordination responsibilities as noted above. The Department also amends the Program Requirements for the National Center to add a Requirement for the National Center to develop tools and resources to support coordination and collaboration, and to amend Program Requirement 3 for the National Center to include language to conduct and publish an annual synthesis of common high-priority needs across States, and to share this information with all Centers to identify potential opportunities for support. The Department also amends Application Requirement 1 for the National Center to ensure the required description of the approach to coordination incorporates the coordination responsibilities described in Priority 1 and the Program Requirements for the National Center.

Comments: Several commenters discussed the potential of the State Learning Agendas to strengthen federal technical assistance and create stronger alignment to State-identified priorities. A few commenters specifically noted the potential for this strategy to support a customer-driven Regional Center model anchored in State Learning Agendas, that will produce stronger State partnerships and support continuity across provider transitions by grounding Regional Center work in sustained State priorities. One commenter recommended that Regional Centers should focus on addressing high-leverage problems identified through States' Learning Agendas as they work with their States on State-directed service plans.

However, a few commenters raised considerations related to the implementation of the State Learning Agendas and suggested areas where additional clarity may be needed. One commenter noted that additional clarity would be needed related to oversight and reporting requirements if Regional Centers would be expected to directly work with clients other than through State-directed service plans. A few commenters noted that improved coordination across Regional Centers, Content Centers, the National Center, and RELs would be needed to effectively implement State Learning Agendas, and urged the Department to clearly define roles, expert capacity expectations, and processes to support the development and use of State Learning Agendas.

Discussion: The Department appreciates commenters' feedback regarding the role of Regional Centers to support State Learning Agendas and agrees that State Learning Agendas may serve as an important lever to provide high-quality technical assistance on State-identified high priority topics. The Department emphasizes that, under Priority 2 and Program Requirement 2 for Regional Centers, Regional Centers are expected to partner with the National Center and the RELs serving their regions to develop or refine, as appropriate, a multi-year State Learning Agenda to identify needs and set priorities. We intend this requirement to be flexible to accommodate States that may already have Learning Agendas, those that do not but wish to develop one, or to accommodate States with other forms of articulated priorities, such as a Strategic Plan, that demonstrates the State's priorities, educational goals, and commitments. The Department recognizes that the development of a Learning Agenda may require significant engagement from the State and believes it to be an appropriate use of significant CC and REL resources to support Learning Agenda development. As discussed above, the Department has amended the National Center priority to include a focus on coordinating and refining tools and processes for Learning Agenda development to build on the current tools and processes under development in a current Learning Agenda pilot, in a manner that can be utilized and adapted by all RELs and Regional Centers. The Department expects the National Center to support RELs and Regional Centers in working with their States to develop Learning Agendas, such as by producing and adapting tools and resources, providing additional expertise, as needed, sharing examples of model Learning Agendas, or convening States across regions, as needed. The Department intends that Regional Centers should develop their annual service plans as an outgrowth from the priorities established by States in their Learning Agendas and gather feedback from key stakeholders including Chief State School officers, SEA leaders, TEAs, LEAS, educators, student and parents to reflect the most pressing needs of all States within the region to be served. The Department will provide programmatic oversight and guidance on program reporting requirements to grantees post-award and does not believe that changes to the priority or requirements related to State Learning Agendas are needed.

Changes: None.

Comments: Several commenters suggested a preference for States as applicants for Comprehensive Center grants in a future grant competition, connected to the Department's goal to ensure that the program is aligned with State priorities. A few commenters noted their support for using the Secretary's Supplemental Priority on Returning Education to the States, published on September 9, 2025 (90 FR 43514), as a Competitive Preference Priority in the next grant competition, with a few commenters suggesting that the Department encourage States as lead applicants or lead consortium partners for applications under Priority 3: Content Centers and Priority 2: Regional Centers. Commenters identified potential benefits to State-led CCs such as strengthening accountability to State leadership, ensuring Center priorities are aligned with State needs, and reducing the administrative burden on States by allowing States to partner with established technical assistance providers for administrative and compliance support while maintaining client-led priorities at the forefront of the work.

Discussion: The Department appreciates the feedback from commenters on the potential benefits of State-led centers. Consistent with the program statute, we affirm that States are eligible entities under Section 9602(b) of the Educational Technical Assistance Act of 2002 (ETAA) and that States may choose to serve as the lead applicant under this program. States may also apply as consortium partners in collaboration with other eligible entities, depending on the design of the grant competition. We also appreciate the feedback on the ways the Department can prioritize applications from States for CC grants. Because there is a current Secretary's Supplemental Priority on Returning Education to the States that the Department could use in the upcoming competition to prioritize applications from SEAs, tribal education agencies, other relevant state or tribal organizations or agencies, or those endorsed by governors or chief State education officials, we do not believe that any changes to the priorities are needed.

Changes: None.

Comments: One commenter urged the Department to consider incorporating school safety measures into the current CC priorities to ensure that federal and State safety measures are not only adopted but operationalized effectively at the school level.

Discussion: The Department appreciates the feedback from the commenter. While we agree with the commenter on the importance of school safety, the Department's intent is to focus the priorities in this notice on the statutory purposes of the CC program, while not overly prescribing certain topics for support proactively to ensure that State and local needs can drive the services areas of the CCs. We note that, as written, the Content Center priorities do not preclude the Department from proposing a Center focused on *s*chool *s*afety as an Emerging Needs Center, nor do they preclude applicants from proposing such a Center under the Field-Initiated focus area, if there is demonstrated need for support from CC clients on the topic. Similarly, should States choose to prioritize school safety as a need for support, CCs could provide support or partner with other federal providers to address State needs. As such, we decline to add school safety measures as a required focus area across the priorities, but emphasize that, to the extent that this focus area is aligned to the purpose of the program and identified as an area of need by clients, CCs may support clients in the adoption and implementation of school safety measures.

Changes: None.

Comments: One commenter raised several procedural concerns with the Department's proposed rulemaking action, notably that the proposed priorities, requirements, and definitions impose binding grant conditions on grantees. The commenter argued that ED should publish a Notice of Proposed Rulemaking with a 60-day comment period and more extensive Regulatory Impact Analysis. Additionally, the commenter raised concerns that the Department imposes undisclosed information collection burdens; that the proposed rulemaking action constitutes a major rule requiring congressional submission given the program's funding level; and that the Department's analysis of the rulemaking action does not provide a reasoned explanation including alternatives considered and an assessment of reliance interests. The commenter disagrees with the finding that the rulemaking action is not considered a significant action under Executive Order (E.O.) 12866 and argues that it should trigger a deregulatory offset pursuant to E.O. 14192; additional Office of Information and Regulatory Affairs (OIRA) review; cost accounting for all new grantee information collection and compliance requirements; an Initial Regulatory Flexibility Analysis; and an analysis of how burden will be reduced by eliminating existing requirements in place of the new requirements established in this action.

Discussion: The Department appreciates the commenters' feedback but disagrees with these assertions. The Regulatory Impact Analysis section of the NFP explains that this priority is determined by OIRA to not be economically significant and that application submission and participation in competitive grant programs that might use these priorities, requirements, and definitions is voluntary. With respect to the commenter's request for additional OIRA review and expanded cost accounting, the agency notes that the information collection and compliance obligations associated with this rule have been reviewed consistent with the Paperwork Reduction Act of 1995 (PRA).

Pursuant to those obligations, we believe, based on the Department's administrative experience, that entities preparing an application for this program would not need to expend more resources than they otherwise would have in the absence of these priorities, requirements, and definitions, as most potential costs result from statutory requirements and those we have determined are necessary for administering the Department's programs and activities, and that potential costs to applicants would be de minimis. The Department also clarifies that the priorities, requirements, and definitions contain information collection requirements that are approved by the Office of Management and Budget (OMB) under the Generic Application Package for Departmental Generic Grant Programs (OMB control number 1894–0006) consistent with the requirements of the PRA. The priorities, requirements, and definitions are accounted for in the currently approved data collection. Additionally, the Department clarifies that the program has in recent years received annual appropriations of no higher than $50–$55,000,000, which falls below the threshold to require Congressional Review under the Congressional Review Act. Moreover, the Department notes that reliance interests and alternatives considered are discussed in other portions of this NFP, and that ED need not consider every conceivable alternative to the proposed priorities but rather must consider a reasonable range of alternatives that fosters informed decision making, which it has done here.

Changes: None.

Comments: One commenter raised concerns with the Department's authority for the priorities, requirements, and definitions. Specifically, the commenter argued that the ETAA does not give the Department the authority to establish a coordinating National Center or to establish the configuration of regional centers on a competition-by-competition basis; or to establish application requirements beyond those explicitly listed in the ETAA.

Discussion: The Department appreciates the feedback from the commenter but disagrees with these assertions. Section 9602(a)(1) of the ETAA requires that the Department operate no fewer than 20 centers total, and Section 9602(b)(1) requires only that ''not less than 1 comprehensive center is established in each of the 10 geographic regions served by the regional educational laboratories established under section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994.'' Section 9602(b)(2) further authorizes the Department, after meeting the requirements of 9602(b)(1), to establish additional centers, considering ''the school-age population, proportion of economically disadvantaged students, the increased cost burdens of service delivery in areas of sparse population, and the number of schools implementing comprehensive support and improvement activities and targeted support and improvement activities under section 1111(d) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311(d)] in the population served by the local entity or consortium of such entities.'' This provides substantial flexibility to the Department to define regions based on these considerations, while also recognizing that these needs-based factors may change over time and subsequently, regional configurations may need to be adjusted to take these changes into account. Further, to the extent that there are commonly identified needs across these considerations, the Department has defined ''the Nation'' as the region served for the National Center and Content Centers. The Department notes that it has funded Content Centers or a National Center in each competition of this program since last authorized under the ETAA in 2002. The Department has operated a National Center since 2019 and has, in each competition cycle, conducted rulemaking to establish the regional configuration for Regional Centers. Regarding application requirements, Section 9602(c)(1) of the ETAA requires that applicants for grants under the CC program ''shall submit an

application at such time, in such manner, and containing such additional information as the Secretary may reasonably require.'' Given these statutory authorizations, the Department believes that the priorities, requirements, and definitions are well within the authority of the ETAA.

Changes: None.

Comments: Multiple commenters opposed new priorities that may lead to a competition to replace existing grants and to establish new grants prior to the end of the current grant awards made in 2024. Many of these commenters highlighted a primary concern that a mid-cycle competition would interrupt the current work of CCs and cause a disruption to the progress of multi-year projects. Several comments noted that a majority of existing CCs had recently been reinstated after a period of termination and highlighted negative experiences that these interruptions had on State work. A few commenters focused on concerns related to disrupting ongoing Regional Centers projects; losing existing capacity provided by current Regional Centers, particularly for small, rural school divisions that rely upon their support; or slowing progress on State priorities if CC work is transitioned to new providers. A few commenters highlighted ongoing projects between specific Regional Centers and their clients that they were concerned would be disrupted by a new competition, including ongoing work with the Puerto Rico and the U.S. Virgin Islands Departments of Education on priority initiatives; the work of the Northeast Center, the work of the West Center; and the work of the Appalachia Regional Center on career and technical education and workforce development initiatives. Other commenters also shared concerns related to a potential mid-cycle competition, including the potential negative impact on relationships between States and their Regional Centers should current awards be discontinued and an increased administrative burden on States and grantees if grants are terminated mid-cycle, which may result in States having to dedicate more time to engaging with potential applicants, navigating disruptions to currently scoped work, or onboarding and transitioning work to new grantees. A few commenters recommended the Department consider extending the current grants for two years at the end of the current five-year grant cycle to align with REL awards that would next be made in 2032. A few commenters recommended that, in lieu of running a competition and making new awards in 2026, the Department could make adjustments to existing cooperative agreements to embed new priorities and goals for the program into the work of current grantees.

Discussion: The Department appreciates the feedback from commenters regarding the benefits of continuing to fund existing CC projects and specific examples of concerns with possible disruption of work for State clients. The Department has not made a final decision regarding the timing of new CC projects, and whether such new CC projects would necessitate a cessation of old CC project activity. However, if the Department were to make new CC awards within this fiscal year, an advantage would be the ability to align REL and CC funding cycles to achieve stronger program alignment and program efficiencies that support States and other clients in achieving improvements in student outcomes and building the necessary capacity to advance the Administration's priorities to return education to the States in the current funding year rather than waiting another year or years for the next potential funding cycle. In order to take advantage of this flexibility, the Department believes that finalizing these priorities, requirements, and definitions now is a significant and necessary step towards the Department's goals to improve the design of the CC program to better align to the statutory intent of the ETAA.

