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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2025–0923; Project Identifier AD–2024–00529–E; Amendment 39–23322; AD 2026–09–02]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney RTX Corporation (Type Certificate Previously Held by Pratt & Whitney Division United Technologies Corporation) Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Pratt & Whitney RTX Corporation (PW) Model PW4074, PW4074D, PW4077, PW4077D, PW4084D, PW4090, and PW4090–3 engines. This AD was prompted by an analysis of an event involving an International Aero Engines, LLC (IAE LLC) Model PW1127GA–JM engine, which experienced a high-pressure compressor (HPC) 7th-stage integrally bladed rotor (IBR–7) separation that resulted in an aborted takeoff. This AD requires repetitive angle ultrasonic scan inspections (AUSIs) of the HPC 15th-stage disks, front turbine hubs, high pressure turbine (HPT) 1st-stage air seals, and HPT 2nd-stage hubs for crack indications, and removal from service and replacement if necessary, and for certain serial numbers, removal from service and replacement of the HPT 1st-stage air seal. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 26, 2026.

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

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2025–0923; 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, 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 PW material identified in this AD, contact PW, 400 Main Street, East Hartford, CT 06118; phone: (800) 565–0140; email: help24@prattwhitney.com; website: connect.prattwhitney.com.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at regulations.gov under Docket No. FAA–2025–0923.

FOR FURTHER INFORMATION CONTACT:

Molly Sturgis, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (562) 627–5373; email: molly.a.sturgis@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 PW Model PW4074, PW4074D, PW4077, PW4077D, PW4084D, PW4090, and PW4090–3 engines. The NPRM was published in the **Federal Register** on June 6, 2025 (90 FR 24085). The NPRM was prompted by an analysis of an event involving an IAE LLC Model PW1127GA–JM engine, which experienced an HPC IBR–7 separation that resulted in an aborted takeoff. In the NPRM, the FAA proposed to require repetitive AUSIs of the HPC 15th-stage disks, front turbine hubs, HPT 1st-stage air seals, and HPT 2nd-stage hubs for crack indications, and removal from service and replacement if necessary. The FAA also proposed to require removal from service and replacement of the HPT 1st-stage air seal for certain serial numbers. The FAA is

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

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from six commenters. The commenters were the Air Line Pilots Association, International (ALPA), All Nippon Airways (ANA), The Boeing Company (Boeing), PW, United Airlines (United), and an individual. The following presents the comments received on the NPRM and the FAA's response to each comment.

Support for the NPRM

ALPA, Boeing, and United expressed support for the NPRM.

Request To Include “Or Later” Following Date of Material Citations

ANA requested that the FAA revise the material citations specified in paragraphs (g)(2)(i) through (iv) of the proposed AD to read “or later” following the revision date. ANA stated that if the material is revised in the future, an AMOC would be required for implementation.

The FAA disagrees with the request. To incorporate by reference (IBR) the material specified in this AD, the citation must refer to a specific document, including the specific revision date. Additionally, the FAA is unable to cite a future revision to a document which does not yet exist. If any of the specified material is revised, operators may request approval of an alternative method of compliance (AMOC) in accordance with the procedures in paragraph (j) of this AD. The FAA did not change this AD as a result of this comment.

Request To Clarify Revision Level for Secondary Material

ANA requested that the FAA revise the NPRM to include revision levels for certain non-destructive inspection procedures (NDIPs) which are referenced in the material specified in the NPRM, as well as paragraph (h) of the proposed AD; or refer to the service material instead. ANA stated that the material specifies instructions for performing AUSIs based on NDIPs, but the material does not specify a revision of the non-destructive inspection procedure for those actions.

Additionally, ANA indicated that maintenance, repair, and overhaul (MRO) organizations typically list compliance with service bulletins on the airworthiness release certificates, not compliance with NDIPs.

The FAA agrees to clarify. The IBR materials in this AD specify certain actions using certain NDIPs. All revisions of those specified NDIPs are acceptable for completing those actions. The FAA has not changed this AD based on this comment.

Request To Specify Certain Part Numbers in the Required Actions

ANA requested that the FAA include the affected part numbers in the required actions specified in paragraph (g)(2) of the proposed AD and throughout the NPRM. ANA stated that the NPRM requires certain actions for specified part nomenclature but does not include the relevant part numbers.

The FAA disagrees with the request. The nomenclature of the part is sufficient to identify the necessary actions. Additionally, the affected part numbers are specified in the IBR materials which are required to complete this AD. The FAA has not changed this AD based on this comment.

Request To Align Part Numbers with the Engine Illustrated Parts Catalog (EIPC)

ANA requested that the FAA change the part numbers for eligible parts in the NPRM to align with those provided in the EIPC. ANA stated that some of the part numbers listed as parts eligible for installation in the NPRM are not listed in the EIPC, and that ANA is unable to manage the required action without part numbers based on the EIPC.

The FAA disagrees with the request. The EIPC is intended to depict part and hardware relationships and accessibility for procurement. However, the EIPC does not define applicability for inspections or whether certain parts are eligible for installation. The part numbers specified in this AD are based on the manufacturer's service material and engineering analysis. Additionally, under the provisions of paragraph (j) of this AD, the FAA will consider requests for approval of an AMOC if sufficient data are submitted to substantiate an acceptable level of safety. The FAA has not changed this AD based on this comment.

Request To Shorten Compliance Times

An individual commenter requested that the FAA shorten the compliance times specified in the NPRM. The commenter stated that the current

deadlines for compliance are too relaxed and do not match the urgent need to prevent dangerous failures in key engine parts. The commenter stated that the recent incident, where an HPC IBR-7 separation that resulted in an aborted takeoff, clearly shows how immediate this threat is. The commenter requested more immediate corrective measures with clear deadlines.

The FAA disagrees with the request. The commenter did not provide specific recommendations for alternative compliance times or justification for why the proposed compliance times are insufficient. In developing an appropriate compliance time, the FAA used a data-driven, quantitative risk analysis which considered the safety implications, parts availability, and normal maintenance schedules for timely accomplishment. In consideration of all these factors, the FAA selected the compliance times to appropriately mitigate the risk associated with the unsafe condition. This AD permits operators to accomplish the required actions at a time earlier than the specified compliance time. If additional data are presented that justify a shorter compliance time, the FAA may consider further rulemaking on this issue. The FAA did not change this AD as a result of this comment.

Request for Targeted Metallurgical Testing

An individual commenter requested that the FAA require targeted metallurgical testing on samples from specific production campaigns where variability is suspected. The commenter discussed the nature of nickel powder metallurgy; that minor variations can create microscopic defects, which may become weaknesses under stress; and that some production batches are already shown to have resultant anomalies, which reduce component fatigue life, especially in high-pressure compressors and turbines. The commenter stated that results from the focused testing could be used to confirm whether additional parts are at risk and allow the FAA to adjust inspection intervals accordingly.

The FAA disagrees with the request. The commenter did not provide any specific recommendations for changes to the actions required by this AD. The FAA has determined that the manufacturer has improved their manufacturing and inspection processes and has identified all at-risk part populations. Additionally, metallurgical testing of this kind is industry standard as part of the manufacturing quality control process. The FAA did not

change this AD as a result of this comment.

Request To Broaden Scope of Affected Parts

An individual commenter requested that the FAA broaden the criteria for evaluation or establish a mechanism for rapid re-evaluation of affected parts in the NPRM. The commenter stated that focusing on specific serial numbers and part numbers is overly narrow, that the risk posed by nickel powdered metal inconsistencies is not confined solely to these items, and that production variability may affect a larger fraction of similar components. The commenter indicated that parts from adjacent production campaigns or exhibiting borderline metallurgical characteristics might equally be at risk. The commenter stated that broadening the scope of the criteria would ensure additional hazardous components are identified and managed, which would reduce the potential for at-risk parts to be overlooked.

The FAA disagrees with the request. The FAA has determined that there are no adjacent production campaigns and, as stated previously, the manufacturer has identified all at-risk part populations. Therefore, this AD applies to the part numbers and serial numbers of all at-risk components. The FAA did not change this AD as a result of this comment.

Request for Time-Based Inspection Intervals

An individual commenter requested that the FAA revise the NPRM to include uniform time-based inspection intervals. The commenter stated that reliance on "piece part opportunities" introduces significant variability into the safety assurance process. The commenter indicated that because each operator follows an independent maintenance schedule, some engines may continue operating with undetected degradation for extended periods, which could jeopardize the safety of the fleet.

The FAA disagrees with the request. The commenter did not provide specific recommendations for alternative time-based inspection intervals or justification for why the proposed compliance times are insufficient. The FAA acknowledges that piece-part opportunities can be variable. However, as discussed previously, in developing an appropriate compliance time, the FAA used a data-driven, quantitative risk analysis which considered the safety implications, parts availability, and normal maintenance schedules for timely accomplishment, which included both the variability and the worst-case

scenarios. This information was then used to determine that piece part opportunities appropriately mitigate the risk associated with the unsafe condition. If additional data are presented that justify a uniform time-based inspection interval, the FAA may consider further rulemaking on this issue. The FAA did not change this AD as a result of this comment.

Request for Mandatory Reporting

An individual requested that the FAA require mandatory reporting in the NPRM. The commenter stated that data from operators for parts with abnormal degradation, even without an in-flight failure, would offer insight into the condition of nickel powdered metal components and allow the FAA to identify trends early and prevent accidents.

The FAA disagrees with the request. This request falls outside the scope of this AD, whereas the intent is to detect nickel powder anomalies, related cracking, and replace the affected parts. The FAA has a clear understanding of the failure mode, and mandatory reporting would not increase knowledge of the unsafe condition. Additionally, these specific nickel powder components do not exhibit abnormal degradation. Failures or crack indications found during the inspections required by this AD are already subject to existing mandatory reporting requirements of the manufacturer. The FAA did not change this AD as a result of this comment.

Request for Data Sharing and Transparency

An individual commenter requested that the FAA publicly share aggregated inspection and test results. The commenter stated that the FAA should be prompt and transparent, and that making this data publicly available would empower the aviation community to understand the full scope of the unsafe condition and collaborate in development of best practices and corrective measures. The commenter referenced similar transparency measures within the automotive and rail industries, which improved identification of emerging safety issues and allowed more effective collaborative solutions. The commenter stated that this demonstrated clear benefits of open data sharing in enhancing overall safety.