The Department also considered, as a countervailing factor, the potential for service gaps or other disruptions should a competition, award, and initiation of new grants occur within the current fiscal year. If the Department ultimately determines that existing project activities should be concluded, it will provide current grantees with a reasonable period to wind down their projects. In addition, the Department would require these grantees to coordinate with, and, as appropriate, transfer ongoing State level projects to the newly selected grantees to minimize any interruption in services. This transition process would be consistent with the procedures the Department employed when winding down and transferring work from prior CC grantees in 2019 and 2024. The Department also evaluated the alternative of directing existing CC grantees to modify their cooperative agreements to implement the priorities, requirements, and definitions set forth in this action. However, as explained in the NPP, a central objective of this Administration is to return education decision-making authority to the States. To most effectively advance that objective, the Department may determine that conducting a competition under these priorities that provides preferences to entities to best reflect this focus is necessary. Therefore, while the Department may decide to end the current CC awards and run a grant competition to award new CC grants in FY 2026 or in subsequent fiscal years, we make no further changes based on these comments.

Changes: None.

Comments: One commenter discussed the connection of the priorities, requirements, and definitions to tribal interests, particularly related to tribal consultation and tribal sovereignty. The commenter argued that the Department should be required to complete Tribal Consultation prior to final rulemaking given the potential impact on services impacting tribal education. Additionally, the commenter raised concerns that the focus on State Learning Agendas could infringe upon the sovereignty of tribes to establish education priorities. The commenter shared additional recommendations such as to require coordination with the National Congress of American Indians and the Bureau of Indian Education and to create a pathway for tribal educational agencies (TEAs) to access technical assistance services separate from the Regional Centers, such as through the National Center.

Discussion: The Department appreciates the comments, and we agree with the importance of upholding tribal sovereignty and supporting tribal education priorities through the CC program. The Department conducted extensive engagement related to the CC program in 2023, including Tribal Consultation (see transcript at *https://www.ed.gov/sites/ed/files/2023/05/Jan-24.2023-Tribal-Consultation_transcript.pdf*) and the feedback from that process informs these priorities, requirements, and definitions. The development of State Learning Agendas or State service plans does not compel adoption of these priorities by TEAs; centers will be expected, aligned with the requirements in the ETAA and these priorities, to ensure that services reflect the needs of the clients they are serving, including TEAs. Finally, the Department has emphasized the importance of coordination with relevant partners and agencies throughout the priorities and requirements and does not believe that specific additions related to these comments are needed. We also emphasize that the Department believes, aligned with the requirements for service in the ETAA, the priorities allow for TEA clients to access services through multiple pathways similar to

what is available for SEA clients, through direct work with the Regional Center in the region, through Content Centers focused on relevant topics, or through the National Center, where applicable. To emphasize this, the Department has added serving the needs of tribal students to the National Center priority to confirm the importance of services to this population.

Changes: The Department added language to the National Center priority to emphasize that services shall address national needs identified to address the unique educational obstacles faced by tribal students.

Comments: One commenter raised concerns that the priorities, requirements, and definitions could impose burdens on small States, TEAs, and rural communities by mandating participation in proposed CC program activities, such as developing State Learning Agendas; program intake processes; and participation in joint advisory boards. The commenter also recommended that the Department take steps to reduce barriers for participation in the CC program for small entities, including Historically Black Colleges and Universities (HBCUs); Tribally Controlled Colleges and Universities (TCCUs), other minority serving institutions (MSIs), and small businesses, including a specific suggestion to reserve funds or provide priority points for applications from these types of entities.

Discussion: The Department appreciates the commenter's feedback around the need to support small entities, including those who are clients of the program and those who may apply for funding. We clarify that, while we believe that these priorities, requirements, and definitions will improve the CC program to make participation beneficial to all clients, these actions do not compel any clients, including TEAs or small States, to participate, and that all clients would be able to weigh the benefits of participation in the program against any time and resource obligations such participation may require. To the extent that certain groups are identified to participate in CC Advisory Boards, the Department notes that the requirements for participation and input are statutory, while providing flexibility for Chief State School Officers (CSSOs) to appoint designees to participate on behalf of the CSSO, as well as to recommend appropriate representation from constituent groups and partners within their States who have the capacity to participate. By establishing joint rather than separate governing and advisory boards with RELs, the Department intends to significantly reduce the participation burden on regional participants. Additionally, the Department disagrees with the suggestion to create a priority related to small businesses, HBCUs, TCCUs, or MSIs because we do not believe that it is necessary to advancing the statutory intent of this program under the ETAA or the Department's policy goals for this program, particularly related to returning education to the States. We therefore decline to establish a specific priority for small businesses, HBCUs, TCCUs, or MSIs in this program, though we welcome applications from these entities to the extent that they are eligible entities under Section 9602(b) of the ETAA.

Changes: None.

Priorities

Priority 1: National Center

Comments: Multiple commenters provided feedback on the role of the National Center as outlined in Priority 1, specifically related to the degree to which the National Center should provide direct services to CC clients. Many commenters supported the National Center primarily serving in a coordinating role for the CCNetwork and RELs and several commenters suggested that the National Center should not provide direct services but instead serve only as a broker and coordinator of services, aligned to State-identified, rather than federally-identified needs. Another commenter recommended that the National Center's primary role should focus on leading coordination, escalation, and quality-assurance across the CCNetwork, supporting cross-center alignment, addressing unresolved or cross-cutting issues, and providing States with a clear pathway to raise concerns around service provision.

Discussion: The Department appreciates the opportunity to clarify its intent that the National Center both implement *and* coordinate client-driven technical assistance. The Department appreciates commenters' recognition of the importance as a primary role of the National Center to coordinate services to both support client needs and the broader functioning of the CCNetwork. However, The Department disagrees that the National Center should not provide services. We believe the National Center must retain the ability to address multi-State needs that may arise throughout the course of a multi-year grant cycle that cannot be addressed by Regional Centers given their focus on region-specific support. The Department also recognizes that national needs may arise that cannot be addressed by Content Centers who are focused on specific topical areas. The Department believes that the National Center has an important role in addressing cross-State priorities, provided these needs are not already being addressed by another federal provider. However, we agree that these needs should be State-identified, rather than identified by the Department. For this reason, the Department amends the priority language for the National Center to further clarify its role to provide cross-State targeted or universal services, when appropriate and grounded in demonstrated need, consistent with the statutory priorities and focus areas of this program, and as identified by analysis of high-leverage needs across State Learning Agendas, Regional Service Plans, its Advisory Board, or other data-based means of needs identification.

Changes: The Department amends Priority 1: National Center to clarify how its services should be focused to ensure that needs addressed are State-identified.

Comments: Many commenters supported the creation of a National Center concierge service, while several commenters emphasized the importance of clarifying the National Center's role in relation to the Regional Centers in identifying and selecting expertise through its cadre of national subject matter experts. Several commenters noted the concierge service strategy would promote better access to expertise and support through the CCNetwork.

Several commenters indicated concerns about the proposed concierge role as a single point of entry to CC services. Commenters noted the importance of Regional Centers' long-term, sustained relationships with States in understanding needs and context and shaping complex capacity-building projects. Commenters shared concerns with transitioning this primary contact role to the National Center, including that the concierge role would add an unnecessary layer between States and Regional Centers, that the approach risks unintentionally limiting States' ability to strategically leverage available supports, that the National Center may avoid distributing requests to potential competitors, and that a centralized process may slow rather than expedite service intake and delivery timelines and delay needed services to State clients.

Several commenters recommended that States' primary relationships and entry points to the CCNetwork should continue to be driven through Regional

Centers, but suggested that the National Center can serve as a helpful ''clearinghouse'', coordinating information sharing and learning, a coordinating hub to support coordination and connection across Centers where multi-provider engagement is needed, and to promote overall alignment and coherence of CCNetwork services.

A few commenters also suggested that the National Center serve as a ''broker'' to connect States and Centers with a broad registry of national subject matter experts with proven expertise and results supporting CC clients. One commenter suggested that such a registry should include client reviews and transparency in service pricing. One commenter proposed that the National Center should create a publicly accessible database of pre-qualified providers, and that it should be regularly updated based on evidence of demonstrated effectiveness and State-reported satisfaction with services provided. One commenter recommended that the National Center directly contract services with the national cadre of experts on behalf of States.

Discussion: The Department appreciates commenters' thoughtful reflections and recommendations on how the National Center concierge service can best improve access to services and expertise and reduce burden for potential CC clients. The Department agrees that States should retain direct relationships with their Regional Centers who serve as their primary service providers and as discussed in the General Comments section, amended language to clarify the National Center's role as a facilitator and connector rather than a necessary entry point. The Department also notes that we have consistently received client feedback that they are not aware of all the Department-funded Centers and therefore do not always know how to direct requests or which Centers can support their needs. The Department intends not that the National Center serve as an obligatory starting point for those inquiries, but instead that the National Center concierge service can provide a voluntary point of entry for any State or other client seeking federal technical assistance on a particular issue or high-leverage problem. In this capacity, the National Center can make potential clients aware of their options and facilitate access to available resources across the federal technical assistance ecosystem. To clarify this element, the Department amended the National Center priority language and Program Requirement 6 for the National Center to reflect the voluntary aspect of utilizing this service.

The Department disagrees that the National Center should directly contract work on behalf of States, and notes that individualized State support should still be directed through a State's Regional Center, with support from the National Center to identify options for qualified providers and subject matter experts that may meet State needs. The Department does agree, however, that the National Center should play a role in soliciting, vetting, and providing access to a broad range of subject matter experts and service providers with proven track records of providing high-quality, outcomes-based services that could be contracted by Centers, and that States should have choice in selecting subject matter experts they deem best qualified to meet their needs. The Department has further clarified this intention by amending the Program and Application Requirements for the National Center related to establishing a national cadre of subject matter experts to ensure that the cadre includes a broad range of expertise from providers with proven outcomes working with CC clients and sufficient information to help clients make informed selections among potential providers. The Department agrees that this information should be made available to clients and include client reviews, examples of work, and transparency in pricing. The Department also notes the Program Requirement for Regional Centers to partner with clients on determining their needs for expertise and provide clients with transparent options, including via the national cadre of subject matter experts, with the intention that clients can select the expertise for each project best suited for their needs, including expertise beyond the immediate staff of the Center. We have amended the language of Program Requirement 3 for Regional Centers to reinforce the importance of client-driven selection.

Changes: The Department has amended Priority 1 and Program Requirement 6 for the National Center to reflect the voluntary aspect of the concierge service. The Department additionally amends Program and Application Requirements for the National Center related to the establishment of a national cadre of subject matter experts to specify that the cadre must include providers with proven results working with State clients to improve student outcomes. The Department also amended Program Requirement 3 for Regional Centers to incorporate language supporting client selection of providers and the Regional Centers' role to support evaluation of options.

Comments: One commenter noted the broad variation among SEAs in size, funding, political context, and operational sophistication that produce varying levels of State agency capacity, resulting in each agency's need for differentiated support from CCs. The commenter suggested adding a requirement to this priority for the National Center to conduct and maintain biennial comprehensive capacity assessments of SEAs to assist Regional and Content Centers in developing differentiated support based on State capacities for strategic planning, evidence use, organizational learning, data infrastructure, and talent management dimensions.

Discussion: We appreciate the commenter's suggestions regarding how to address variations in State agency capacities and agree it would be appropriate for the National Center to create assessments to assist in identifying SEA needs related to specific dimensions of capacity, including strategic planning, evidence use, organizational learning, data infrastructure, and talent management. However, we believe these assessments would best be conducted voluntarily and led by Regional Centers in their direct engagement with States, rather than required and conducted by the National Center. Therefore, we have added language to the National Center priority and added a program requirement for the National Center related to developing tools and resources that will promote service delivery across the CCNetwork, which could include the suggested capacity assessments.

Changes: The Department added language to Priority 1 to include developing tools and resources that support delivery of high-quality, high-impact technical assistance and capacity-building services across the CCNetwork, including capacity assessments. Additionally, the Department added a program requirement for the National Center aligned to the Priority 1 additions.

Comments: One commenter recommended adding a requirement to this priority for the National Center to identify common high-priority needs across States prior to soliciting applications for Regional Centers and Content Centers.