The FAA disagrees with the request to share data. Much of the requested aggregated data is proprietary and, consequently, the FAA is unable to share publicly. As discussed previously, the FAA and the manufacturer have clear understanding of the failure mode

and unsafe condition. The intent of this AD is to detect nickel powder anomalies and related cracking and replace the affected parts. The FAA, the manufacturer, the rest of the industry, and many industry groups have mechanisms in place to share information and develop industry best practices. The FAA did not change this AD as a result of this comment.

Request To Mandate Airworthiness Limitations Section (ALS) Updates Instead of Service Material

PW requested that the FAA revise the NPRM to require updating the ALS instead of the actions specified in the service material. PW stated that the inspections specified in the service material for the HPC 15th-stage disks, front turbine hubs, HPT 1st-stage air seals, and HPT 2nd-stage hubs have since been included in the revised engine manual ALS and are now duplicate requirements.

The FAA partially agrees with the request. The FAA disagrees with the request to require updating the ALS rather than performing certain inspections in accordance with the service material; however, the FAA finds that updating the engine manual ALS provides acceptable mitigation of the unsafe condition. The FAA has added paragraph (i) of this AD, which provides optional terminating action for operators that update their engine manual ALS to include the actions required by paragraphs (g)(1) through (3) of this AD.

Request To Eliminate the Requirement To Remove From Service

PW requested that the FAA eliminate paragraph (g)(3) of the proposed AD. PW stated that the requirement to remove the part from service is sufficiently covered by existing inspection procedures which are incorporated in the revised engine manual ALS inspections.

The FAA disagrees with the request. This AD does not require any engine manual ALS updates. Therefore, the FAA finds that including removal requirements in this airworthiness directive is both appropriate and necessary. However, as previously discussed, the FAA has added paragraph (i) of this AD which provides optional terminating action for operators that update their engine manual ALS to include the actions required by paragraphs (g)(1) through (3) of this AD. The FAA did not change this AD as a result of this comment.

Request To Remove Certain Definition of "Piece Part Opportunity"

PW requested that the FAA remove the definitions specified in paragraphs (h)(1)(i) through (iii) of the proposed AD. PW stated that "piece part opportunity" is already defined in the revised engine manual ALS inspections.

The FAA disagrees with the request. A definition for "piece part opportunity" is necessary for the required actions in this AD because the ALS update is an optional terminating action and not mandatory. The FAA did not change this AD as a result of this comment.

Request To Remove Certain Definition of "Part Eligible for Installation"

PW requested that the FAA remove the definitions specified in paragraph (h)(2) of the proposed AD. PW stated that "part eligible for installation" is already defined in the revised engine manual ALS inspections. PW proposed that the FAA allow all new manufactured parts to be eligible for installation regardless of confirmation of receiving an angle ultrasonic scan inspection (AUSI). PW indicated its fleet management plan does not require confirmation that new affected parts have received an AUSI during manufacture to be eligible for installation. PW stated that including such a requirement places an unnecessary burden on operators.

The FAA partially agrees with this request. The FAA disagrees with removing the definition of "Part Eligible for Installation" from this AD. However, the FAA agrees that operators do not have access to the necessary data to determine whether zero-time components have passed an AUSI at new part manufacture. Therefore, the FAA has determined that the responsible party may determine if the part is eligible for installation based on the date specified on the FAA Form 8130-3. The FAA has revised paragraphs (h)(2)(xiii) of this AD by removing the words "and has passed an AUSI at new part production" and replacing them with "that has an FAA Form 8130-3 from the original equipment manufacturer for new production dated July 1, 2025, or later."

Explanation of Change to the Type Certificate Holder's Name

The FAA has revised the applicability of this AD to identify the type certificate holder's name as published in the most recent type certificate data sheet for the affected models.

Conclusion

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 the following material:

- PW Alert Service Bulletin (ASB) PW4G–112–A72–365, Revision No. 1, dated June 20, 2024, which specifies procedures for performing repetitive AUSIs on affected HPC 15th-stage disks.
- PW ASB PW4G–112–A72–366, dated June 20, 2024, which specifies procedures for performing repetitive AUSIs on affected HPT 1st-stage air seals.
- PW ASB PW4G–112–A72–367, dated June 20, 2024, which specifies procedures for performing repetitive AUSIs on affected front turbine hubs.
- PW ASB PW4G–112–A72–368, dated June 20, 2024, which specifies procedures for performing repetitive AUSIs on affected HPT 2nd-stage hubs.

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 124 engines installed on airplanes of U.S. registry. The FAA estimates that 124 engines will need AUSIs of the HPC 15th-stage disk, front turbine hub, HPT 2nd-stage hub, and HPT 1st-stage air seal; and 6 engines will need replacement of the HPT 1st-stage air seals.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
AUSI of HPC 15th-stage disk	4 work-hours × \$85 per hour = \$340	\$0	\$340	\$42,160
AUSI of front turbine hub	5 work-hours × \$85 per hour = \$425	0	425	52,700
AUSI of HPT 2nd-stage hub	5 work-hours × \$85 per hour = \$425	0	425	52,700
AUSI of HPT 1st-stage air seal	5 work-hours × \$85 per hour = \$425	0	425	52,700
Replace certain HPT 1st-stage air seals (6 engines)	1 work-hour × \$85 per hour = \$85	763,000	763,085	4,578,510

The FAA estimates the following costs to do any replacements that would

be required based on the results of the inspection. The agency has no way of

determining the number of engines that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace HPC 15th-stage disk	10 work-hours × \$85 per hour = \$850	\$312,000	\$312,850
Replace front turbine hub	10 work-hours × \$85 per hour = \$850	910,000	910,850
Replace HPT 2nd-stage hub	10 work-hours × \$85 per hour = \$850	816,000	816,850
Replace HPT 1st-stage air seals	10 work-hours × \$85 per hour = \$850	763,000	763,850

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:

2026–09–02 Pratt & Whitney RTX Corporation (Type Certificate Previously

Held by Pratt & Whitney Division United Technologies Corporation): Amendment 39–23322; Docket No. FAA–2025–0923; Project Identifier AD–2024–00529–E.

(a) Effective Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to certain Pratt & Whitney RTX Corporation (type certificate previously held by Pratt & Whitney Division United Technologies Corporation) (PW) Model PW4074, PW4074D, PW4077, PW4077D, PW4084D, PW4090, and PW4090–3 engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7250, Turbine Section; 7230, Turbine Engine Compressor Section.

(e) Unsafe Condition

This AD was prompted by an analysis of an event involving an International Aero Engines, LLC Model PW1127GA–JM engine, which experienced a high-pressure compressor (HPC) 7th-stage integrally bladed rotor separation that resulted in an aborted takeoff. The FAA is issuing this AD to prevent failure of the HPC 15th-stage disk, front turbine hub, high pressure turbine (HPT) 1st-stage air seal, and HPT 2nd-stage hub. The unsafe condition, if not addressed, could result in uncontained disk failure, release of high energy debris, damage to the engine, damage to the airplane, and possible loss of the airplane.

(f) Compliance

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

(g) Required Actions

(1) For HPT 1st-stage air seals with a serial number identified in table 1 to paragraph (g)(1) of this AD: At the next piece part opportunity after the effective date of this AD, remove the HPT 1st-stage air seal from service and replace with a part eligible for installation.

TABLE 1 TO PARAGRAPH (g)(1)—HPT 1ST-STAGE AIR SEALS AFFECTED SERIAL NUMBERS

Serial No.	Part No. (P/N)
CKLBME2702	50L663
CKLBME2703	50L663
CKLBME2704	50L663
CKLBME2705	50L663
CKLBME2711	50L663
CKLBMS8019	50L959

(2) At the next piece part opportunity after the effective date of this AD, and thereafter at every piece part opportunity, perform angle ultrasonic scan inspections (AUSIs) of the HPC 15th-stage disk, front turbine hub, HPT 1st-stage air seal, and HPT 2nd-stage hub for crack indications in accordance with the applicable service information specified in paragraph (g)(2)(i) through (iv) of this AD.

(i) For HPC 15th-stage disks: Accomplishment Instructions, paragraph 4.A or 4.B., of PW Alert Service Bulletin (ASB) PW4G–112–A72–365, Revision No. 1, dated June 20, 2024.

(ii) For front turbine hubs: Accomplishment Instructions, paragraph 4.A or 4.B., of PW ASB PW4G–112–A72–367, dated June 20, 2024.

(iii) For HPT 1st-stage air seals: Accomplishment Instructions, paragraph 4.A or 4.B., of PW ASB PW4G–112–A72–366, dated June 20, 2024.

(iv) For HPT 2nd-stage hubs: Accomplishment Instructions, paragraph 4.A or 4.B., of PW ASB PW4G–112–A72–368, dated June 20, 2024.

(3) If during any inspection required by paragraph (g)(2) of this AD, any crack indication is found, before further flight, remove the part from service and replace with a part eligible for installation.

(h) Definitions

For the purposes of this AD:

(1) A “piece part opportunity” is one of the conditions specified in paragraph (h)(1)(i) through (iv).

(i) The HPC 15th-stage disk is removed from the engine and all blades are removed.

(ii) The front turbine hub is removed from the engine and all blades are removed.

(iii) The HPT 2nd-stage hub is removed from the engine and all blades are removed.

(iv) The HPT 1st-stage air seal is fully disassembled from the engine.

(2) A “part eligible for installation” is:

(i) An HPC 15th-stage disk having P/N 51S115, 51S315, 55H615, or 56H015 that has passed the angle ultrasonic scan inspection (AUSI) required by paragraph (g)(2)(i) of this AD.

(ii) An HPC 15th-stage disk having P/N 51S115 or 56H015 that has a certificate of conformance that shows compliance with Non-Destructive Inspection Procedure (NDIP)–1276.

(iii) An HPC 15th-stage disk having P/N 51S315 or 55H615 that has a certificate of conformance that shows compliance with NDIP–1289.

(iv) A front turbine hub having P/N 55L801 or 55L901 that has passed the AUSI required by paragraph (g)(2)(ii) of this AD.

(v) A front turbine hub having P/N 55L801 that has a certificate of conformance that shows compliance with NDIP–1273.

(vi) A front turbine hub having P/N 55L901 that has a certificate of conformance that shows compliance with NDIP–1288.

(vii) An HPT 1st-stage air seal having P/N 50L663 or 50L959 that has passed the AUSI required by paragraph (g)(2)(iii) of this AD.

(viii) An HPT 1st-stage air seal having P/N 50L663 that has a certificate of conformance that shows compliance with NDIP–1286.

(ix) An HPT 1st-stage air seal having P/N 50L959 that has a certificate of conformance that shows compliance with NDIP–1287.

(x) An HPT 2nd-stage hub having P/N 53L202 or 54L802 that has passed the AUSI required by paragraph (g)(2)(iv) of this AD.

(xi) An HPT 2nd-stage hub having P/N 53L202 that has a certificate of conformance that shows compliance with NDIP–1274.

(xii) An HPT 2nd-stage hub having P/N 54L802 that has a certificate of conformance that shows compliance with NDIP–1275.

(xiii) Any HPC 15th-stage disk, front turbine hub, HPT 1st-stage air seal, or HPT 2nd-stage hub that is new, zero-time, and that has an FAA Form 8130–3 from the original equipment manufacturer for new production dated July 1, 2025, or later.

(i) Optional Terminating Action—Airworthiness Limitations Section (ALS) Revision

Revising the ALS of the existing engine manual and the operator's existing approved maintenance program or inspection program, as applicable, by incorporating the information in figure 1 to paragraph (i) of this AD, constitutes terminating action for the actions required by paragraphs (g)(1) through (3) of this AD.

FIGURE 1 TO PARAGRAPH (i)—ALS ADDITIONAL INSPECTIONS

Engine manuals P/N 51A345 and 51A751	B. Parts requiring inspection description	CIR manual 51A750 inspection check-02 update to include
Chapter/Section 05–10–00 PW4000 SERIES ENGINE MANUAL ENGINE—AIRWORTHINESS LIMITATIONS—TIME LIMITS. P/N 51A345 Revision Date: 2025–02–01 TASK 05–10–01–990–004. 5. Critical Life Limited Part Inspection and Critical Part Inspection. P/N 51A751 Revision Date: 2025–07–01 TASK 05–10–01–990–007. 5. Critical Life Limited Part Inspection and Critical Part Inspection.	Seal—Air, HPT 1st Stage.	TASK 72–52–19–200–001. 1. Non-Destructive Inspection—Stage 1 HPT Airseal H. Angle Ultrasonic Inspection (1) Do an Angle Ultrasonic Inspection for P/N 50L663 by NDIP–1286 and for P/N 50L959 by NDIP–1287.
Chapter/Section 05–10–00 PW4000 SERIES ENGINE MANUAL ENGINE—AIRWORTHINESS LIMITATIONS—TIME LIMITS. P/N 51A345 Revision Date: 2025–02–01 TASK 05–10–01–990–004. 5. Critical Life Limited Part Inspection and Critical Part Inspection. P/N 51A751 Revision Date: 2025–07–01 TASK 05–10–01–990–007. 5. Critical Life Limited Part Inspection and Critical Part Inspection.	Hub, Turbine Front Assembly (1st Stage).	TASK 72–52–05–200–001. 1. Non-Destructive Inspection—Turbine Front Hub (Stage 1)–H. Angle Ultrasonic Inspection (1) Do an Angle Ultrasonic Inspection for Assembly P/N 55L221 or Detail P/N 55L801 by NDIP–1273 and for Assembly P/N 55L521 or Detail P/N 55L901 by NDIP–1288.
Chapter/Section 05–10–00 PW4000 SERIES ENGINE MANUAL ENGINE—AIRWORTHINESS LIMITATIONS—TIME LIMITS. P/N 51A345 Revision Date: 2025–02–01 TASK 05–10–01–990–004. 5. Critical Life Limited Part Inspection and Critical Part Inspection. P/N 51A751 Revision Date: 2025–07–01 TASK 05–10–01–990–007. 5. Critical Life Limited Part Inspection and Critical Part Inspection.	Hub, Turbine Rear Assembly (2nd Stage).	TASK 72–52–06–200–001. 1. Non-Destructive Inspection—Turbine Intermediate Hub (Stage 2)–H. Angle Ultrasonic Inspection (1) Do an Angle Ultrasonic Inspection for Assembly P/N 53L232 and Detail P/N 53L202 by NDIP–1274 and for Assembly P/N 54L932 and Detail P/N 54L802 by NDIP–1275.
Chapter/Section 05–10–00 PW4000 SERIES ENGINE MANUAL ENGINE—AIRWORTHINESS LIMITATIONS—TIME LIMITS. P/N 51A345 Revision Date: 2025–02–01 TASK 05–10–01–990–004. 5. Critical Life Limited Part Inspection and Critical Part Inspection. P/N 51A751 Revision Date: 2025–07–01 TASK 05–10–01–990–007. 5. Critical Life Limited Part Inspection and Critical Part Inspection.	HPC Disk 15th Stage.	TASK 72–35–92–200–001. 1. Non-Destructive Inspection—HPC Disk 15th Stage–H. Angle Ultrasonic Inspection (1) Do an Angle Ultrasonic Inspection for P/N 55H615 and P/N 51S315 by NDIP–1289. TASK 72–35–92–200–001–A. 1. Non-Destructive Inspection—HPC Disk 15th Stage–I. Angle Ultrasonic Inspection (1) Do an Angle Ultrasonic Inspection for P/N 56H015 and P/N 51S115 by NDIP–1276.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Additional Information

For more information about this AD, contact Molly Sturgis, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (562) 627–5373; email: molly.a.sturgis@faa.gov.

(l) Material Incorporated by Reference

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

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

(i) Pratt & Whitney RTX Corporation (PW) Alert Service Bulletin (ASB) PW4G–112–A72–365, Revision No. 1, dated June 20, 2024.

(ii) PW ASB PW4G–112–A72–366, dated June 20, 2024.

(iii) PW ASB PW4G–112–A72–367, dated June 20, 2024.

(iv) PW ASB PW4G–112–A72–368, dated June 20, 2024.

(3) For PW material identified in this AD, contact PW, 400 Main Street, East Hartford, CT 06118; phone: (800) 565–0140; email: help24@prattwhitney.com; website: connect.prattwhitney.com.

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

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

Issued on May 20, 2026.

Lona C. Saccomando,

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

[FR Doc. 2026–10360 Filed 5–21–26; 8:45 am]

BILLING CODE 4910–13–P

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

[Docket No. FAA–2026–2282; Project Identifier MCAI–2025–01149–T; Amendment 39–23340; AD 2026–09–18]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. This AD was prompted by reports that inappropriate tooling was used to torque the bolts securing the baggage door stop fittings, which may have resulted in an improper torque condition. This AD requires performing a torque check of affected bolts and re-torquing, re-installing, or replacing affected bolts and nuts as applicable. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 26, 2026.

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

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–2282; 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 Transport Canada material identified in this AD, contact Transport Canada, Transport Canada National

Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca*. You may find this material on the Transport Canada website at *tc.canada.ca/en/aviation*.

• 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–2026–2282.

FOR FURTHER INFORMATION CONTACT:

Brenda Buitrago Perez, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7300; email: *9-avs-nyaco-cos@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 Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. The NPRM was published in the **Federal Register** on February 26, 2026 (91 FR 9504). The NPRM was prompted by AD CF–2025–28, dated June 10, 2025 (Transport Canada AD CF–2025–28) (also referred to as the MCAI), issued by Transport Canada, which is the aviation authority for Canada. The MCAI states that it was reported that inappropriate tooling was used to torque the bolts securing the baggage door stop fittings, which may have resulted in an improper torque condition. The MCAI states that the fitting could migrate slightly during operation if the bolts were under-torqued. Additionally, if the bolts were over-torqued, the bolts could yield and fracture under dynamic loads. Baggage stop door fittings consist of principal structural elements where the structural integrity may be impacted. This condition, if not addressed, could potentially lead to cabin depressurization should a fitting failure occur.

In the NPRM, the FAA proposed to require a torque check of affected bolts

and re-torquing, re-installing, or replacing affected bolts and nuts as applicable, as specified in Transport Canada AD CF–2025–28. 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–2026–2282.

Discussion of Final Airworthiness Directive**Comments**

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

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

Transport Canada AD CF–2025–28 specifies procedures for performing a torque check of affected bolts and re-torquing, re-installing, or replacing affected bolts and nuts as applicable.

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 45 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
8 work-hours × \$85 per hour = \$680	\$196	Up to \$876	Up to \$39,420.

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:

2026–09–18 Bombardier, Inc.: Amendment 39–23340; Docket No. FAA–2026–2282; Project Identifier MCAI–2025–01149–T.

(a) Effective Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes, certificated in any category, as identified in Transport Canada AD CF–2025–28, dated June 10, 2025 (Transport Canada AD CF–2025–28).

(d) Subject

Air Transport Association (ATA) of America Code 52, Doors.

(e) Unsafe Condition

This AD was prompted by reports that inappropriate tooling was used to torque the bolts securing the baggage door stop fittings, which may have resulted in an improper torque condition. The FAA is issuing this AD to address improperly torqued baggage stop fittings and possible consequent adverse impacts on structural integrity, which if not addressed, could lead to cabin depressurization should a fitting failure occur.

(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, Transport Canada AD CF–2025–28.

(h) Exceptions to Transport Canada AD CF–2025–28

(1) Where Transport Canada AD CF–2025–28 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where Transport Canada AD CF–2025–28 specifies to "re-torque, re-install, or replace affected bolts and nuts", this AD requires replacing that text with "before further flight, re-torque, re-install, or replace affected bolts and nuts".

(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 Transport Canada; or Bombardier Inc.'s Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Additional Information

For more information about this AD, contact Brenda Buitrago Perez, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7300; email: 9-avs-nyaco-cos@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) Transport Canada AD CF–2025–28, dated June 10, 2025.

(ii) Reserved.

(3) For Transport Canada material identified in this AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca. You may find this material on the Transport Canada website at tc.canada.ca/en/aviation.

(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 May 4, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–10271 Filed 5–21–26; 8:45 am]

BILLING CODE 4910–13–P

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

[Docket No. FAA–2026–1340; Project Identifier MCAI–2024–00430–T; Amendment 39–23341; AD 2026–10–01]

RIN 2120–AA64

Airworthiness Directives; Embraer S.A. (Type Certificate Previously Held by Yaborã Indústria Aeronáutica S.A.; Embraer S.A.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Embraer S.A. Model ERJ 190–100 ECJ airplanes. This AD was prompted by a manufacturing quality escape concerning certain overheat detection system (ODS) sensing elements. This AD requires a detailed inspection of certain ODS sensing elements of the airplane bleed lines and replacement, if necessary. This AD also prohibits the installation of affected parts. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 26, 2026.