Discussion: The Department appreciates the commenter's suggestion that the National Center could play an important role in identifying common high priority needs that could be addressed by Regional or Content

Centers and has added a program requirement related to this focus area for the National Center. The Department agrees that the National Center could draw these data from State Learning Agendas and other organizational assessments, as well as from analysis of REL and Regional Center annual plans. The Department disagrees that the National Center should be responsible for identifying priorities prior to the Department inviting applications for Regional Centers and Content Centers. We believe that the Regional Advisory Committees (RACs) required under Section 206 of the ETAA are intended to serve this purpose, and that these are appropriate vehicles, among others, to identify priorities for the program according to current statutory intent. The Secretary established 10 RACs in 2023 to conduct an education needs assessment and identify each region's most critical educational needs and develop recommendations for technical assistance to meet those needs, and the priorities and needs identified through this process informed the priorities, requirements, and definitions in this notice.[1]

Changes: The Department added a Program Requirement for the National Center to conduct and publish an annual synthesis of common high-priority needs across States to inform and enable cross-regional peer learning on shared challenges and targeted and universal support needs from Content Centers, or other Centers, as needed.

Comments: One commenter suggested that the National Center advisory board should be comprised primarily of current CSSOs and should include representation from the leadership of national representative organizations to increase accountability and ensure the National Center's services are focused on State priorities.

Discussion: The Department generally agrees with the commenters' recommendations, and notes that the Department currently requires National Center Advisory Board membership from national organizations representing CSSOs, chief executive officers (*e.g.,* governors), Regional Centers and other organizations with expertise relevant to the goals of the project. The Department notes that membership requirements for the National Center Advisory Board have typically been addressed through cooperative agreements issued after grant awards are made. The Department also agrees with the importance of the Advisory Board in helping the Center to identify common issues that should be addressed by the National Center in its annual service plan and adds language to this priority to clarify that services shall address national needs identified by the Center's Advisory Board.

Changes: The Department has added language to the priority to ensure services address needs identified by the Center's Advisory Board.

Comments: One commenter recommended enhancements to this priority to ensure that the National Center intentionally and effectively serves rural students through service plans that reflect rural needs, embeds rural expertise in its personnel, expands outreach to rural partners and supports cross-agency coordination that aligns education, workforce, health, and community services.

Discussion: The Department appreciates the commenter's suggestions and agrees that serving the needs of rural students is an important focus area of this program. The Department notes that serving rural populations has been an area of focus in previous competitions and would be an appropriate use of National Center resources. The Department also notes that in any competition where the Field-Initiated or Emerging Needs priorities are used for Content Centers, applicants may propose Content Centers focused on the unique needs of rural students, in which case the National Center should not duplicate those services. Therefore, the Department proposes amending the language of the priority to note the importance of support for rural students, while also noting the imperative to ensure services do not duplicate those provided by other federal Centers.

Changes: The Department added language to the National Center priority to emphasize that services shall address national needs identified to address the unique educational obstacles faced by rural students.

Priority 2: Regional Centers

Comments: Many commenters provided feedback on Priority 2: Regional Centers and the Directed Question regarding the optimal configuration of Regional Centers. A few of these commenters emphasized that the ideal regional configuration should ensure Centers understand the local context of the States they serve and have sufficient capacity relative to the number of States served to develop deep, long-term relationships with clients.

Commenters discussed the optimal number of states served by each Regional Center, ranging from 1–2 States up to all States in a given REL region. A few commenters noted that serving large geographic areas can add complexity to service delivery or prove difficult to manage for Regional Centers. A few commenters highlighted the value of smaller or moderately sized regions, noting that such arrangements allow for stronger relationships, stronger multi-year collaboration, rapid-response support, and meaningful peer-to-peer learning among states. One commenter noted that previous models, with more regions, provided more balanced support and recommended a more flexible or expanded regional structure. Another commenter cautioned that close alignment to REL regions could give longtime REL operators an unfair competitive edge in applying for Regional Center grants.

One commenter recommended serving States through a hybrid model of a smaller number of Regional Centers along with 8–10 national thematic Content Centers to offer States both regional relationships and deep national expertise.

Overall, commenters stress that alignment should balance operational efficiencies with State needs for differentiated and intensive supports.

Discussion: The Department appreciates the thoughtful feedback from commenters on Priority 2 and the Directed Question regarding the optimal configuration of Regional Centers that best supports clients while meeting the requirements of the ETAA. The Department agrees that retaining a regional configuration that aligns with and does not cross boundaries with the established REL regions is beneficial to effective coordination and clear lines of support for States. We disagree with commenters that suggest regions should not be bound by REL region boundaries and would point to commenters who spoke to challenges in operation, coordination, and partnerships during prior cycles in which regional boundaries crossed multiple RELs.

The Department additionally appreciates commenter suggestions on how the Department might determine additional regions, based on need, State size or capacity, or other factors. The Department has designed Priority 2 to allow the Department flexibility to establish the regional configuration for each competition, in compliance with the requirements in Section 9602(a)(2) of the ETAA. We also emphasize the factors from the ETAA that the Department will consider to determine the configuration of Regional Centers for any given competition, including the school-age population, proportion of

[1] Final RAC reports were published in December 2023 on the Department's website at *https://www.ed.gov/grants-and-programs/regional-advisory-committees.*

economically disadvantaged students, the increased cost burdens of service delivery in areas of sparse population, and the number of schools implementing comprehensive support and improvement activities and targeted support and improvement activities under section 1111(d) of the Elementary and Secondary Education Act of 1965 in the population served by the local entity or consortium of such entities.

The Department does not believe that specific changes to Priority 2 are needed given this flexibility, but we will consider feedback from commenters in determining the regional configuration, along with these statutory factors, in subsequent competitions where this priority is used.

Changes: None.

Comments: One commenter expressed concern about potential alignment of Regional Centers with existing REL regions, expressing that one-to-one alignment may disadvantage smaller States, and recommended the Department adopt a differentiated regional structure to ensure equitable access to services nationwide and avoid administrative or structural changes that could inadvertently reduce responsiveness or effectiveness of Regional Centers. This commenter urged the Department to avoid strict alignment with REL regions, to increase the number of Regional Centers, and incorporate features that ensure smaller States receive an equitable share of resources and support from Regional Centers. The commenter additionally recommended that the Department prioritize State-driven service models, to ensure all States have access to intensive, customized support and to better position the program to achieve its goals of improving outcomes, closing achievement gaps, and strengthening educational systems nationwide and ensure equitable access to services and funding by incorporating safeguards that prevent larger States from disproportionately consuming regional resources.

Discussion: The Department appreciates this comment and agrees with the importance of ensuring sufficient resources and differentiation to States, and particularly to smaller States or States with unique needs. The Department appreciates the commenters' input on the potential impacts of strict alignment to existing REL regions, as well as the challenges of providing equal support to large and small States alike in the same regions. The Department notes that Section 9602(b)(1) of the ETAA requires only that at ''not less than 1 comprehensive center is established in each of the 10 geographic regions served'' by the RELs, which implies that some Regional alignment is needed. However, Section 9602(b)(2) further authorizes the Department to, after meeting the requirements of 9602(b)(1), to establish additional centers, considering factors related State contexts, needs, and capacities. The Department also notes that it has established, in competitions, minimum funding levels for Regional Centers to ensure that all Regional Centers have sufficient resources to operate according to regional needs, including needs related to economically disadvantaged students, student attending schools identified for improvement, or needs associated with areas of sparse population or large geographic service areas.

Finally, we note that Section 9602(d) requires that ''(e)ach comprehensive center established under this section shall allocate such center's resources to and within each State in a manner which reflects the need for assistance'' based on multiple factors which ensure that all States within a region receive adequate support regardless of the State population or size, and potentially advantage smaller States with more acute needs for assistance. The Department maintains alignment to statutory requirements for service provision in section 9602(f) of the ETAA across Priority 1, Priority 2, and Priority 3, as well as Program Requirement 1 for All Centers, which requires that all Centers' service plans must demonstrate how services will prioritize support for students and communities with the highest needs, as described in section 9602(e) of the ETAA. We believe this combination of statutory and regulatory requirements provides the necessary flexibility to consider the needs of smaller States in regional configurations and provides existing leverage for differentiation to ensure each State receives equitable, tailored, and sustained capacity-building support.

Changes: None.

Comments: Several commenters urged the Department to make supporting SEA and LEA school improvement capacity an explicit priority for Regional Centers.

Discussion: The Department appreciates the commenters' suggestion and notes that Priority 2 reinforces the focus on the statutory intent of the program described in section 9602(f) of the ETAA to address the unique educational challenges, and improve the outcomes, of schools implementing comprehensive support and improvement activities or targeted or additional targeted support and improvement activities under title I, part A of the ESEA (ESEA sec. 1111(d)). The Department also reinforces this statutory emphasis in Program Requirement 1 for All Centers which requires that service plans must demonstrate how services will prioritize support for students and communities with the highest needs, as described in section 203(e) of the ETAA, which requires Centers to give priority to schools in the region that have been identified for school improvement under section 1116(b) of the ESEA. We believe the current priority and requirement sufficiently address the statutory focus of the program on school improvement and that no additional changes are needed.

Changes: None.

Comments: One commenter recommended that Regional Centers should conduct baseline capacity assessments of the States they serve, and then differentiate support based on SEA capacity, with suggested tiers for high, middle, and emerging capacity, to promote intensive organizational development across states. This commenter also recommended that Regional Centers establish structured mentorship programs between States, and allow explicit use of intermediate capacity indicators, including, for example, adoption and regular use of SEA organizational learning and improvement processes, gains in evidence-based decision-making, and evidence of skill building in transformation-related topics, among others. The commenter suggests that these indicators could be compared against a known standard that aligns to expectations for State leadership, and that expected changes in State capacity should be specified in annual service plans alongside outcomes related to improvements in student outcomes.

Discussion: The Department appreciates the suggestion to support differentiated support based on SEA capacity under Priority 2: Regional Centers and agrees in the importance of setting explicit goals for building State capacity and demonstrating that capacity is being built through measuring and reporting on intermediate capacity measures. In the Application Requirements for Regional Centers, applicants must describe how they intend to ''measure the readiness of clients and recipients to work with the Center; co-design projects and define outcomes; measure and monitor client and recipient capacity across the four dimensions of capacity-building; and measure the outcomes achieved throughout and at the conclusion of a project.''

The *Definitions* section of this notice includes explanations of the four

dimensions of capacity-building for this program that form the basis for Centers' work with clients. The Department believes these dimensions generally and adequately capture the types of organizational capacity the commenter describes. The Department also notes that Program Requirement 1 requires Centers to define capacity-building outcomes related to their work with each client, including short-, medium-, and long-term outcomes, in their annual service plans. These outcomes, as included in the *Definitions* section of this notice, must describe the ''demonstrable effects of receiving capacity-building services and must reflect the result of capacity built in at least one of the four dimensions of capacity building.''

The Department amends Program Requirement 2 to ensure services are designed with clients to address specific client needs and desired outcomes. The Department agrees on the importance of having available capacity assessments that would assist Centers in assessing, tracking and reporting State capacity indicators, and in having standards of State capacity against which States might identify opportunities to focus development and improvement. However, the Department declines to require use of specific indicators at this time, as we believe applicants may each propose effective strategies to measure ''readiness'', and that standards would be best developed in collaboration with Centers and their clients after award. The Department believes this is an appropriate role for the National Center to compile examples of capacity assessments and develop common tools and resources to align capacity assessment, tracking, and reporting across Centers and, as discussed in a prior discussion and changes section, have added language to Priority 1 and the Program Requirements to add the responsibility. We do not believe that further changes are needed.

Changes: We amended Program Requirement 2 to require that services are designed to address specific client needs and desired outcomes.

Comments: One commenter raised concerns related to the work of centers around supporting clients to address corrective actions related to audit findings or the Department's ESEA program monitoring and if that work may undermine the collaborative relationship between CCs and States.

Discussion: We appreciate the commenter's concern related to how potential CC work to support clients in addressing corrective actions may impact CC-client relationships. We note that States are not required to work with Centers to address corrective actions or results from audit findings and ESEA program monitoring conducted by the Department, but may do so at the State's request, and do not believe this type of work undermines the collaborative relationship of the Regional Center with the State but rather elevates specific technical assistance needs identified by the Department and provides a free and cost-effective support to remedy Department monitoring findings or corrective actions where building state capacity is needed. Because State engagement around corrective actions would be voluntary and at a State's request, and this notice neither requires nor prohibits this engagement, we do not believe changes are needed.

Changes: None

Priority 3: Content Centers

Comments: Several commenters shared general concerns with Priority 3: Content Centers, particularly related to the Emerging Needs and Field-Initiated Content Centers. Specifically, a few commenters noted concerns that the inclusion of Content Centers could decrease resources available for Regional Centers or decrease coherence across the program. One commenter shared concerns that past iterations of Content Centers had not been effective and had negatively constrained research in their relevant fields, and another commenter noted that the focus on Emerging Needs Centers with Department-identified topics appeared contrary to the focus on State-driven needs.

Discussion: The Department appreciates the perspectives shared by commenters. We note that the priorities do not indicate funding levels and that, based on Congressional appropriations, the Department will determine and publish funding levels for Regional and Content Centers in an Application Notice and Instructions (ANI) for a specific competition. In setting funding levels, the Department considers the factors identified in Section 9602(a)(2)(B) as well as any expected minimum funding levels needed to provide services and maintain the Center. Further, the Department believes that Priority 3 establishes strong expectations for the performance of the Centers and their alignment to statutory requirements of the ETAA, State needs and coordination with other CCs and Department TA providers. We do not believe changes to the priorities or specific focus areas are needed.

Changes: None.

Comments: A few commenters strongly recommended that the Department maintain the Content Center on English Learners and Multilingualism and expressed support for the expertise provided by the Center during the current grant cycle. In addition, a few commenters expressed their support to preserve the current Content Center for Early Learning Success and the focus within the CC program on the continuum of PK–3, emphasizing the critical importance of strengthening early learning, addressing persistent national challenges in early literacy and math and minimizing disruptions to current work plans.

Discussion: The Department appreciates the commenters' perspectives. The CC program aims to improve educational outcomes, close achievement gaps, and improve the quality of instruction for all students, particularly those with the greatest need. Section 9602(f) of the ETAA requires that the CCs include technical assistance activities focused on supporting English language acquisition. As such, the Department believes that, according to the needs of local school, district, and State clients of the CC program, supporting the needs of English learners in English language acquisition will continue to be a focus area of the CC program. Additionally, related to early learning, the Department believes that, based on the needs of clients such as States, LEAs, and schools, supporting early learning will remain a significant area of focus for the program. Therefore, we do not believe that it is necessary for the Department to dictate either of these as a required topic for a dedicated content center. We emphasize that the Department could, in a future competition cycle and based on the evolving needs of CC clients, identify these as topic areas for Emerging Needs content centers. Additionally, we note that applicants can, under the Field-Initiated topic area under Priority 3: Content Centers, propose centers that focus on a specific topic on national need, as emphasized by the demonstrated needs of States, districts, and other CC clients.

Changes: None.

Comments: Several commenters provided feedback on the potential focus areas for Emerging Needs Centers under Priority 3: Content Centers. One of these commenters discussed the importance of Emerging Needs Centers being relevant across States and recommended that, in any competition using this focus area, the Department share a clear explanation of how the focus of the Emerging Needs Centers were determined and how they reflect input from stakeholders across States and regions. Several commenters provided suggestions for potential

specific focus areas of Emerging Needs Centers aligned to the current Secretary's Supplemental Priorities, including literacy acceleration and achievement, numeracy acceleration and achievement, advancing artificial intelligence in education, civics education, school choice, and career pathways and workforce readiness or career and technical education. Another commenter cautioned that focus areas for Emerging Needs Centers should be grounded in clear areas of need, such as school improvement and literacy, where there is evidence of gaps in State capacity rather than setting content areas to align primarily with Administration priorities. The commenter shared concern about potential alignment between Emerging Needs center topic areas and the Secretary's Supplemental Priorities on Returning Education to the States; Expanding Education Choice; and Promoting Patriotic Education. One commenter suggested additional potential focus areas including school finance, open education resources, and effective communication and engagement strategies. Other commenters suggested Emerging Needs should focus on building SEA capacity, including, for example, organizational development, strategic planning, evidence-use infrastructure, and data and research infrastructure, to support State agencies in building their internal capacity for solution-building and evidence use. Another commenter suggested potential focus areas for Emerging Needs Centers related to national security and STEM industry workforce needs, such as those in the defense industrial base, in semiconductor production, or those addressing National Security Education Program-designated critical language instruction areas. This commenter also recommended evaluating proposals for Emerging Needs centers against Workforce Innovation and Opportunity Act priorities, Perkins State plans and workforce security goals.

Discussion: The Department appreciates the commenters' suggestions related to Emerging Needs centers. We agree that these centers must be grounded in areas of shared need across States and believe that is sufficiently emphasized in the priority through the language noting that centers established under this priority will focus on an ''education topic of significant national or regional need.'' Because this focus area under Priority 3 is currently written to provide flexibility for the Department to define topics for Emerging Needs centers in any given competition, we do not believe changes to the priority are necessary to reflect the specific topical feedback from commenters. The Department reiterates as stated in the priority that we will establish the specific topic area or areas for Emerging Needs Centers that are ''aligned to the Secretary's Supplemental Priorities, areas of need identified in the Regional Advisory Committee reports, the technical assistance topics identified in the ETAA, or other critical aspects of need related to quality implementation of programs under the ESEA'' in a ANI for any future grant competition, and therefore decline to propose specific topical focus areas in this priority.

Changes: None.

Comments: Several commenters provided feedback on the focus area for Field-Initiated Centers under Priority 3: Content Centers. Overall, commenters supported the shift toward field-initiated centers, noting that this approach allows for a more targeted, sustained technical assistance response to emerging State and regional needs. One commenter recommended strengthening this approach by identifying specific topics areas for field-initiated applications, such as strategic school staffing, skill validation and competency aligned pathways, and the educator workforce. A few commenters suggested ensuring field-initiated centers align to State-identified needs and that applicants demonstrate engagement with multi-region stakeholders to validate any proposed topic for a Center. One commenter suggested establishing a threshold or minimum number of States or Regions supporting the proposal for consideration as a Field-Initiated topic. Another commenter emphasized the importance of incorporating mechanisms for ongoing feedback from States and partners to continuously refine and guide the work of Field-Initiated Centers. One commenter recommended clarifying priority topics for Content Centers to be identified and updated based on emerging evidence and field needs.

Discussion: The Department appreciates the commenters' suggestions related to Focus Area 1: Field-Initiated Centers. Because this focus area under Priority 3 is currently written to provide flexibility for education topics of significant national or regional need that are aligned to the statutory purposes described in section 9602(f)(1) of the ETAA, we do not believe specific topics need to be identified in the priority; however we amend the application requirements for Content Centers to require applicants to describe how their proposed topic is aligned to the statutory program purposes. We appreciate commenters' suggestions to define what may constitute a significant need and add language to the priority to require evidence that the need must be ''national'' or identified as a need in more than one region to support its identification as a topic of significant national or regional need. As outlined in the priority, educational topics for Field-Initiated Centers may include an array of topics based on State and regional needs and priorities, State learning agendas or another similar identification set forth by SEAs, REAs, TEAs or LEAs. With all proposed priorities, the Department acknowledges the importance of ensuring the relevance, responsiveness, and stakeholder's input to ensure Centers remain aligned to clients' needs.

Changes: The Department adds language to the priority to clarify how applicants may identify topics of national or regional significance. The Department additionally adds language to Application Requirement 3 for Content Centers to require applicants to identify how the proposed project aligns to statutory purposes in Section 9602(f)(1) of the ETAA and provide data to support the national or regional significance of the project.

Comments: One commenter supported the focus on principals, teachers, paraprofessionals, other school leaders, and specialized instructional support personnel in the focus area for the National Comprehensive Center for Improving Literacy for Students with Disabilities (NCIL), under Priority 3: Content Centers. The commenter recommended that the Department reinforce this focus on educators in the Emerging Needs and Field-Initiated focus areas as well by adding a definition for ''educator workforce'' inclusive of teachers, paraprofessionals, principals, other school leaders, and specialized instructional support personnel, and amending the priority language for these focus areas to make reference to this definition of the educator workforce to ensure that all individuals in these specific roles in schools are included.

Discussion: The Department appreciates the commenter's support for the importance of a definition of ''educator workforce'' that focuses on a broad range of professionals, and we agree that further clarity would be helpful to better define the types of educators and practitioners that the Department envisions would benefit from services. Specifically, the Department notes its definition of *educator* for this program established in the 2024 NFP, which means ''an

individual who is a teacher (including an early education teacher), principal or other school leader, administrator, specialized instructional support personnel (*e.g.,* school psychologist, counselor, school social worker, librarian, early intervention service personnel), paraprofessional, faculty, and others,'' clarifies the intention of this program to support educators across a range of roles and will include this term in the *Definitions* section for greater clarity. However, we disagree that Priority 3 should be amended to include the term ''educator workforce'' as a specific topical focus area because the flexibility to address this topic already exists in the Priority.

Changes: The Department has included the definition of *educator* established in the 2024 NFP in the *Definitions* section of this notice for greater clarity.

Comments: Several commenters supported the proposed focus area for the NCIL under Priority 3: Content Centers and also provided feedback on the activities and scope of center. One commenter recommended strengthening requirements related to access to education materials, assistive technology (AT), and training opportunities for students, families, and educators. Additionally, the commenter emphasized the importance of supporting literacy instruction for students who use augmented and alternative communication (AAC), American sign language (ASL), and braille, to more effectively support students with diverse learning needs. One commenter suggested that the Center should focus on essential technical assistance and support in States and local jurisdictions, to improve the literacy skills development for students, including those with disabilities. The commenter also emphasized that the proposed center should assist States and districts to understand the flexibility and allowable uses of general and special education funding. Another commenter suggested that the Center should serve all SEAs and LEAs, including charter schools that operate as their own LEAs, and proposed changes to add additional requirements for the NCIL to be more specific regarding the creation of evidence based universal screeners and the components of these tools.

Discussion: The Department appreciates the commenters' support for the NCIL and the perspectives from commenters on topics such as the importance of AT in meeting the individual needs of students and supporting their learning. The Center is dedicated to advancing evidence-based teaching methods for pre-K through grade 12 students with literacy-related disabilities, including dyslexia. The language of this focus area under Priority 3 reflects the authorizing language for this Center in ESEA, and therefore the Department declines to revise the priority text in order to remain closely aligned to the statutory intent for this Center. However, related to supporting effective use of AT, the Department affirms that, as noted under part (b) of this Focus Area, a grantee may develop products and services that better support educators, families, and students in the effective use of AT. Given the population of students served under the NCIL, as defined in statute as students at risk of not attaining full literacy skills due to a disability, including dyslexia impacting reading or writing, or developmental delay impacting reading, writing, language processing, comprehension, or executive functioning, the Center is expected to be responsive to these needs, including serving students who use AAC, ASL, and braille. In addition, the Department funds a Center on Technology Systems that provides technical assistance to LEAs to support the implementation of comprehensive and sustainable assistive and instructional technology systems. The Center funded under this priority may, as needed based on client input, collaborate with other centers to ensure access to specialized expertise and avoid duplication of efforts across the Department's technical assistance landscape.

The recommendation to support States and districts in understanding the flexible and allowable uses of general and special education funding falls outside of the statutory responsibilities of the Center and therefore we decline to make edits to the priority to incorporate this as a focus area. The Department clarifies that the center serves SEAs, and LEAs, and charter schools operating as LEAs as outlined in the ESEA Section 8101(30) and does not believe that changes are needed because these types of charter schools are already included as potential clients.

Related to the screener tools, the Department believes it is aligned with the statutory authorization for this center to allow the focus on developing screening assessments and tools to be broad, as long as such tools and assessments are evidence-based and therefore declines to make revisions to the priority related to this topic.

Changes: None.

Requirements

Program Requirements

Comments: Many commenters expressed opposition to the proposed restricted indirect cost rate, which would reduce the amount of grant funds going to supporting program overhead. One commenter argued that it is not legally permissible for the Department to impose this as a program requirement in this circumstance. Many commenters believed that the addition of this requirement would disadvantage smaller nonprofits and university-based centers, limit the pool of high-quality applicants, and slow implementation. One commenter noted that caps such as an 8 percent limit would prevent applicants from recovering actual costs, create inequitable barriers, and conflict with the program's goals of providing high-quality, State-responsive technical assistance. Commenters also emphasized practical concerns, including rate-approval backlogs at cognizant agencies and administrative burden associated with negotiating rates—and urged the Department to instead rely on each applicant's existing negotiated indirect cost rate, to the extent existing applicants had one. Many commenters recommended that the Department remove the restricted indirect cost rate requirement entirely to preserve competition and program effectiveness.