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

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–1340; 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 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–2026–1340.

FOR FURTHER INFORMATION CONTACT:

Nicole Tsang, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3959; email: *Nicole.S.Tsang@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 Embraer S.A. Model ERJ 190–100 ECJ airplanes. The NPRM was published in the **Federal Register** on February 25, 2026 (91 FR 9193). The NPRM was prompted by AD 2024–07–01, effective July 31, 2024 (ANAC AD 2024–07–01) (also referred to as the MCAI), issued by ANAC, which is the aviation authority for Brazil. The MCAI states that a quality escape occurred during manufacturing concerning certain ODS sensing elements produced before January 31, 2021. A defective sensing element may not be able to detect a thermal bleed leak, which is a latent failure. This condition, if not addressed, could lead to an undetected thermal bleed leak that could start an ignition source in the fuel tank, damaging some electronic boxes and exposing the wing structure to high temperature gradients and unexpected thermal loads.

In the NPRM, the FAA proposed to require a detailed inspection of certain ODS sensing elements of the airplane bleed lines and replacement, if necessary, as specified in ANAC AD 2024–07–01. The NPRM also proposed to prohibit the installation of affected parts, as specified in ANAC AD 2024–07–01. 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–2026–1340.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from the Air Line Pilots Association, International (ALPA) who supported the NPRM without change.

Clarification of Exception in Paragraph (h)(2) of This AD

The FAA revised paragraph (h)(2) of this AD to clarify the text in ANAC AD 2024–07–01 that must be replaced.

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

ANAC AD 2024–07–01 specifies procedures for a detailed inspection of certain ODS sensing elements of the airplane bleed lines and replacement, if necessary. ANAC AD 2024–07–01 also prohibits the installation of an affected ODS sensing element unless the affected part passed an inspection, indicated by a marking on one face of the connector hex nut.

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 8 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
108 work-hours × \$85 per hour = \$9,180	\$0	\$9,180	\$73,440

The FAA has received no definitive data on which to base a cost estimate for the on-condition actions specified in this AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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:

2026–10–01 Embraer S.A. (Type Certificate Previously Held by Yaborã Indústria Aeronáutica S.A.; Embraer S.A.): Amendment 39–23341; Docket No. FAA–2026–1340; Project Identifier MCAI–2024–00430–T.

(a) Effective Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to Embraer S.A. (Type Certificate previously held by Yaborã Indústria Aeronáutica S.A.; Embraer S.A.) Model ERJ 190–100 ECJ airplanes, certificated in any category, as identified in Agência Nacional de Aviação Civil (ANAC) AD 2024–07–01, effective July 31, 2024 (ANAC AD 2024–07–01).

(d) Subject

Air Transport Association (ATA) of America Code 26, Fire Protection; 36, Pneumatic.

(e) Unsafe Condition

This AD was prompted by a manufacturing quality escape concerning certain overheat detection system (ODS) sensing elements. The FAA is issuing this AD to address defective sensing elements. The unsafe condition, if not addressed, could lead to an undetected thermal bleed leak that could start an ignition source in the fuel tank, damaging some electronic boxes and exposing the wing structure to high temperature gradients and unexpected thermal loads, which could result in reduced 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, ANAC AD 2024–07–01.

(h) Exceptions to ANAC AD 2024–07–01

(1) Where ANAC AD 2024–07–01 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraphs (b)(1) and (c)(1) of ANAC AD 2024–07–01 specify to inspect the ODS sensing elements of various “areas of the airplane”, this AD requires replacing that text with “areas of the airplane in accordance with Embraer Service Bulletin 190LIN–36–0013, Revision 03, dated April 20, 2024; or later revisions approved by ANAC”.

(3) Where paragraphs (b) and (c) of ANAC AD 2024–07–01 specify on-condition actions based on the results of the ODS sensing element inspections required by paragraphs (b)(1) and (c)(1) of ANAC AD 2024–07–01, this AD requires performing all applicable on-condition actions before further flight after each inspection.

(4) This AD does not adopt paragraph (f) of ANAC AD 2024–07–01.

(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 ANAC; or ANAC’s authorized Designee. If approved by the ANAC Designee, the approval must include the Designee’s authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any material contains steps in the Accomplishment Instructions or figures that are labeled as RC, the instructions in RC steps, including subparagraphs under an RC step and any figures identified in an RC step, must be done to comply with this AD; any steps including substeps under those steps, that are not identified as RC are recommended. The instructions in steps, including substeps under those steps, 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. If a step or substep is labeled “RC Exempt,” then the RC requirement is removed from that step or substep.

(j) Additional Information

For more information about this AD, contact Nicole Tsang, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3959; email: Nicole.S.Tsang@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) AD 2024–07–01, effective July 31, 2024.

(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. You may find this material on the ANAC website at sistemas.anac.gov.br/certificacao/DA/DAE.asp.

(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 May 4, 2026.

Brian Knaup,

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

[FR Doc. 2026–10270 Filed 5–21–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–4641; Project Identifier MCAI–2026–00340–T; Amendment 39–23359; AD 2026–10–19]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A330–200 series airplanes; Model A330–200 Freighter series airplanes; Model A330–300 series airplanes; and Model A330–841 and –941 airplanes. This AD was prompted by a report of an in-service event and relevant investigation which found that, under specific conditions, a dormant failure of a standby fuel pump could lead to a certain amount of fuel being trapped in the aft section of the inner tank that would be unusable. This AD requires repetitive operational checks of the standby fuel pumps and corrective actions and limits the installation of affected parts under certain conditions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 8, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 8, 2026.

The FAA must receive comments on this AD by July 6, 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–2026–4641; 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–2026–4641.

FOR FURTHER INFORMATION CONTACT: Tak Kobayashi, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3553; email: takahisa.kobayashi@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–2026–4641; Project Identifier MCAI–2026–00340–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 Tak Kobayashi, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3553; email: takahisa.kobayashi@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 2026–0073, dated April 1, 2026; corrected April 7, 2026 (EASA AD 2026–0073) (also referred to as the MCAI), to correct an unsafe condition for all Model A330–200 series airplanes; Model A330–200 Freighter series airplanes; Model A330–300 series airplanes; and Model A330–743L, –841, and –941 airplanes. Model A330–743L airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability. The MCAI states that following an in-service event and relevant investigation, it has been determined that, under specific conditions, a dormant failure of a standby fuel pump could lead to a certain amount of fuel being trapped in the aft section of the inner tank that would be unusable. The MCAI states that this condition, if not detected and corrected, could lead to inability to use this fuel, possibly resulting in overestimating the useable fuel available on board, and subsequent uncommanded in-flight engine shutdown.

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](https://www.regulations.gov) under Docket No. FAA–2026–4641.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2026–0073 specifies procedures for a repetitive operational check of the standby fuel pumps for discrepancies (*i.e.*, any result does not match the applicable result identified in the “Result” column in the table of paragraph A., “Operational check of the Standby Fuel Pump,” in the service information referenced by EASA AD 2026–0073), and applicable corrective

actions. Corrective action includes troubleshooting discrepancies and replacing defective affected parts (*i.e.*, an affected part that cannot meet all results identified in the “Result” column in the table of paragraph A., “Operational check of the Standby Fuel Pump,” in the referenced service information). Replacing includes the option of swapping and following the master minimum equipment list (MMEL) for dispatch with an inoperative fuel pump. Swapping is switching the position of the defective fuel pump from a standby pump location with a non-defective fuel pump from a non-standby pump location, which must also be checked for discrepancies before further flight. EASA AD 2026–0073 also limits the installation of affected parts under certain conditions. EASA AD 2026–0073 also provides an acceptable method of compliance for the operational check. 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 2026–0073 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 2026–0073 is incorporated by reference in this AD. This AD requires compliance with EASA AD 2026–0073 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 2026–0073 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 2026–0073. Material required by EASA AD 2026–0073 for compliance will be available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2026–4641 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 a dormant (undetected) failure of a standby fuel pump could lead to inability to use fuel trapped in either of the aft inner tanks, possibly resulting in overestimating the useable fuel available on board, and subsequent uncommanded in-flight dual engine shutdown. 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 154 airplanes of U.S. registry.

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

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
1 work-hour × \$85 per hour = \$85	\$0	\$85	\$13,090

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
4 work-hours × \$85 per hour = \$340	Up to \$11,994	Up to \$12,334.

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:

2026–10–19 Airbus SAS: Amendment 39–23359; Docket No. FAA–2026–4641; Project Identifier MCAI–2026–00340–T.

(a) Effective Date

This airworthiness directive (AD) is effective June 8, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS airplanes identified in paragraphs (c)(1) through (4) of this AD, certificated in any category.

(1) Model A330–201, –202, –203, –223, and –243 airplanes.

(2) Model A330–223F and –243F airplanes.

(3) Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(4) Model A330–841 airplanes and A330–941 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Unsafe Condition

This AD was prompted by a report of an in-service event and relevant investigation, which found that, under specific conditions, a dormant failure of a standby fuel pump could lead to a certain amount of fuel being trapped in the aft section of the inner tank and being unusable. The FAA is issuing this AD to address dormant failure of a standby fuel pump, which could lead to inability to use fuel trapped in either of the aft inner tanks, possibly resulting in overestimating the useable fuel available on board, and subsequent uncommanded in-flight engine shutdown.

(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, European Union Aviation Safety Agency (EASA) AD 2026–0073, dated April 1, 2026; corrected April 7, 2026 (EASA AD 2026–0073).

(h) Exceptions to EASA AD 2026–0073

(1) Where EASA AD 2026–0073 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2026–0073 defines an affected part as "any part number eligible for installation in accordance with Airbus instructions", this AD requires replacing that text with "any part number eligible for installation".

(3) Where Note 1 of EASA AD 2026–0073 specifies "The action(s) required by paragraph (1) of this AD may be accomplished by suitably authorised flight crew under the provisions of Commission Regulation (EU) No 1321/2014 145.A.30(j)3

or M.A.606(h)1, as applicable;”, this AD requires replacing that text with “Operational checks specified in paragraph (1) of EASA AD 2026–0073 may be accomplished by personnel authorized in accordance with the operator’s approved maintenance or inspection program. In accordance with 14 CFR 121.363 and 121.369, certificate holders are responsible for establishing procedures for the accomplishment, coordination, recording, and corrective action associated with required maintenance and inspections. Operators should evaluate the appropriateness of flightcrew accomplishment of these actions within the context of their specific operation, including applicable training programs, standard operating procedures, maintenance coordination processes, flightcrew workload considerations, and safety risk management practices.”