Discussion: The Department appreciates the commenters feedback regarding the use of a restricted indirect cost rate for this program. To begin, the Department notes that indirect cost rates for all of its grant and cooperative agreement programs are established through regulations issued via notice and comment rulemaking, including program specific regulations such as those proposed in the NPP. Accordingly, commenters' assertions that the Department is prohibited from setting an appropriate indirect cost rate for a program through rulemaking are incorrect. We appreciate the opportunity to clarify how restricted indirect cost rate requirements work. For example, restricted indirect cost rates may exceed eight percent of modified total direct costs (MTDC) under 34 CFR 75.564. The difference between restricted and unrestricted rates is not a fixed percentage; rather, it depends on which organizational expenses are permitted in the underlying calculation. As a result, grantees using a restricted rate may still recover general management costs, as permitted under 34 CFR 76.565. The primary general administrative costs excluded from a restricted indirect cost

rate are expenditures related to governing bodies, salaries of chief executive officers, and reimbursing organizational components that are unrelated to the specific work of the grant or pertain solely to the office of the organization's chief executive (*see* 34 CFR 76.565(c)), which we believe would be appropriate restrictions for this program. The Department agrees that grantees without an approved restricted indirect cost rate would need to obtain one in order to recover indirect costs. However, the Department disagrees that these existing grantees or applicants would be disadvantaged. Grantees and applicants are generally permitted to recover indirect costs from either the date they submit their initial request or back to the start of the project period for the grant (*see* 34 CFR 75.560(e)(3)). Moreover, any applicant without a current negotiated indirect cost rate agreement with the Federal Government is already in the position of needing to negotiate one unless the applicant elects to use the *de minimis* rate permitted under 2 CFR 200.414(f). In other words, to the extent there is any disadvantage, it would only place current CC grantees in the same position as organizations that apply for the CC competition that lack a current negotiated indirect cost rate agreement.

However, the Department acknowledges some commenters' suggestions that, given the burdens and expenses associated with operating CCs, maintaining the unrestricted indirect cost rate would best support effective program implementation. Particularly, comments suggesting that adopting a restricted indirect cost rate may unfairly limit the range of eligible applicants who would be interested in applying to the program, and may in fact exclude some new applicants that the Department may want to encourage to participate, suggest that adopting a restricted rate may result in undesirable impacts on a future competition. The Department finds these arguments regarding the nature and operation of the CC program persuasive at this time. As such, given these concerns, the Department is removing the requirement applying the restricted indirect rate from this notice. The Department remains interested in management approaches that will maximize the use of grant funds for direct program services while allowing flexibility to account for differences in applicant context and cost structure and will consider regulatory and non-regulatory alternative approaches in the future.

Changes: The Department removes the program requirement that all Centers be subject to, and all subgrantees subject to, a negotiated restricted indirect cost rate.

Comments: One commenter recommended that the program requirement for the National Center cadre of subject matter experts should include speech and language professionals, including speech-language pathologists and audiologists.

Discussion: The Department appreciates the commenter's suggestion and agrees that speech and language professionals would be appropriate professionals to include in the national subject matter expert cadre. The Department notes that this program requirement includes that the National Center recruit and retain an expansive and comprehensive cadre of national subject matter experts that includes qualified education practitioners, researchers, policy professionals, and other implementation consultants. We decline the recommendation to add these specific professions, as we believe the current program requirement does not restrict the inclusion of speech and language professionals. We additionally note that there are a wide range of specializations that would likely be beneficial to support State and local needs for support, and that the language of the program requirement is intended to be broad so as to include any types of professionals who may be needed to assist CC clients with needs aligned to this program's statutory purpose.

Changes: None.

Comments: One commenter requested clarification on how CC Advisory and REL Governing Boards would function under the proposed structure, specifically whether existing REL Governing Boards would satisfy the requirements for CC Advisory Boards or if new boards would be required.

Discussion: The Department appreciates the opportunity to clarify the intent behind the program requirement for Regional Centers to establish joint advisory boards with the REL serving their region. The Department proposes the establishment of jointly constructed boards that meet requirements under both ESRA Sec. 174 (h) (20 U.S.C. 9564) and ETAA Sec. 203 (g) (20 U.S.C. 9602), with both RELs and CCs contributing to their composition and operation. The Department intends that participation on joint boards would reduce burden and make most efficient use of time for State agencies and other member categories that are duplicative across the REL and CC program requirements. Additionally, we believe that joint advisory boards will promote more strategic use of program resources, improved service delivery and coordination of REL and CCs, and greater clarity in the distinct roles of RELs and CCs to support regional priorities. Both RELs and CCs would be expected to share in the costs associated with operating these jointly constructed boards. The Department notes that REL and CCs regularly constitute new boards in each funding cycle and would be expected to jointly constitute new boards in the next funding cycle.

Changes: None.

Comments: A few commenters raised concerns about the proposed FTE requirements for Project Directors, noting that high director FTE levels could reduce resources available for technical assistance, create challenges for smaller centers with limited budgets, and restrict flexibility in staffing models. One commenter suggested that it may be important and beneficial for Project Directors to have time available to participate in other research and evidence-building activities to remain abreast of the latest trends and best practices in the field. A few commenters recommended lowering the minimum FTE requirements for Project Directors of Regional and Content Centers from 0.75 to 0.50 FTE to better allow for shared Co-Director structures. One commenter suggested aligning the National Center's FTE expectations with those of Regional and Content Centers from collective 1.5 FTE to 1.0 FTE to promote consistency across the program. One commenter suggested the Department could encourage clear delineation of responsibilities between the Director and Co-Director, succession planning, and sufficient administrative support for grant operations.

Discussion: We appreciate commenters' input on appropriate FTE requirements for Center leadership. We believe the FTE requirements for both the National Center and Regional Centers are reasonable as the proposed structure provides flexible staffing options while ensuring sufficient leadership capacity required for the depth and intensity of the work. The Department declines to changes these requirements.

However, specifically for Content Centers, we do agree with the commenters that there may be valuable reasons for Project Directors to dedicate a portion of their time engaged in related research and work that supports their ability to serve effectively in their roles as national experts. We also agree that the FTE requirement for Content Centers should be reduced to ensure Centers have sufficient resources for service provision. Therefore, to allow for greater flexibility in the allocation of resources for Content Centers, we have amended the Program Requirement 4 for

Content Centers to reduce the minimum FTE levels for project leadership.

With the updates to the minimum levels for Content Centers, we believe the flexibility for all Centers to distribute FTE across a leadership team below the individual FTE requirement accommodates any Director to participate in activities outside the CCNetwork while maintaining an appropriate level of leadership dedicated to the project,; however, the Department believes it is important for applicants to further explain how they are allocating their leadership capacity across roles (*e.g.* Director, Co-Director, or Deputies) to meet program needs. Therefore, we are adding an application requirement for all applicants to specify their proposed leadership structure and describe how their organizational leadership will effectively manage the project according to the needs of the program.

Changes: We have amended the program requirement for Content Center to reduce the required minimum FTE for a Content Center Project Director from 0.75 FTE to 0.50 FTE, or, when more than one Project Director is proposed, the cumulative total must meet or exceed 0.75 FTE collectively. In addition, we have added an application requirement for all centers directing applicants to describe their leadership structure and organizational capacity to assess, manage, and strategically utilize program resources.

Comments: One commenter recommended that the Department make State feedback mechanisms explicit and embed continuous feedback loops into program design to support ongoing service refinement. The commenter also urged the Department to provide grantees with timely CC performance data to enable real-time adjustment and improvements in program implementation.

Discussion: We agree that developing and implementing an effective performance management system that integrates client feedback and continuous improvement is an essential component of effective program implementation. Accordingly, the Department will retain the FY 2024 Program Requirement for All Centers to ''Develop and implement an effective performance management system that integrates continuous improvement to promote effective achievement of client outcomes. The system must include methods to measure and monitor progress towards agreed upon outcomes, outputs, and milestones and to measure the reach, use, and impact of the services being delivered to ensure capacity-building services are implemented as intended, reaching intended clients and recipients, and achieving desired results. Progress monitoring must include periodic assessment of client satisfaction and timely identification of changes in State contexts that may impact the project's success. The performance management system must include strategies to report on defined program performance measures.'' Retaining this requirement ensures that Centers have the structures needed to maintain accountability, support continuous improvement, and advance the achievement of meaningful client outcomes.

Changes: The Department is adding the performance management system program requirement from the 2024 NFP to the Program Requirements for All Centers.

Comments: One commenter shared feedback on ways in which the program could present risks to national security given the potential for involvement of adversary nation individuals in the program as subject matter experts or partners or through exposure of program data or products to adversary nation audiences. The commenter also raised concerns with other ways in which the program may be vulnerable to financial or administrative risk, such as through fraud or anticompetitive behavior. The commenter suggested several program requirements for additional coordination or oversight activities related to national and financial security concerns, such as coordination activities with additional government agencies for centers conducting work related to STEM or manufacturing or other industries with national security connections; required briefings with government agencies on topics of national and financial security, such as related to fraud prevention or screening partners for foreign influence; and required safeguards related to the development and dissemination of any curriculum products developed through the CC program.

Discussion: The Department appreciates the commenter's perspective on ensuring the security of the CC program. The Department conducts routine risk evaluations of applicants before award, and of grantees over the course of the grant period, as well as ongoing monitoring of and communication with grantees regarding risk, compliance, and performance, aligned with the Guidance for Federal Financial Assistance in 2 CFR part 200, as adopted and amended as regulations of ED in 2 CFR part 3474, and the Education Department General Administrative Regulations in 34 CFR part 75. We believe these processes are sufficient to address the potential risks relevant to this program and decline to introduce additional program requirements. Additionally, the Department clarifies that the CC program, through these priorities, requirements, and definitions, does not develop, require, nor endorse any particular curriculum, program, or intervention. Furthermore, under the Department of Education Organization Act, the Secretary is not authorized to exercise any direction, supervision, or control over the curriculum, or program of instruction at any school or institution of higher education (see 20 U.S.C. 3403). The priorities, requirements, and definitions in the document further the purpose of the CC program to support State and local educational systems to implement activities described in the ESEA to improve academic opportunities and outcomes for students.

Changes: None.

Comments: One commenter recommended that the Department impose additional requirements to ensure products and services are 508-compliant, accessible to educators with disabilities, and aligned to other industry standards for accessibility identified by the commenter. Additionally, the commenter recommended that the Department implement additional requirements mandating CCs are compliant with privacy and security laws such as Family Educational Rights and Privacy Act (FERPA) and the Privacy Act of 1974.

Discussion: We note that projects funded through discretionary grants using these priorities must already be consistent with the requirements of the Americans with Disabilities Act) and Section 504 of the Rehabilitation Act of 1973, where applicable, as well as requirements in the Individuals with Disabilities Education Act, Elementary and Secondary Education Act, and civil rights and other laws, where applicable, and does not believe that changes are necessary. Therefore, the Department declines to add accessibility or privacy requirements to these priorities because they would be duplicative of existing law.

Changes: None.

Application Requirements

Comments: One commenter suggested that the Department set a firm maximum limit on the number of pages that could be submitted as part of an application narrative under this program in order to provide clear expectations for potential applicants around the level of detail that

is needed for an application to be considered competitive.

Discussion: We appreciate the commenter's feedback. The Department establishes any page limits on the application narrative, if applicable, in the ANI for a given competition. We believe it is appropriate to maintain the flexibility to establish any maximums or recommended maximums for each competition and therefore decline to identify a specific maximum or recommendation in the application requirements in this NFP.

Changes: None.

Definitions

Comments: One commenter identified a need for clarity on who the Department considered to be primary clients of the CC program. The commenter expressed concern related to the potential inclusion of students, families, REAs, and LEAs as primary clients of CC services, noting that these entities may be the ultimate beneficiaries of services but that they are best served through plans developed with SEAs and TEAs as primary clients.

Discussion: The Department appreciates the commenter's feedback. The Department clarifies that the priorities and requirements incorporate a definition of ''client'' that was established in the 2024 NFP and that focuses on the ''organization with which the Center enters into agreement for negotiated capacity-building services.'' This definition was established to align to Section 9602(e) of the ETAA, which notes that each CC ''shall work with State educational agencies, local educational agencies, regional educational agencies, and schools in the region where such center is located . . .'' on school improvement activities. The Department further clarifies that families are included as primary clients of the NCIL, based on the statutory focus on families for that center, and that students are not included in the definition of clients for any center, though both students and families may be beneficiaries of any CC services. The Department agrees with the commenter on the importance of SEA and TEA coordination to ensure coherence across CC services. We believe this focus is supported both by the requirements in the ETAA for State service plans under 9602(c)(2) and for coordination and collaboration under 9602(f)(2), as well as through the emphasis on coordination throughout the priorities, requirements, and definitions. However, we believe it is aligned with statutory intent to allow the definition of clients to be open to the other types of organizations identified in the ETAA.

Changes: None.