(4) Where paragraph (2) of EASA AD 2026–0073 defines a discrepancy as “any discrepancy, as identified in the AOT”, this AD requires replacing that text with “any result that does not match the applicable result identified in the “Result” column in the table of paragraph A., “Operational check of the Standby Fuel Pump,” in paragraph 5.5 of the AOT”.

(5) Where paragraph (3) of EASA AD 2026–0073 states “it is determined that an affected part is defective”, this AD requires replacing that text with “it is determined the affected part cannot meet all results identified in the “Result” column in the table of paragraph A., “Operational check of the Standby Fuel Pump,” in paragraph 5.5 of the AOT”.

(6) This AD does not adopt the “Remarks” section of EASA AD 2026–0073.

(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 2026–0073 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 Tak Kobayashi, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3553; email: takahisa.kobayashi@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 2026–0073, dated April 1, 2026; corrected April 7, 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 May 14, 2026.

Brian Knaup,

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

[FR Doc. 2026–10272 Filed 5–20–26; 11:15 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–1442]

Schedules of Controlled Substances: Temporary Placement of 2-Fluorodeschloroketamine in Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Temporary amendment; temporary scheduling order.

SUMMARY: The Drug Enforcement Administration (DEA) issues this temporary order to schedule 2-(2-fluorophenyl)-2-(methylamino)cyclohexan-1-one (commonly known as 2-fluorodeschloroketamine or 2–FDCK), including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, in schedule I of the Controlled Substances Act. DEA bases this action on a finding that placing 2-fluorodeschloroketamine in schedule I is necessary to avoid an imminent hazard to public safety. This order imposes the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, reverse distribute, import, export, engage in research, conduct instructional activities or chemical analysis, or possess), or propose to handle this substance.

DATES: This temporary order is effective May 22, 2026, until May 22, 2028. If this order is extended or made permanent, DEA will publish a document in the **Federal Register**.

ADDRESSES: 8701 Morrisette Drive, Springfield, Virginia 22152.

FOR FURTHER INFORMATION CONTACT: Dr. Terrence L. Boos, Drug and Chemical Evaluation Section, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrisette Drive, Springfield, Virginia 22152; Telephone: (571) 362–3249.

SUPPLEMENTARY INFORMATION: The Drug Enforcement Administration (DEA) issues a temporary scheduling order¹ (in the form of a temporary amendment) to add 2-(2-fluorophenyl)-2-

¹ Though DEA has used the term “final order” with respect to temporary scheduling orders in the past, this action adheres to the statutory language of 21 U.S.C. 811(h), which refers to a “temporary scheduling order.” No substantive change is intended.

(methylamino)cyclohexan-1-one (commonly known as 2-fluorodeschloroketamine or 2-FDCK), including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible, to schedule I under the Controlled Substances Act (CSA).

Legal Authority

The CSA provides the Attorney General with the authority to temporarily place a substance in schedule I of the CSA for two years without regard to the evaluation requirements of 21 U.S.C. 811(b), if he finds that such action is necessary to avoid an imminent hazard to the public safety.² In addition, if proceedings to control a substance are initiated under 21 U.S.C. 811(a)(1) while the substance is temporarily controlled under section 811(h), the Attorney General may extend the temporary scheduling for up to one year.³

Where the necessary findings are made, a substance may be temporarily scheduled if it is not listed in any other schedule under 21 U.S.C. 812, or if there is no exemption or approval in effect for the substance under section 505 of the Federal Food, Drug, and Cosmetic Act (FD&C Act), 21 U.S.C. 355.⁴

In addition, the United States is a party to the 1971 United Nations Convention on Psychotropic Substances (1971 Convention), Feb. 21, 1971, 32 U.S.T. 543, 1019 U.N.T.S. 175, as amended. Procedures respecting changes in drug schedules under the 1971 Convention are set forth in 21 U.S.C. 811(d)(2)–(4). When the United States receives notification of a scheduling decision pursuant to Article 2 of the 1971 Convention indicating that a drug or other substance has been added to a schedule specified in the notification, the Secretary of the Department of Health and Human Services (HHS), after consultation with the Attorney General, shall first determine whether existing legal controls under subchapter I of the CSA and the FD&C Act meet the requirements of the schedule specified in the notification with respect to the specific drug or substance. In the event that the Secretary did not consult with the Attorney General, and the Attorney General did not issue a temporary order, as provided under 21 U.S.C. 811(d)(4), the procedures for permanent scheduling set forth in 21 U.S.C. 811(a) and (b) control. The Attorney General has delegated scheduling authority

under 21 U.S.C. 811 to the Administrator of DEA (Administrator).⁵

Background

On June 6, 2024, the Secretariat of the United Nations advised the Secretary of State of the United States that the Commission on Narcotic Drugs (CND), during its 67th session on March 19, 2024, voted to place 2-fluorodeschloroketamine in Schedule II of the Convention on Psychotropic Substances of 1971 (CND Decision 67/4). As a signatory to this international treaty, the United States is required to place appropriate controls within the CSA on 2-fluorodeschloroketamine to meet the requirements of the treaty. To meet the minimum requirements of this treaty and to confront these emerging substances, DEA is temporarily placing 2-fluorodeschloroketamine in schedule I of the CSA.

The CSA requires the Administrator to notify the Secretary of HHS of an intent to temporarily place a substance in schedule I of the CSA (*i.e.*, to issue a temporary scheduling order).⁶ By letter dated November 1, 2024 (the November 1 DEA letter), the previous Administrator transmitted the required notice to place 2-fluorodeschloroketamine in schedule I on a temporary basis to the then-Assistant Secretary for Health of HHS (Assistant Secretary).⁷ By letter dated November 8, 2024 (the November 8 HHS letter), the previous Assistant Secretary responded to this notice and advised DEA that, based on a review by the Food and Drug Administration (FDA), there were currently no investigational new drug applications (IND) or approved new drug applications (NDA) for 2-fluorodeschloroketamine. The previous Assistant Secretary also stated that HHS had no objection to the temporary placement of this substance in schedule I of the CSA. However, DEA requested an updated response from HHS by letter dated May 28, 2025 (the May 28 DEA letter), due to the change in HHS's leadership after the November 8 HHS letter. By letter dated June 11, 2025 (the June 11 HHS letter), the then-Acting Assistant Secretary of HHS responded that, based on an updated review by FDA, there were currently no NDAs or INDs for 2-fluorodeschloroketamine. Therefore, HHS had no objections to the

temporary placement of 2-fluorodeschloroketamine in schedule I. 2-Fluorodeschloroketamine is not currently listed in any schedule under the CSA, and no exemptions or approvals under 21 U.S.C. 355, are in effect for this substance.

DEA has taken into consideration the then-Acting Assistant Secretary's comments as required by 21 U.S.C. 811(h)(4). DEA has found the control of 2-fluorodeschloroketamine in schedule I on a temporary basis is necessary to avoid an imminent hazard to public safety.

As required by 21 U.S.C. 811(h)(1)(A), DEA published a notice of intent (NOI) to temporarily schedule 2-fluorodeschloroketamine in the **Federal Register** on January 20, 2026.⁸ That NOI discussed findings from DEA's three-factor analysis dated January 2026, which DEA made available on www.regulations.gov.

To find that temporarily placing a substance in schedule I of the CSA is necessary to avoid an imminent hazard to public safety, the Administrator must consider three of the eight factors set forth in 21 U.S.C. 811(c): the substance's history and current pattern of abuse; the scope, duration, and significance of abuse; and what, if any, risk there is to public health.⁹ Consideration of these factors includes any information indicating actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution of this substance.¹⁰

Substances meeting the statutory requirements for temporary scheduling may only be placed in schedule I.¹¹ Substances in schedule I have high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision.¹²

2-Fluorodeschloroketamine

The availability of new psychoactive substances on the illicit drug market continues to pose an imminent hazard to public safety. Adverse health effects associated with the abuse of such substances and their increased popularity have become a serious concern in recent years. Such substances include 2-fluorodeschloroketamine, which has been identified on the illicit drug

⁵ 28 CFR 0.100.

⁶ 21 U.S.C. 811(h)(4).

⁷ The Secretary of HHS has delegated to the Assistant Secretary for Health of HHS the authority to make domestic drug scheduling recommendations. *Comprehensive Drug Abuse Prevention and Control Act of 1970, Public Law 91-513, As Amended; Delegation of Authority*, 58 FR 35460 (July 1, 1993).

⁸ *Schedules of Controlled Substances: Temporary Placement of 2-Fluorodeschloroketamine in Schedule I*, 91 FR 2323 (Jan. 20, 2026).

⁹ 21 U.S.C. 811(c)(4)–(6), (h)(3).

¹⁰ *Id.*

¹¹ 21 U.S.C. 811(h)(1).

¹² 21 U.S.C. 812(b)(1).

² 21 U.S.C. 811(h)(1).

³ 21 U.S.C. 811(h)(2).

⁴ 21 U.S.C. 811(h)(1); 21 CFR part 1308.

market in the United States and worldwide.

The positive identification of 2-fluorodeschloroketamine in law enforcement seizures and toxicology reports poses a serious concern to public safety. 2-Fluorodeschloroketamine has been detected in 61 drug seizures across 12 states since 2018, and this substance has been detected in biological samples from 3 overdose cases in the United States.

Data obtained from preclinical pharmacology studies show that 2-fluorodeschloroketamine has a pharmacological profile similar to that of other arylcyclohexylamines, such as phencyclidine (PCP) and ketamine, which are schedule II and III controlled substances, respectively. Due to these pharmacological similarities, the use of 2-fluorodeschloroketamine presents a high risk of abuse and may negatively affect users and their communities. These pharmacological similarities also lead to similar clinical presentations of intoxication that range from hallucinogenic-like adverse effects to death. Thus, 2-fluorodeschloroketamine poses an imminent hazard to public safety.

Available data and information for 2-fluorodeschloroketamine, summarized below, indicate that this substance has a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision.¹³ DEA's three-factor

analysis is available in its entirety under "Supporting and Related Material" of the public docket for this action at www.regulations.gov under Docket Number DEA-1442.