Comments: One commenter noted concern with the use of the term ''evidence'' in Program Requirement #1 for all centers, in the context of the requirement for centers to provide evidence that services reflect State-identified needs. The commenter recommended that the Department establish a clear definition of evidence for this element of the requirement, including what qualifies as evidence of State needs, how such evidence must be documented, and how it will be used to assess whether proposed services meet the identified needs.

Discussion: The Department appreciates the commenter's feedback. We agree that this requirement could be clarified to better capture the Department's intent for this requirement to convey that centers must be able to demonstrate how their proposed services align to State needs. As such, we have amended the language in this requirement to remove the reference to evidence and provide more clarity regarding the Department's expectations for the requirement.

Changes: We have amended Program Requirement 1 for All Centers to remove the reference to providing ''evidence'' and include additional language clarifying the requirement related to demonstrating how service plans reflect State priorities such as through documentation of State approval of services or alignment to State learning agendas.

Comments: One commenter recommended that the Department provide definitions of several terms or concepts included throughout the priorities, requirements, and definitions, including: students with the greatest need; intensive and targeted projects, including the duration and intensity of each; and short, medium, and long-term outcomes, including the timeframes of each.

Discussion: We appreciate the commenter's feedback. The Department clarifies that, where the phrase ''students with the greatest need'' is used in Application Requirement 1 for All Centers, we refer in the requirement to Section 9602(e) of the ETAA, which discusses the scope of work for centers and how such work should be prioritized according to need. This also aligns with the reference to ''students with the greatest need'' incorporated into the definition of ''high-leverage problems'' established in the 2024 NFP and incorporated into the priorities, requirements, and definitions. This definition provides specific language that such students include students from low-income families and students attending schools implementing comprehensive support and improvement or targeted or additional targeted support and improvement activities under ESEA section 1111(d). Given these references where the term is used, we do not believe a specific definition of ''students with the greatest need'' is needed. Additionally, the Department notes that the priorities, requirements, and definitions already incorporate definitions from the 2024 NFP for the following terms: ''intensive capacity-building services'', ''targeted capacity-building services'', and ''outcomes,'' which includes definitions of short-term, medium-term, and long-term outcomes, including time frames for each type of outcome. We believe these existing definitions provide sufficient guidance as to the Department's understanding of these terms and do not believe additions or edits are needed. The full definitions of these terms can be reviewed in Appendix I.

Changes: None.

Final Priorities

The Department establishes the following priorities for use in this program. We may use one or more of these priorities in any year in which this program is in effect.

Priority 1: National Center

Projects that propose to establish and operate a National Center to coordinate client-driven technical assistance to address SEA, REA, TEA, and LEA priorities related to evidence use and implementation of evidence-based practices to improve student outcomes. The National Center will serve as a lead coordinator across the CC program to promote overall alignment and coherence of CCNetwork services, reduce burdens and barriers to service for States and beneficiaries, support coordination, dissemination, knowledge sharing, and connection across Centers where multi-provider engagement is needed, and facilitate efficient use of program resources. The Center must conduct and share annual analyses of high-leverage problems identified by States; develop tools and resources that support delivery of high-quality, high-impact, differentiated technical assistance and capacity-building services across the CCNetwork, including common tools and resources to align capacity assessment, tracking, and reporting, support for State Learning Agendas, and quality assurance processes.

The Center must also procure expertise to provide high-quality, high-impact technical assistance to address

common multi-State needs through targeted and universal capacity-building services through avenues such as State-to-State learning communities, in coordination with Regional and Content Centers; RELs; and other Department technical assistance providers, as applicable, to promote State engagement and avoid duplication.

Services must be designed to improve educational opportunities, educator practice, and student outcomes as described in section 9602(f) of the ETAA. Services shall address evidence-based national needs not already addressed by other federal investments, in consultation with the Center's Advisory Board, including: priorities identified through the analysis of high-leverage problems across the entire CCNetwork; priorities publicly established by clients and potential clients, such as those identified in State Learning Agendas; common high-leverage problems identified in Regional Center service plans; findings from finalized Department monitoring reports or audit findings; implementation challenges faced by States and LEAs related to teaching, learning, and development; needs of schools designated for improvement; needs to improve core academic instruction; needs to address unique educational obstacles faced by rural and tribal students; and emerging education topics of national importance.

The Center will streamline access to qualified technical assistance providers by serving as a concierge-style support to intake technical assistance requests from SEAs, REAs, TEAs, and LEAs and facilitate access to Department technical assistance services within and beyond the CC program. In this capacity, the Center will design and implement a system to review inquiries and voluntary requests for technical assistance; identify technical assistance providers with relevant expertise, which may include Regional Centers and Content Centers within the CCNetwork, other Department technical assistance providers, and providers from a maintained registry cadre of qualified national subject matter experts to meet client needs; and coordinate support as needed for clients to access services from identified TA providers.

Priority 2: Regional Centers

Projects that propose to establish Regional Centers to provide intensive, client-driven technical assistance aligned to State and local priorities and needs related to selecting, implementing, and sustaining evidence-based programs, practices, and interventions in support of improved educator practice and student outcomes, especially in math and literacy.

Regional Centers must effectively work with the National Center, the REL in their region, federal technical assistance providers and Content Centers, as relevant and needed, to assist clients, reduce burdens and barriers to service for States and other clients, and avoid duplicative efforts and interventions. Regional Centers must develop cost-effective strategies to make their services available to as many SEAs, REAs, TEAs, LEAs, and schools within the region in need of support as possible. Services must be designed to improve educational opportunities, educator practice, and student outcomes as described in section 9602(f) of the ETAA.

In compliance with the requirements of Section 9602(a)(2) of the ETAA, the Department intends to establish through this priority a minimum of 10 Regional Centers that will each serve a subset of States, with at least one Regional Center per REL region. For FY 2026 or any year in which this priority is used, the Department will publish the list of Regional Centers to be established in an application notice and instructions. To determine the configuration of Regional Centers for any given competition, the Department will consider the factors outlined in the ETAA, including the school-age population, proportion of economically disadvantaged students, the increased cost burdens of service delivery in areas of sparse population, and the number of schools implementing comprehensive support and improvement activities and targeted support and improvement activities under section 1111(d) of the Elementary and Secondary Education Act of 1965 in the population served by the local entity or consortium of such entities.

Priority 3: Content Centers

Projects that propose to establish and implement a Content Center to provide technical assistance on a specific topic of national or regional importance reflected across State and local needs and priorities. Content Centers must provide high-quality, useful, and relevant client-driven, targeted and universal capacity-building services to SEA, REA, TEA, LEA, and, for the National Comprehensive Center on Improving Literacy for Students with Disabilities, (NCIL), family clients designed to build State and local capacity and improve educational opportunities, educator practice, and student outcomes (as described in section 9602(f) of the ETAA) related to their specified topic area. Content Centers must support Regional Centers, as needed, with subject matter expertise to enhance the intensive capacity-building services provided by the Regional Centers or to design universal or targeted capacity-building services to meet identified client needs.

The project must be aligned to one of the following focus areas:

Focus Area 1: Field-Initiated: To meet this focus area, an applicant must propose to establish and operate a Content Center to provide technical assistance to CC clients on an education topic of significant national or regional need, as identified by States and other CC clients. Proposals for Field-Initiated Centers must clearly identify the topic to be addressed and utilize applicable regional, State, and local educational data and needs analyses to provide evidence to demonstrate the national need for the proposed Center. Field-initiated topics must be aligned to authorized purposes described in section 9602(f) of the ETAA and may include, but are not limited to, proposals that focus on specific educational needs, such as improving math and literacy achievement, college and career readiness, closing achievement gaps, or encouraging and sustaining school improvement. Applicants must propose priority topics based on national or cross-regional needs expressed in State Learning Agendas or another similar identification of needs and priorities set forth by SEAs, REAs, TEAs or LEAs from more than one region.

Field-Initiated Centers must provide high-quality, useful, and relevant targeted and universal capacity-building services in the designated content area of expertise to SEA, REA, TEA, and LEA clients. Services must be designed to improve educational opportunities, educator practice, and student outcomes as described in section 9602(f) of the ETAA. Content Centers must identify, synthesize, and disseminate evidence-based practices to build the capacity of practitioners, education system leaders, schools, LEAs, and SEAs to use evidence in the designated content area.

Focus Area 2: Emerging Need Centers: To meet this focus area, an applicant must propose to establish and operate a Content Center to provide technical assistance to CC clients on an education topic of significant national or regional need. For FY 2026 or any year in which this priority is used, the Department will identify specific topics of emerging national or regional need for the Center; topics will be aligned to the Secretary's Supplemental Priorities, areas of need identified in the Regional Advisory Committee reports, the technical assistance topics identified in the

ETAA, or other critical aspects of need related to quality implementation of programs under the ESEA. Applicants will be required to address the identified topic areas in order to be considered for funding under this focus area.

Proposals for Emerging Need Centers must clearly demonstrate how the Center will address the established topic, provide data and evidence to illustrate the technical assistance needs of CC clients related to the topic and propose an approach to capacity-building services that meet these technical assistance needs in the established topic area.

Emerging Need Centers must provide high-quality, useful, and relevant targeted and universal capacity-building services in the designated content area of expertise to SEA, REA, TEA, and LEA clients. Services must be designed to improve educational opportunities, educator practice, and student outcomes as described in section 9602(f) of the ETAA. Content Centers must identify, synthesize, and disseminate evidence-based practices to build the capacity of practitioners, education system leaders, schools, LEAs, and SEAs to use evidence in the designated content area.

Focus Area 3: National Comprehensive Center on Improving Literacy for Students with Disabilities (ALN 84.283D): To meet this priority, an applicant under this focus area must propose to establish and operate a National Comprehensive Center on Improving Literacy for Students with Disabilities (NCIL) focused on children in early childhood education programs through high school at risk of not attaining full literacy skills due to a disability, including dyslexia impacting reading or writing, or developmental delay impacting reading, writing, language processing, comprehension, or executive functioning.

The Center must:

(a) Identify or develop free or low-cost evidence-based literacy assessment tools for identifying students at risk of not attaining full literacy skills due to a disability,

(b) Identify evidence-based literacy instruction, strategies, and accommodations, including assistive technology, designed to meet the specific needs of such students;

(c) Provide families of such students with information to assist such students;

(d) Identify or develop evidence-based professional development for teachers, paraprofessionals, principals, other school leaders, and specialized instructional support personnel to: understand early indicators of students at risk of not attaining full literacy skills due to a disability, including dyslexia impacting reading or writing, or developmental delay impacting reading, writing, language processing, comprehension, or executive functioning; use evidence-based screening assessments for early identification of such students beginning not later than kindergarten; and implement evidence-based instruction designed to meet the specific needs of such students; and

(e) disseminate the products of the Comprehensive Center to regionally diverse SEAs, LEAs, REAs, and schools, including, as appropriate, through partnerships with other CCs established under section 9602 of this title, and RELs established under section 9564 of this title.

Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through an application notice and instructions document. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Requirements

The Department establishes the following application and program requirements for this program. We may apply one or more of these requirements in any year in which the program is in effect.

Program Requirements

Program Requirements for All Centers: National, Regional, and Content Center grantees under this program must:

(1) Create client driven service plans annually for carrying out the technical assistance and capacity-building services to be delivered by the Center in response to identified educational challenges facing students, practitioners, and education system leaders. In developing the annual service plan, the Center must demonstrate that services reflect State-identified needs and leadership priorities for assistance, such as through documentation of State approval of services and alignment to State Learning Agendas. Plans must include: High-leverage problems to be addressed, including identified client needs, capacity-building services to be delivered,[2] time-based outcomes (*i.e.,* short-term, mid-term, long-term), responsible personnel, key technical assistance partners, milestones, outputs, dissemination plans, fidelity measures, if appropriate, and any other elements specified by the Department. Additionally, plans must demonstrate how services will prioritize support for students and communities with the highest needs, as described in section 9602(e) of the ETAA.[3]

(2) Design and implement streamlined client-driven capacity-building services in partnership with State and local beneficiaries to reflect and address specific client needs and desired outcomes.

(3) Demonstrate to the Department that it has engaged clients in defining proposed service projects and that it has secured client and partner commitments to carry out proposed annual service plans.

(4) Develop and implement an effective performance management and evaluation system that integrates continuous improvement to promote effective achievement of client outcomes. The system must include methods to measure and monitor progress towards agreed upon outcomes, outputs, and milestones and to measure the reach, use, and impact of the services being delivered to ensure capacity-building services are implemented as intended, reaching

[2] Services may include universal, targeted, and intensive capacity-building services in any of the four dimensions of capacity building services as defined by this program: human capacity, organizational capacity, policy capacity, and resource capacity.