Factor 4. History and Current Pattern of Abuse

2-Fluorodeschloroketamine belongs to a chemical structural class of substances known as arylcyclohexylamines that includes dissociative anesthetics PCP (a schedule II substance) and ketamine (a schedule III substance). Details on 2-fluorodeschloroketamine synthesis have been available since 2014, long after its first reported synthesis without details in 1987. In 2015, online forum users began to discuss the psychoactive properties of 2-fluorodeschloroketamine and commonly compared 2-fluorodeschloroketamine to ketamine. Unlike ketamine, however, 2-fluorodeschloroketamine has no currently approved medical use. In the November 8 HHS letter to DEA, the then-Assistant Secretary stated that there were no FDA-approved NDAs or INDs for 2-fluorodeschloroketamine. In the June 11 HHS letter to DEA, the then-Acting Assistant Secretary reaffirmed that there were no FDA-approved NDAs or INDs for 2-fluorodeschloroketamine.

2-Fluorodeschloroketamine emerged on the illicit drug market similarly to other dissociative anesthetics that are trafficked for their psychoactive effects; this is evidenced by the identification of this substance in forensic drug exhibits and toxicology samples. Based on available data from user reports and law enforcement seizures, individuals typically purchase 2-

fluorodeschloroketamine as powder or crystals, which are then crushed and placed into capsules or solubilized. Common routes of administration include oral consumption or insufflation, while less commonly mentioned routes include intramuscular injection, sublingual administration, and rectal insertion. In addition, scientific literature and toxicological reports indicate that 2-fluorodeschloroketamine is likely co-ingested with other substances, whether as separate products or a single product containing multiple licit and illicit substances. In toxicological reports, substances co-identified with 2-fluorodeschloroketamine included, but were not limited to, 2-fluoromethamphetamine (schedule I); 3,4-methylenedioxymphetamine (MDA; schedule I); 3,4-methylenedioxymphetamine (MDMA; schedule I); 4-methoxy PCP; ADB-BUTINACA (schedule I); ketamine (schedule III); fentanyl (schedule II); mitragynine; morphine (schedule II); and various prescription drugs.

Factor 5. Scope, Duration and Significance of Abuse

Users on online forums began to discuss 2-fluorodeschloroketamine and its consumption in 2015. In 2016, government authorities in Spain first documented the appearance of 2-fluorodeschloroketamine on the illicit drug market, and this substance has since been detected in numerous countries, such as Australia, Austria, Canada, China, Denmark, Finland, France, Italy, the Netherlands, the United Kingdom, and the United States. Some of these countries actively regulated 2-fluorodeschloroketamine under psychoactive drug control regulations prior to its international control in 2024.

Law enforcement data indicate that the presence of 2-fluorodeschloroketamine is widespread in the United States. Since 2018, DEA's National Forensic Laboratory Information System (NFLIS-Drug)¹⁴ registered a total of 61 reports, across 12 states, pertaining to the trafficking,

¹³ When finding schedule I placement on a temporary basis is necessary to avoid imminent hazard to the public, 21 U.S.C. 811(h) does not require DEA to consider whether the substance has a currently accepted medical use in treatment in the United States. Nonetheless, there is no evidence suggesting that 2-fluorodeschloroketamine has a currently accepted medical use in treatment in the United States. First, DEA looks to whether the drug or substance has FDA approval for marketing in interstate commerce. When no FDA approval exists, DEA has traditionally applied a five-part test to determine whether a drug or substances has a currently accepted medical use: (1) The drug's chemistry must be known and reproducible; (2) there must be adequate safety studies; (3) there must be adequate and well-controlled studies proving efficacy; (4) the drug must be accepted by qualified experts; and (5) the scientific evidence must be widely available. See *Marijuana Scheduling Petition; Denial of Petition; Remand*, 57 FR 10499 (Mar. 26, 1992), pet. for rev. denied, *Alliance for Cannabis Therapeutics v. Drug Enforcement Admin.*, 15 F.3d 1131, 1135 (D.C. Cir. 1994). DEA applied the traditional five-part test and concluded the test was not satisfied. In a recent published letter in a different context, HHS applied an additional two-part test to determine currently accepted medical use for substances that do not satisfy the five-part test: (1) whether there exists widespread, current experience with medical use of the substance by licensed health care providers operating in accordance with implemented jurisdiction-authorized programs, where medical

use is recognized by entities that regulate the practice of medicine, and, if so, (2) whether there exists some credible scientific support for at least one of the medical conditions for which part (1) is satisfied. On April 11, 2024, the Department of Justice's Office of Legal Counsel (OLC) issued an opinion, which, among other things, concluded that HHS's two-part test would be sufficient to establish that a drug has a currently accepted medical use. Office of Legal Counsel, Memorandum for Merrick B. Garland Attorney General Re: Questions Related to the Potential Rescheduling of Marijuana at 3 (April 11, 2024). For purposes of this temporary order, there is no evidence that health care providers have widespread experience with medical use of 2-fluorodeschloroketamine or that the use of 2-fluorodeschloroketamine is recognized by entities that regulate the practice of medicine, so the two-part test also is not satisfied. In the November 8 HHS letter, HHS advised DEA that there were currently no approved NDAs or INDs for 2-fluorodeschloroketamine. Additionally, HHS communicated no objections to the temporary placement of 2-fluorodeschloroketamine into schedule I of the CSA. In the June 11 HHS letter, HHS reaffirmed its position and advised DEA that there were currently no approved NDAs or INDs for 2-fluorodeschloroketamine. Additionally, HHS reaffirmed that it had no objections to the temporary placement of 2-fluorodeschloroketamine in schedule I of the CSA.

¹⁴ NFLIS-Drug represents an important resource in monitoring illicit drug trafficking, including the diversion of legally manufactured pharmaceuticals into illegal markets. NFLIS-Drug is a comprehensive information system that includes data from forensic laboratories that handle more than 96 percent of an estimated 1 million distinct annual federal, state, and local drug analysis cases. NFLIS-Drug includes drug chemistry results from completed analyses only. While NFLIS-Drug data are not direct evidence of abuse, these can lead to an inference that a drug has been diverted and abused. See *Schedules of Controlled Substances: Placement of Carisoprodol Into Schedule IV*, 76 FR 77330, 77332 (Dec. 12, 2011).

distribution, and abuse of 2-fluorodeschloroketamine.¹⁵ These states include California, Connecticut, Florida, Illinois, Louisiana, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, and West Virginia.

Factor 6. What, if Any, Risk There Is to Public Health

2-Fluorodeschloroketamine is a potent arylcyclohexylamine, and evidence suggests that users abuse this substance for its dissociative effects. Literature and case reports indicate that the clinical presentation of 2-fluorodeschloroketamine intoxication is similar to that from other arylcyclohexylamines, such as PCP (schedule II) and ketamine (schedule III), and ranges from hallucinogenic-like adverse effects to death. In nonfatal intoxications, adverse effects include acute neurological symptoms resulting in cognitive and behavioral abnormalities, as well as cardiovascular symptoms, such as hypertension and tachycardia. Literature also indicates that 2-fluorodeschloroketamine has been used as a “date rape” drug and was detected among 11 cases of drug-facilitated sexual assault internationally.

In addition, according to findings by the DEA Toxicology Testing Program (DEA TOX),¹⁶ 2-fluorodeschloroketamine has been positively identified in a total of three polysubstance overdose cases, two of which were fatal, and included both male (n = 2, both age 31) and female (n = 1, age 36) users. While toxicological and forensic case reports are available in medical and scientific literature and provide evidence of 2-fluorodeschloroketamine abuse, commonly used drug screening methods may not yet be able to identify 2-fluorodeschloroketamine. Consequently, additional emergency room admissions and fatalities involving 2-fluorodeschloroketamine have potentially occurred without report.

Lastly, U.S. law enforcement data indicate that 2-fluorodeschloroketamine has been encountered since 2018 and that this substance is easily and affordably obtainable online and on the illicit market. Due to the unknown

purity and composition of drugs purchased online or on the illicit market, individuals may be unknowingly exposed to this substance despite their intentions to consume other drugs, such as bucinnazine, ketamine, or methoxphenidine. Analytical testing of seized samples indicates single and combinations of substances, suggesting that 2-fluorodeschloroketamine may be frequently used as an adulterant or ketamine substitute. The unpredictable levels of adulterant or drug purity across samples may pose significant harm to public health.

Finding of Necessity of Schedule I Placement To Avoid Imminent Hazard to Public Safety

In accordance with 21 U.S.C. 811(h)(3), based on the available data and information summarized above, the uncontrolled manufacture, distribution, reverse distribution, importation, exportation, conduct of research and chemical analysis, possession, and abuse of 2-fluorodeschloroketamine pose an imminent hazard to public safety. 2-Fluorodeschloroketamine has not been approved by FDA and has not been lawfully marketed in the United States. DEA is not aware of any currently accepted medical uses for 2-fluorodeschloroketamine in the United States. A substance meeting the statutory requirements for temporary scheduling, found in 21 U.S.C. 811(h)(1), may only be placed in schedule I. Substances in schedule I must have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. Available data and information for 2-fluorodeschloroketamine indicate that this substance meets the three statutory criteria.

As required by 21 U.S.C. 811(h)(4), in the November 1 DEA letter, the then-Administrator notified the then-Assistant Secretary of DEA’s intention to temporarily place 2-fluorodeschloroketamine in schedule I. HHS had no objection to the temporary placement of this substance in schedule I. However, due to the change in HHS’s leadership after the November 8 HHS letter, DEA requested an updated response from HHS in the May 28 DEA letter. In the June 11 HHS letter, the then-Acting Assistant Secretary reaffirmed that HHS had no objection to the temporary placement of 2-fluorodeschloroketamine in schedule I. DEA subsequently published this NOI

in the **Federal Register** on January 20, 2026.¹⁷

Conclusion

In accordance with 21 U.S.C. 811(h)(1) and (3), the Administrator considered available data and information, herein set forth the grounds for his determination that it is necessary to temporarily schedule 2-fluorodeschloroketamine in schedule I of the CSA, and finds that placement of this substance in schedule I is necessary to avoid an imminent hazard to the public’s safety.

The temporary placement of 2-fluorodeschloroketamine in schedule I of the CSA will take effect on the date the order is published in the **Federal Register** and will remain in effect for two years, with a possible extension of one year, pending completion of the regular (permanent) scheduling process.¹⁸

The CSA sets forth specific criteria for scheduling drugs or other substances. Permanent scheduling actions in accordance with 21 U.S.C. 811(a) are subject to formal rulemaking procedures “on the record after opportunity for a hearing” conducted pursuant to the provisions of 5 U.S.C. 556 and 557.¹⁹ The permanent scheduling process of formal rulemaking affords interested parties appropriate process and the government any additional relevant information needed to make a determination. Final decisions that conclude the permanent scheduling process of formal rulemaking are subject to judicial review.²⁰ Temporary scheduling orders are not subject to judicial review.²¹

Requirements for Handling

Upon the effective date of this temporary order, 2-fluorodeschloroketamine will be subject to the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, importation, exportation, possession of, and engagement in research and conduct of instructional activities or chemical analysis with, schedule I controlled substances, including but not limited to the following:

1. *Registration.* Any person who handles (possesses, manufactures, distributes, reverse distributes, imports,

¹⁷ *Schedules of Controlled Substances: Temporary Placement of 2-Fluorodeschloroketamine in Schedule I*, 91 FR 2323 (Jan. 20, 2026).

¹⁸ 21 U.S.C. 811(h)(1) and (2).

¹⁹ 21 U.S.C. 811.

²⁰ 21 U.S.C. 877.

²¹ 21 U.S.C. 811(h)(6).

¹⁵ NFLIS-Drug data were queried on May 5, 2026. NFLIS-Drug reports are still pending for 2025 and 2026 due to normal lag time.

¹⁶ DEA TOX is a surveillance program that aims to detect novel psychoactive substances (NPS) in fatal and nonfatal overdose cases within the United States. From these cases, biological samples, as well as drug paraphernalia (on limited occasions), are submitted for analysis by hospitals, medical examiners, poison centers, and law enforcement nationwide. DEA TOX data include confirmed detections of NPS through the data query date, May 5, 2026.

exports, engages in research, or conducts instructional activities or chemical analysis with) or desires to handle, 2-fluorodeschloroketamine must be registered with DEA to conduct such activities, pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312, as of May 22, 2026. Any person who currently handles 2-fluorodeschloroketamine and is not registered with DEA to conduct research with a schedule I controlled substance must submit an application for registration and may not continue to handle 2-fluorodeschloroketamine as of May 22, 2026, unless DEA has approved that application for registration pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312.

Notwithstanding the foregoing, pursuant to 21 U.S.C. 822(h), if, on May 22, 2026, a person is conducting research on 2-fluorodeschloroketamine and is already registered to conduct research with another controlled substance in schedule I, the person may continue to conduct research on 2-fluorodeschloroketamine if they submit a completed application for registration or modification of existing registration, as applicable, to conduct research with 2-fluorodeschloroketamine not later than 90 calendar days after May 22, 2026. The person may continue to conduct such research until the person withdraws the application or the Administrator serves on the person an order to show cause proposing denial of the application pursuant to 21 U.S.C. 824(c) and in accordance with 21 CFR 1301.37. If the Administrator serves an order to show cause proposing denial of the application or modification, the person may not continue to conduct research with 2-fluorodeschloroketamine and may not receive or otherwise obtain additional 2-fluorodeschloroketamine. If an order to show cause is served and the person requests a hearing in accordance with 21 CFR 1301.37(d), the hearing shall be held in accordance with 21 CFR 1301.41–1301.46 on an expedited basis and not later than 45 calendar days after the request is made, except that the hearing may be held at a later time if so requested by the person. If the person sends a copy of the application to a manufacturer or distributor of 2-fluorodeschloroketamine, receipt of the copy by the manufacturer or distributor constitutes sufficient evidence that the person is authorized to receive 2-fluorodeschloroketamine pursuant to 21 U.S.C. 822(h)(4). Continuation of research under 21 U.S.C. 822(h) does

not authorize any other handling (e.g., distribution) of 2-fluorodeschloroketamine.

Retail sales of schedule I controlled substances to the general public are not allowed under the CSA. Possession of any quantity of 2-fluorodeschloroketamine in a manner not authorized by the CSA on or after May 22, 2026 is unlawful, and those in possession of any quantity of 2-fluorodeschloroketamine may be subject to prosecution pursuant to the CSA.

2. *Disposal of Stocks.* Any person who does not desire or is unable to obtain a schedule I registration to handle 2-fluorodeschloroketamine must surrender all currently held quantities of this substance.

3. *Security.* 2-Fluorodeschloroketamine is subject to schedule I security requirements and must be handled in accordance with 21 CFR 1301.71–1301.93, as of May 22, 2026.

4. *Labeling and Packaging.* All labels, labeling, and packaging for commercial containers of 2-fluorodeschloroketamine must comply with 21 U.S.C. 825 and 958(e) and 21 CFR part 1302. Current DEA registrants will have 30 calendar days from May 22, 2026 to comply with all labeling and packaging requirements.

5. *Inventory.* Every DEA registrant who possesses any quantity of 2-fluorodeschloroketamine on the effective date of this order must take an inventory of all stocks of this substance on hand pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11. Current DEA registrants will have 30 calendar days from the effective date of this order to comply with all inventory requirements. After the initial inventory, every DEA registrant must take an inventory of all controlled substances (including 2-fluorodeschloroketamine) on hand on a biennial basis pursuant to 21 U.S.C. 827 and 958 and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

6. *Records.* All DEA registrants must maintain records with respect to 2-fluorodeschloroketamine pursuant to 21 U.S.C. 827 and 958(e) and in accordance with 21 CFR parts 1304, 1312, and 1317, and section 1307.11. Current DEA registrants authorized to handle 2-fluorodeschloroketamine shall have 30 calendar days from the effective date of this order to comply with all recordkeeping requirements.

7. *Reports.* All DEA registrants must submit reports with respect to 2-fluorodeschloroketamine pursuant to 21 U.S.C. 827 and in accordance with 21 CFR parts 1304, 1312, and 1317, and sections 1301.74(c) and 1301.76(b), as of

May 22, 2026. Manufacturers and distributors must also submit reports regarding 2-fluorodeschloroketamine to the Automation of Reports and Consolidated Order System pursuant to 21 U.S.C. 827 and in accordance with 21 CFR parts 1304 and 1312.

8. *Order Forms.* All DEA registrants who distribute 2-fluorodeschloroketamine must comply with order form requirements pursuant to 21 U.S.C. 828 and in accordance with 21 CFR part 1305 as of May 22, 2026.

9. *Importation and Exportation.* All importation and exportation of 2-fluorodeschloroketamine must be in compliance with 21 U.S.C. 952, 953, 957, and 958, and in accordance with 21 CFR part 1312 as of May 22, 2026.

10. *Quota.* Only DEA-registered manufacturers may manufacture 2-fluorodeschloroketamine in accordance with a quota assigned pursuant to 21 U.S.C. 826 and in accordance with 21 CFR part 1303, as of May 22, 2026.

11. *Liability.* Any activity involving 2-fluorodeschloroketamine not authorized by or in violation of the CSA, occurring as of May 22, 2026, is unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Analyses

The CSA provides for expedited temporary scheduling actions where necessary to avoid an imminent hazard to public safety. Under 21 U.S.C. 811(h)(1), the Administrator, as delegated by the Attorney General, may, by order, temporarily place substances in schedule I. Such orders may not be issued before the expiration of 30 days from: (1) the publication of a notice in the **Federal Register** of the intent to issue such order and the grounds upon which such order is to be issued, and (2) the date that notice of the proposed temporary scheduling order is transmitted to the Assistant Secretary, as delegated by the Secretary of HHS.²²

Inasmuch as section 811(h) directs that temporary scheduling actions be issued by order (as distinct from a rule) and sets forth the procedures by which such orders are to be issued, DEA believes the notice-and-comment requirements of the Administrative Procedure Act (APA) at 5 U.S.C. 553, which are applicable to rulemaking, do not apply to this temporary scheduling order. The APA expressly differentiates between orders and rules, as it defines an “order” to mean a “final disposition, whether affirmative, negative, injunctive, or declaratory in form, of an agency *in a matter other than rule*

²² 21 U.S.C. 811(h)(1).

making.”²³ This contrasts with permanent scheduling actions, which are subject to formal rulemaking procedures done “on the record after opportunity for a hearing,” and final decisions that conclude the scheduling process and are subject to judicial review.²⁴ The specific language chosen by Congress indicates its intent that DEA issue *orders* instead of proceeding by rulemaking when temporarily scheduling substances. Given that Congress specifically requires the Administrator (as delegated by the Attorney General) to follow rulemaking procedures for *other* kinds of scheduling actions,²⁵ it is noteworthy that, in section 811(h)(1), Congress authorized the issuance of temporary scheduling actions by order rather than by rule.

Even assuming that this action is subject to the notice-and-comment requirements of the APA, the Administrator finds that there is good cause to forgo these requirements pursuant to 5 U.S.C. 553(b)(B), as any further delays in the process for issuing temporary scheduling orders would be impracticable and contrary to the public interest given the manifest urgency to avoid an imminent hazard to public safety.

Although DEA believes this temporary scheduling order is not subject to the notice-and-comment requirements of the APA, DEA notes that in accordance with 21 U.S.C. 811(h)(4), the Administrator took into consideration comments submitted by the then-Acting Assistant Secretary in response to the notices that DEA

transmitted to the then-Acting Assistant Secretary pursuant to such subsection.

Further, DEA believes that this temporary scheduling action is not a “rule” as defined by 5 U.S.C. 601(2), and, accordingly, is not subject to the requirements of the Regulatory Flexibility Act (RFA). The requirements for the preparation of an initial regulatory flexibility analysis in 5 U.S.C. 603(a) are not applicable where, as here, DEA is not required by the APA or any other law to publish a general notice of proposed rulemaking. Therefore, in this instance, since DEA believes this temporary scheduling action is not a “rule,” it is not subject to the requirements of the RFA when issuing this temporary action.

In accordance with the principles of Executive Orders (E.O.) 12866 and 13563, this action is not a significant regulatory action. E.O. 12866 directs 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). E.O. 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review as established in E.O. 12866. E.O. 12866, Section 3(f), provides the definition of a “significant regulatory action,” requiring review by the Office of Management and Budget. Because this is not a rulemaking action, this is not a significant regulatory action as defined in Section 3(f) of E.O. 12866.

In addition, DEA scheduling actions are not subject to either E.O. 14192, Unleashing Prosperity Through Deregulation, or E.O. 14294, Fighting Overcriminalization in Federal Regulations.

This action will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with E.O. 13132, it is determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 21 CFR Part 1308

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

For the reasons set out above, DEA amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

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

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

■ 2. In § 1308.11, add paragraph (h)(87) to read as follows:

§ 1308.11 Schedule I.