[3] Section 9602(e) of the ETAA requires each CC to prioritize school serving high percentages or number of students from low-income families, including such schools in rural and urban areas and those receiving assistance under Title I of the ESEA; LEAs with high percentages or numbers of school-age children from low-income families, including such LEAs in rural and urban areas; and schools implementing comprehensive support and improvement activities or targeted support and improvement activities under section 1111(d) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311(d)].

intended clients and recipients, and achieving desired results. Progress monitoring must include periodic assessment of client satisfaction and timely identification of changes in State contexts that may impact the project's success. The performance management system must include strategies to report on defined program performance measures.

(5) Participate in a national evaluation of the CC Program.

Program Requirements for National Comprehensive Center: In addition to the requirements for all Centers, National Center grantees under this program must:

(1) Include in its service plan specifically in the first year, and additionally in subsequent years, projects to develop the tools, resources, services, and processes it will implement to adequately support collaboration, coordination, continuous improvement, dissemination and knowledge sharing across the CCNetwork, including common tools and resources to align capacity assessment, tracking, and reporting to deliver services that effectively build client capacity for evidence use and implementation of evidence-based practices to improve student outcomes.

(2) Coordinate and refine processes, tools, and resources to support Regional Centers and RELs to work with individual States to develop or refine, as appropriate, and implement a multi-year State Learning Agenda to identify needs and set priorities for evidence building and educational program implementation and that will serve as a key input in annual service plans and capacity-building services.

(3) Design and implement a coordinated process to identify emerging high-leverage problems that could be effectively addressed through client driven annual service plans. Conduct and publish an annual synthesis of common high-priority needs across States and consult with and integrate ongoing feedback from its Advisory Board, the Department, Regional Centers, and Content Centers to inform targeted and universal support needs from the National Center, Content Centers, or other Centers, as needed, and enable cross-regional peer learning on shared challenges.

(4) Design effective services to meet demonstrated collective needs with tangible, achievable capacity-building outcomes resulting from beneficiary participation. Provide opportunities for beneficiaries, including States, to learn from their peers and subject matter experts through targeted and universal capacity-building services. Universal services must be produced in a manner that beneficiaries are most likely to use, be shared via multiple digital platforms, such as the CCNetwork website, social media, and other channels as appropriate, and be relevant for a variety of education stakeholders, including the general public.

(5) Solicit, vet, and provide access to an expansive and comprehensive cadre of national subject matter experts available to support CC services, that includes qualified education practitioners, researchers, policy professionals, and other implementation consultants with (i) direct experience and demonstrated impact working in or with SEAs, REAs, TEAs and LEAs to improve student outcomes and (ii) in-depth expertise in specific subject areas available to support universal, targeted and intensive services in a variety of content areas as reflected by State and local priorities and other emerging needs to be made available to support State needs for any National, Regional Center, REL or Content Center projects. Make the cadre available through a registry containing sufficient and transparent information that clients may request in determining the most appropriate providers to meet their needs, including client reviews of past performance, demonstrated products and outcomes of services provided, and transparent service pricing. The cadre should reflect client input and be continually expanded to include new providers, as needed, to meet client needs.

(6) Design and implement a concierge-style service to intake and assess inquiries and voluntary technical assistance requests from CC clients, including States, identify technical assistance providers with relevant expertise, and direct client requests for technical assistance to their Regional Center, REL, and other Department technical assistance providers to streamline awareness and access to technical assistance while maintaining client autonomy in selecting the technical assistance services, provider(s), and supports received. This service must encompass systems to review incoming inquiries and requests for technical assistance from CC clients; to identify appropriate resources and technical assistance providers, which may include Regional Centers and Content Centers within the CCNetwork, other Department technical assistance providers, and national subject matter experts as needed to meet client needs; and to coordinate support for clients to access services from identified TA providers. This service must encompass Department technical assistance investments within and beyond the CCNetwork.

(7) Design, operate and maintain communications and dissemination vehicles for the CCNetwork, including maintaining the CCNetwork website with an easy-to-navigate design that meets government or industry recognized standards for accessibility, including compliance with section 504 of the Rehabilitation Act of 1973, and maintain a consistent media presence, in collaboration with Regional and Content Centers and the Department, utilizing effective media and dissemination strategies that promote increased access and engagement with CCNetwork resources.

(8) Create peer learning opportunities for CCNetwork staff (and other partners, as appropriate) to address implementation challenges and scale effective best practices to improve service delivery across the CCNetwork.

(9) Ensure that the Project Director can manage all aspects of the Center and is either staffed at 1 FTE or the Project Director and Co-Director or Deputies are staffed at a minimum of 1.5 FTE collectively. Dedicate sufficient resources within the Center's annual budget to meet all aspects of the priority and program requirements, including sufficient capacity for coordination responsibilities and direct services, as needed.

Program Requirements for Regional Centers: In addition to the requirements for all Centers, Regional Center grantees under this program must:

(1) Actively coordinate and collaborate with the REL serving their region to implement technical assistance in response to needs and priorities of shared clients. Coordination must include annual joint planning and establishment of a joint advisory board that meets the requirements under the ETAA Sec 203(g) (20 U.S.C. 9602). The joint advisory board must be designed to inform and improve service delivery across both programs while reducing burden on State agencies.

(2) Partner with the REL serving their region, with support from the National Center, as needed, to work with each State in the region to develop or refine, as appropriate, and implement a multi-year State Learning Agenda to identify needs and set priorities for evidence building and educational program implementation. The Center must develop the annual service plan from the priorities established by States in their Learning Agendas, as well as other relevant feedback from stakeholders, including Chief State School Officers and other SEA leaders, TEAs, LEAs, educators, students, and parents, to

reflect the most pressing needs of all States (and to the extent practicable, of LEAs) within the region to be served.

(3) Partner with clients to identify and select the subject matter expertise needed to provide effective capacity building services for all annual service plan projects, including utilizing the National Center cadre of subject matter experts, to evaluate options and procure expertise from a broad range of sources.

(4) Establish and provide the Department copies of partnership agreements with the REL(s) in the region that the Center serves, the National Center, and as appropriate, other Department-funded technical assistance providers. Partnership agreements must define processes to meet relevant program requirements.

(5) Be located in the region served. The Project Director must be capable of managing all aspects of the Center and be either at a minimum of 0.75 FTE or there must be two Co-Project Directors at a minimum of 1.0 FTE collectively.

Program Requirements for Content Centers: In addition to the requirements for all Centers, grantees under this program must:

(1) Consult and integrate feedback from States, CC clients (including, for the NCIL, families), the Department, National and Regional Centers, and other stakeholders and Department technical assistance Centers, as relevant to the Center's content area in developing the annual service plan to inform high-quality tools, resources, and overall technical assistance in priority areas.

(2) Partner with the National Center and Regional Centers as needed to directly support their States in the development and implementation of State Learning Agendas; to address requests for assistance from States within the regions; and to strengthen Regional Center staff knowledge and expertise on the evidence base and effective practices as appropriate based on the Content Center's specific focus area.

(3) Establish and provide copies to the Department of partnership agreements with the National Center, Regional Centers, as needed, and Department-funded technical assistance providers with expertise relevant to the Center's area. Partnership agreements must define processes to meet relevant CC program requirements.

(4) The Project Director must be capable of managing all aspects of the Center and be either at a minimum of 0.5 FTE or there must be two Co-Project Directors at a minimum of 0.75 FTE collectively.

Application Requirements

Application Requirements for All Centers

(1) Describe its proposed approach to capacity-building services. This must include a logic model, as well as a description of the evidence base and strategies that support its approach to capacity building services; evidence of the applicant's ability to provide effective capacity building services, such as relevant expertise and demonstrated results from similar projects and demonstrated expertise of key personnel; the impact the Center plans to achieve and how they will measure that impact; and the proposed approach to providing capacity-building services to students with the greatest need as described in Sec. 9602(e) of the ETAA, to address the needs of all SEAs, REAs, TEAs, LEAs, and, as appropriate, schools served.

(2) Describe the proposed process to identify, in partnership with CC clients, the most urgent educational challenges to be addressed, including how the Center will ensure that the challenges to be addressed are supported by data and evidence and reflected by State and local needs and priorities.

(3) Describe the proposed approach to measure and monitor client progress or success in overcoming the challenges to be addressed, including how the Center will use data and evidence to demonstrate outcomes of universal, targeted, and intensive capacity building services, as applicable.

(4) Demonstrate expertise in providing highly relevant and highly effective technical assistance, including by demonstrating expertise in the current research on adult learning principles, coaching, and implementation science.

(5) Include in the budget narrative explanation of and estimated costs for intensive, targeted, and universal capacity-building services. Describe how the Center will promote cost-effectiveness of services, including ensuring that the estimated costs are aligned to market expectations for similar services.

(6) Describe the proposed leadership structure for the Center and how the organizational leadership will effectively manage the project according to the needs of the program, including how the leadership structure provides organizational capacity to assess, manage, and strategically utilize program resources.

(7) Include in the budget a line item for an annual set-aside of five percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes.

Application Requirements for the National Center: In addition to meeting the application requirements for all Centers, a National Center applicant must:

(1) Propose an approach to leading coordination and collaboration of the entire CCNetwork, including how the Center will fulfill the requirements to serve as a concierge-level point of entry to Department technical assistance for States and other CC clients; to develop and administer access to a national cadre of subject matter experts with a broad range of expertise, demonstrated impact, and proven satisfaction serving CC clients; to coordinate and refine processes, tools, and resources to support Regional Centers and RELs to develop or refine and implement multi-year State Learning Agendas; and to identify emerging high-leverage problems that could be effectively addressed through client driven annual service plans.

(2) Demonstrate a high-level of expertise in leading communication and digital engagement strategies to attract and sustain the involvement of a wide range of education stakeholders. Provide an approach to creating a robust web and social media presence, overseeing customer relations management, providing editorial support to Regional and Content Centers, and utilizing web analytics and other tools to improve content engagement.

(3) Propose an approach to procuring expertise to provide targeted and universal capacity-building services to support beneficiaries in addressing common high-leverage problems, including how the applicant intends to collaborate with Regional Centers to identify potential beneficiaries, and to maximize how many SEAs, REAs, TEAs, and LEAs it has the capacity to reach with available services.

Application Requirements for Regional Centers: In addition to meeting the application requirements for all Centers, a Regional Center applicant must—

(1) Propose an approach to intensive capacity-building services, including identification of intended beneficiaries based on available data for specific regions, and details on how the Center will ensure proposed capacity-building services are driven by client needs and co-developed with client input.

Application Requirements for Content Centers: In addition to meeting the application requirements for all Centers, a Content Center applicant must—

(1) Propose an approach to carry out capacity-building services that address

client needs and priorities (to include those of families, for applicants to NCIL) that amplify the use of evidence-based practices, products or tools amongst practitioners, education system leaders, elementary schools and secondary schools, LEAs, REAs and TEAs, and SEAs.

(2) Propose an approach to providing universal capacity-building services, including how the Center will develop and widely disseminate evidence-based products or tools; outreach to practitioners, education system leaders, and policymakers in formats that are high quality, easily accessible, and understandable; identify intended beneficiaries; and ensure that proposed capacity-building services are driven by client needs and co-developed with client input.

(3) Describe the educational challenges to be addressed by the project, including how the challenges to be addressed are aligned to Section 9602(f)(1) of the ETAA and supported by data and evidence and reflected by cross-regional State and local needs and priorities. The description must utilize applicable national, regional, State, and local educational data to demonstrate the identified needs that could be addressed through the proposed capacity-building approach to implement and scale up evidence-based programs, practices, and interventions.

Final Definitions

The Department establishes the following definition of ''beneficiary'' for use in this program in any year in which this program is in effect. We may apply this definition in any year in which this program is in effect.

We also use in the final priorities and requirements the following terms, which are defined in the ESEA: ''evidence-based'' and ''tribal educational agency'' and the term ''logic model'', which is defined in CFR 77.1. The final priorities, requirements, and definitions also incorporate definitions from a 2019 Notice of Final Priorities, Requirements, Definition, and Performance Measures (2019 NFP) published in the **Federal Register** on April 4, 2019 (84 FR 13122) and a 2024 Notice of Final Priorities, Requirements, Definitions, and Selection Criteria (2024 NFP) published in the **Federal Register** on May 13, 2024 (89 FR 41498). The terms from the 2019 NFP are: ''milestone'' and ''outputs.'' The terms from the 2024 NFP are: ''capacity-building services,'' ''client,'' ''collaboration'', ''coordination'', ''educator'', ''four dimensions of capacity-building services,'' ''high-leverage problems,'' ''intensive capacity-building services'', ''key personnel'', ''outcomes'', ''regional educational agency'', ''targeted capacity-building services,'' and ''universal capacity-building services.'' We have included the definitions of those terms in Appendix I to this document.

Beneficiary means organizations including, but not limited to, SEAs, LEAs, REAs, TEAs, and schools that have received ''intensive'' and ''targeted'' capacity-building services and products from Regional Centers, or that received ''targeted'' or ''universal'' capacity-building services and products from the National Center or Content Centers.

Evidence-based has the meaning ascribed in section 7801(21) of the ESEA.

Logic model has the meaning ascribed in 34 CFR 77.1(c).

Tribal educational agency has the meaning ascribed in section 6132(b)(3) of the ESEA.

Note: This document does not solicit applications.

In any year in which we choose to use any of the final priorities, requirements, and definitions, we invite applications through an ANI.

Executive Orders 12866, 13563, and 14192

Regulatory Impact Analysis: This regulatory action is not a significant regulatory action subject to review by the Office of Management and Budget under section 3(f) of Executive Order 12866. Since this regulatory action is not a significant regulatory action under section 3(f) of Executive Order 12866, it is not considered an ''Executive Order 14192 regulatory action.'' We have also reviewed this regulatory action under Executive Order 13563. We are issuing the priorities, requirements, and definitions only on a reasoned determination that their benefits would justify their costs. The Department believes that this regulatory action is consistent with the principles in Executive Order 13563. We also have determined that this regulatory action would not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions. In accordance with these Executive Orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are limited to those resulting from statutory requirements; those we have determined are necessary for administering the Department's programs and activities; or those routinely associated with the adoption of new program priorities, including the potential early end of the prior cohort project activities in favor of re-competition under the new priorities.

Discussion of Costs and Benefits: The Department believes that these priorities, requirements, and definitions would not impose significant costs on eligible entities, whose participation in this program is voluntary, and whose costs can generally be covered with grant funds. As addressed in part above, in response to certain comments regarding the potential cessation of previously-funded CC project activities, the Department recognizes that this rulemaking may result in some economic impact to current CC grantees or future CC applicants. For example, the Department anticipates that grantees within the 2024 cohort will incur some costs if the Department makes a determination to end their projects in FY2026. However, the Department believes any reliance interests at issue in continued implementation of the 2024 cohort project activities to not be significant for four reasons: first, grantee funding in a multi-year project is never guaranteed for a subsequent budget period, and eligibility for non-competitive continuation funding is always contingent upon a number of prospective factors, including grantee performance, the availability of funding, the grantee continuing to meet all eligibility requirements, and changing administration priorities . Second, if it is decided to end projects early, as part of their orderly closeout, 2024 cohort grantees would be able to charge reasonable and necessary closeout costs to their respective grants under their current budget year, thereby further limiting economic impact to previously-obligated federal funds. Third, the benefits of aligning the CC and REL programs, and the fact that resource sharing and reduced burden to States from stronger coordination and alignment will be created with the REL cohort scheduled to begin at approximately same time as a new CC cohort, outweigh these costs. Finally, the Department anticipates that the potential costs articulated for the 2024 cohort above will be minimal for program beneficiaries, as the Department will be able to facilitate in any transfer of services that could arise if there is a change in providers resulting from a new competition, consistent with the procedures the Department employed when winding down and transferring work from prior CC grantees in 2019 and 2024. Overall, the priorities, requirements, and definitions would not impose any particular burden, except when an

entity voluntarily elects to apply for a grant. The priorities, requirements, and definitions would help ensure that the grant program selects high-quality applicants to implement activities that meet the goals of the program. For the reasons described above, we believe these benefits would outweigh any associated costs.

Intergovernmental Review: This action is subject to Executive Order 12372 and the regulations in 34 CFR part 79. This document provides early notification of our specific plans and actions for this program.

Regulatory Flexibility Act Certification: This section considers the effects that the final regulations may have on small entities in the educational sector as required by the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The Secretary certifies that this regulatory action would not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below $7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000. Participation in this program is voluntary. For this reason, the final priorities, requirements, and definitions would impose no burden on small entities unless they applied for funding under the program. We expect that in determining whether to apply for any project under the CC program, an eligible applicant would evaluate the requirements of preparing an application and any associated costs and weigh them against the benefits likely to be achieved by receiving a CC grant. Eligible applicants most likely would apply only if they determine that the likely benefits exceed the costs of preparing an application. The likely benefits include the potential receipt of a grant as well as other benefits that may accrue to an entity through its development of an application.

Paperwork Reduction Act: The final priorities, requirements, and definitions contain information collection requirements that are approved by OMB under the Generic Application Package for Departmental Generic Grant Programs (OMB control number 1894–0006). The priorities, requirements, and definitions do not affect the currently approved data collection.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, compact disc, or another accessible format.

Kirsten Baesler,

Assistant Secretary for Elementary and Secondary Education.

Appendix I

The priorities, requirements, and definitions incorporate the following terms established for use in this program by the 2019 and 2024 NFPs:

Capacity-building services means assistance that strengthens an individual's or organization's ability to engage in continuous improvement and achieve expected outcomes. (2024 NFP)

Client means the organization with which the Center enters into agreement for negotiated capacity-building services. The client is engaged in defining the high-leverage problems, capacity-building services, and time-based outcomes for each project noted in the Center's annual service plan. Representatives of clients include but are not limited to Chief State School Officers or their designees, LEA leaders, and other system leaders. (2024 NFP)

Collaboration means exchanging information, altering activities, and sharing in the creation of ideas and resources to enhance the capacity of one another for mutual benefit to accomplish a common goal. (2024 NFP)

Coordination means exchanging information, altering activities, and synchronizing efforts to make unique contributions to shared goals. (2024 NFP)
Educator means an individual who is a teacher (including an early education teacher), principal or other school leader, administrator, specialized instructional support personnel (*e.g.,* school psychologist, counselor, school social worker, librarian, early intervention service personnel), paraprofessional, faculty, and others. (2024 NFP)

Four dimensions of capacity-building services are:

(1) *Human capacity* means development or improvement of individual knowledge, skills, technical expertise, and ability to adapt and be resilient to policy and leadership changes.

(2) *Organizational capacity* means structures that support clear communication and a shared understanding of an organization's visions and goals and delineated individual roles and responsibilities in functional areas.

(3) *Policy capacity* means structures that support alignment, differentiation, or enactment of local, State, and Federal policies and initiatives.

(4) *Resource capacity* means tangible materials and assets that support alignment and use of Federal, State, private, and local funds. (2024 NFP)

High-leverage problems means problems that (1) if addressed could result in substantial improvements for groups of students with the greatest need, including for students from low-income families and for students attending schools implementing comprehensive support and improvement or targeted or additional targeted support and improvement activities under ESEA section 1111(d)); (2) are priorities for education policymakers, particularly at the State level; and (3) require intensive capacity-building services to achieve outcomes that address the problem. (2024 NFP)

Intensive capacity-building services means assistance often provided on-site and requiring a stable, ongoing relationship between the Comprehensive Center and its clients and recipients, as well as periodic reflection, continuous feedback, and use of evidence-based improvement strategies. This category of capacity-building services should support increased recipient capacity in more than one dimension of capacity-building services and result in medium-term and long-term outcomes at one or more system levels. (2024 NFP)

Key personnel means any personnel considered to be essential to the work being performed on the project. (2024 NFP)

Milestone means an activity that must be completed. Examples include: Identifying key district administrators responsible for professional development, sharing key observations from needs assessment with district administrators and identified stakeholders, preparing a logic model, planning for State-wide professional development, identifying subject matter experts, and conducting train-the-trainer sessions. (2019 NFP)

Outcomes means demonstrable effects of receiving capacity-building services and must reflect the result of capacity built in at least one of the four dimensions of capacity building. ''Outcomes'' includes short-term outcomes, medium-term outcomes, and long-term outcomes:

(1) *Short-term outcomes* means effects of receiving capacity-building services after 1 year.

(2) *Medium-term outcomes* means effects of receiving capacity-building services after 2 to 3 years.

(3) *Long-term outcomes* means effects of receiving capacity-building services after 4 or more years. (2024 NFP)

Outputs means products and services that must be completed. Examples include: Needs assessment, logic model, training modules, evaluation plan, and 12 workshop presentations. (2024 NFP)

Note: A product output under this program would be considered a deliverable under the open licensing regulations at 2 CFR 3474.20.

Regional educational agency means educational agencies that serve regional areas within a State. (2024 NFP)

Targeted capacity-building services means assistance based on needs common to multiple clients and recipients and not extensively individualized. A relationship is established between the recipient(s), the National Center or Content Center, and

Regional Center(s), as appropriate. This category of capacity-building services includes one-time, labor-intensive events, such as facilitating strategic planning or hosting national or regional conferences. It can also include services that extend over a period of time, such as facilitating a series of conference calls, virtual or in-person meetings, or learning communities on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted capacity-building services. (2024 NFP)

Universal capacity-building services means assistance and information provided to independent users through their own initiative, involving minimal interaction with National or Content Center staff. This category of capacity-building services includes information or products, such as newsletters, guidebooks, policy briefs, or research syntheses, downloaded from the Center's website by independent users, and may include one-time, invited or offered webinar or conference presentations by National or Content Center staff. Brief communications or consultations by National or Content Center staff with recipients, either by telephone or email, are also considered universal services. (2024 NFP)

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Part IV

The President

Proclamation 11026—National Physical Fitness and Sports Month, 2026

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Presidential Documents

Title 3—

The President

Proclamation 11026 of May 5, 2026

National Physical Fitness and Sports Month, 2026

By the President of the United States of America

A Proclamation

This National Physical Fitness and Sports Month, we celebrate the strength, discipline, and competitive spirit that reflect the American people. We recognize the values and lessons that sports and fitness instill. Above all, we reaffirm our commitment to promoting healthy lifestyles, expanding access to athletic opportunities, and ensuring every American has the chance to compete and succeed.

Sports and fitness are woven into the fabric of American identity, and the greatness that defines our Nation is forged only through hard work, sweat, and an unrelenting demand for success. Physical dedication sharpens the mind, steels the will, and produces the kind of character that Americans carry into every aspect of their lives. Citizens who hold themselves to that standard of excellence are capable of meeting any challenge of the world today.

My Administration is committed to strengthening the next generation of Americans and promoting sports participation, which is why I was proud to sign an Executive Order revitalizing the President's Council on Sports, Fitness, and Nutrition and reestablishing the Presidential Fitness Test. This year marks the 70th anniversary of the Council, and under my leadership, we are once again making fitness and nutrition national priorities. Working alongside world-class professional athletes, major league organizations, teams, schools and communities across our country, we are ushering in a new Golden Age of physical fitness—expanding access to wellness for every American, promoting the many benefits of exercise and good nutrition, supporting youth sports, and celebrating a culture of strength, vitality, and excellence.

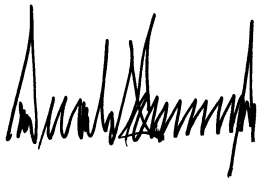
We are also leading the charge to restore integrity and fairness to sports. In my first days back in office, I issued an Executive Order keeping men out of women's athletics—protecting the equal opportunity of women and girls to compete and excel. I also took executive actions to ensure that colleges preserve—and, where possible, expand—scholarship and roster opportunities for student athletes in all sports, and I am working hard to ensure enforcement of clear, consistent, and fair rules on eligibility, transfers, and compensation so that college athletics remain a uniquely American institution.

Over the next 3 years, America will host the Presidents Cup, the FIFA World Cup, and the Olympic Games—the world's premiere sporting competitions. These events will provide fitness aspirations for all generations of Americans and celebrate the power of sports to unite our people. To mark the 250th anniversary of our Nation's independence, my Administration is also hosting the Patriot Games this fall, bringing together one young man and one young woman from each State and territory to compete in events highlighting the greatest and brightest up-and-coming athletes. This once-in-a-generation event will showcase the extraordinary talents that thrive across our country, proving to the world that the American competitive spirit is stronger and more vibrant than ever before.

This month, we are reminded that a country is only as strong as its citizens. I encourage all Americans to take steps to ensure they can live healthy and fulfilling lives through regular exercise and the joys of sports—improving the strength, vigor, and success of our Nation along the way.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 2026 as National Physical Fitness and Sports Month. I call upon public officials, sports educators, athletes, and all the people of the United States to get involved in sports and physical activity, especially our Nation's youth.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of May, in the year of our Lord two thousand twenty-six, and of the Independence of the United States of America the two hundred and fiftieth.



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