* * * * *

(h) * * *

(87) 2-Fluorodeschloroketamine, its salts, isomers, and salts of isomers (other name: 2-(2-fluorophenyl)-2-(methylamino)cyclohexan-1-one; also known as 2-FDCK)

7284

Signing Authority

This document of the Drug Enforcement Administration was signed on May 14, 2026, by DEA Administrator Terrance C. Cole. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this

document upon publication in the Federal Register.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2026–10253 Filed 5–21–26; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 50

[Docket No. FR–6598–I–01]

RIN 2502–AJ82

Removal of Environmental Clearance Officer Review and Comment for Assessments for Projects Over 200 Lots/Dwelling Units or Beds

AGENCY: Office of Community Planning and Development, Department of Housing and Urban Development (HUD).

²³ 5 U.S.C. 551(6) (emphasis added).

²⁴ 21 U.S.C. 811(a) and 877.

²⁵ See 21 U.S.C. 811(a).

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule revises the Department of Housing and Urban Development's (HUD's) environmental review regulations by removing HUD's requirement that Environmental Assessments for projects over 200 dwelling units or beds shall be sent to the Field Environmental Clearance Officer (FECO) or Program Environmental Clearance Officer (PECO) for review and comment. This revision aligns with recent executive actions directing efficiency for environmental permitting and streamlines processing times for these projects while meeting all other regulatory and statutory requirements for environmental review. This interim final rule also requests public comment on this regulatory change.

DATES:

Effective date: June 22, 2026.

Comments are due by: July 21, 2026.

ADDRESSES: Interested persons are invited to submit comments regarding this interim final rule. All submissions must refer to the docket number and title. There are two methods for submitting public comments.

1. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at <https://www.regulations.gov>.

2. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 2415 Eisenhower Avenue, Alexandria, VA 22314.

In accordance with 5 U.S.C. 553(b)(4), a summary of this proposed rule may be found at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Brian Schlosnagle, Acting Director, Environmental Planning Division, Office of Community Planning and Development, U.S. Department of Housing and Urban Development, 2415 Eisenhower Avenue, Alexandria, VA, Room W9164; telephone number (202) 402-7553 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

SUPPLEMENTARY INFORMATION:

I. Background

Federal agencies, including HUD, have responsibilities under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321–4347) and other NEPA-related Federal environmental laws and authorities. (See 24 CFR 50.4). HUD's regulations implementing NEPA and other environmental requirements for programs where HUD performs environmental reviews are in 24 CFR part 50, titled "Protection and Enhancement of Environmental Quality."

HUD's environmental procedures of July 16, 1971, published by the Council on Environmental Quality at 37 FR 22673 (October 20, 1972), established a "normal environmental clearance" and "special environmental clearance" for certain projects and set out thresholds for use of the "special environmental clearance", including housing assistance or insurance for 100 unit multifamily structures and 100 bed nursing homes. HUD subsequently published a series of revisions to its environmental procedures, as well as a 1974 proposed rule that was not finalized. In 1979, HUD codified its environmental procedures in 24 CFR part 50, 44 FR 67906, which required completion of a "special environmental clearance," to be concurred in by the Area Environmental Clearance Officer (ECO), for multifamily projects with over 200 units or mortgage amounts over \$5,000,000. The current version of part 50, promulgated in 1996, 61 FR 50916, requires in the last sentence of § 50.32 that Environmental Assessments for projects over 200 lots/dwelling units or beds be sent to the Field Environmental Clearance Office (FECO) or, in the absence of a FECO, to the Program Environmental Clearance Officer (PECO) for review and comment.

II. This Interim Final Rule

Through this interim final rule, HUD is removing the last sentence of 24 CFR 50.32 which contains the requirement that Environmental Assessments for projects over 200 dwelling units or beds shall be sent to the FECO or PECO for review and comment. This round of review and comment is not required under the relevant environmental legal authorities, including NEPA, nor is it discussed in the preambles of HUD's 1996 rulemakings that promulgated § 50.32 in its current form. 61 FR 50914, 61 FR 15340.

Currently, the review and comment requirement in § 50.32 represents an extraneous step in the environmental review process. This requirement adds a third or fourth review to the

environmental process for new construction and substantial rehabilitation projects over 200 units that have already been certified by environmental review preparers and supervisors. This extra step in the review process has the potential to add processing time to projects that often have tight closing deadlines and requires duplicative technical assistance when such assistance is already available, as needed, from HUD Program Environmental Specialists and ECOs.

This update ensures that HUD's environmental review procedures are administered in accordance with Administration priorities while meeting the statutory requirements under NEPA and other related laws and authorities, including Executive Order 14154 *Unleashing American Energy*. This E.O. directs relevant agencies, including HUD, to require efficiency and expediency for environmental permitting¹ and to streamline processing times for projects. Section 5(d) of E.O. 14154 specifies that HUD, in addition to other relevant agencies, must undertake all available efforts to eliminate all delays in permitting processes. Section 6(a) of E.O. 14154 directs all agencies to adhere only to statutory requirements for environmental considerations in all Federal permitting adjudications or regulatory processes, and to eliminate extraneous requirements. This interim final rule's removal of a time-consuming level of environmental review that is not required by statute aligns with E.O. 14154's directives.

This interim final rule makes no other changes to § 50.32 or other HUD regulations. Following this rulemaking, including consideration of any public comments received on this interim final rule, HUD will update relevant guidance documents² to reflect regulatory changes that result from this rulemaking.

III. Justification for Final Rulemaking

In general, HUD publishes a rule for public comment in accordance with both the APA, 5 U.S.C. 553, and the agency's regulation on rulemaking at 24 CFR part 10. Both the APA and part 10, however, provide for exceptions from that general rule where HUD finds good cause to omit advance notice of the opportunity for public comment. The

¹ "Permitting" as used in relevant executive actions including Executive Order 14154 refers to NEPA processes and environmental reviews more broadly.

² For example, HUD's Multifamily Accelerated Processing (MAP) Guide at 9.2.2.E, <https://www.hud.gov/sites/dfiles/OCHCO/documents/4430GHSBG.pdf>.

good cause requirement is satisfied when prior public procedure is “impracticable, unnecessary, or contrary to the public interest.” 5 U.S.C. 553(b)(B). See also 24 CFR 10.1. To publish a rule for effect prior to receiving and responding to public comments (*i.e.*, an interim final rule), the agency must make a finding that “good cause” exists.

The last sentence of 24 CFR 50.32 requires relevant HUD program staff to send assessments for new construction or substantial rehabilitation projects that are over 200 lots/dwelling units or beds to the Field Environmental Clearance Officer (FECO) or, in the absence of a FECO, to the Program Environmental Clearance Officer in Headquarters for review and comment. This is the third or fourth of several rounds of environmental review under HUD’s existing regulations, and it is not required by statute or regulation. See the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321–4347), and the Council on Environmental Quality’s recently removed³ regulations at 40 CFR parts 1500–1508. HUD promulgated this requirement in its current form in 1996 through a proposed and final rule, neither of which discuss the requirement or the reasoning behind its promulgation. 61 FR 50914, 61 FR 15340. HUD believes the requirement was preexisting before HUD established CEST (categorically excluded from NEPA, but subject to the related laws and authorities at 58.5 or 50.4) and Environmental Assessment level reviews and stayed in the promulgated regulation.

The additional HUD staff review required at § 50.32 for new construction or substantial rehabilitation projects that are over 200 lots/dwelling units or beds has the potential to add processing time to projects that often have very tight closing deadlines. It also requires a duplicative technical assistance process where technical assistance is already available, as needed, from HUD Program Environmental Specialists and ECOs. Additionally, this additional review would affect approximately 80 projects each year. Given that the number of projects and stakeholders affected by this IFR is minimal, HUD finds that the requirement under § 50.32 is unnecessary for HUD to implement.

Additionally, HUD’s regulations at 24 CFR 10.1 state that notice and public procedure may be omitted with respect to rules governing the Department’s organization or its own internal practices or procedures. This rule is limited to removing one requirement in

the Department’s environmental review procedures in 24 CFR part 50. HUD created the regulatory requirement removed by this rule; it is not required by statute and unnecessarily added to statutory requirements implemented in HUD’s environmental review regulations. Therefore, the requirement concerns only HUD-created policy and procedure. The rule does not revise or change any statutorily required policy and procedure. Thus, this rule is not establishing policy outside of HUD’s own internal procedures.

Since the requirement under § 50.32 is not required by legal authorities, would only add unnecessary, time-consuming levels of environmental review, and concerns internal practices or procedures, HUD has determined that it is unnecessary to solicit advance public comment.

IV. Findings and Certifications

Regulatory Review—Executive Orders 12866 and 13563

Under Executive Order 12866 (Regulatory Planning and Review), a determination must be made regarding whether a regulatory action is significant and, therefore, subject to review by the Office of Management and Budget in accordance with the requirements of the order. Executive Order 13563 (Improving Regulations and Regulatory Review) directs executive agencies to analyze regulations that are “outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.” As previously discussed, this final rule removes unnecessary regulations and is consistent with Executive Order 13563.

This interim final rule was determined not to be a significant regulatory action under section 3(f) of Executive Order 12866 and therefore was not reviewed by OMB.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because HUD has determined that good cause exists to issue this interim final rule without prior public comment, this rule is not subject to the requirement to publish an initial or final regulatory flexibility analysis under the RFA as part of such action.

Executive Order 14192, Regulatory Costs

Executive Order 14192, entitled “Unleashing Prosperity Through Deregulation,” was issued on January 31, 2025. Section 3(c) of Executive Order 14192 requires that any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations. This interim final rule removes unnecessary and time-consuming levels of environmental review that are not required by law and therefore is a repeal of a regulation that results in reduced regulatory costs for purposes of Executive Order 14192.

Federalism (Executive Order 13132)

Executive Order 13132 (entitled “Federalism”) prohibits an agency from publishing any rule that has federalism implications if the rule either: imposes substantial direct compliance costs on State and local governments and is not required by statute; or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This interim final rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments nor preempt state law within the meaning of the Executive Order.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available through the docket file at <https://www.regulations.gov>. The FONSI is also available for public inspection during regular business hours in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 2415 Eisenhower Avenue, Alexandria, VA 22314. Due to security measures at the HUD Headquarters building, you must schedule an appointment in advance to review the FONSI by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

³ 90 FR 10610; 91 FR 618.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments, and on the private sector. This interim final rule does not impose any Federal mandates on any State, local, or Tribal governments, or on the private sector, within the meaning of the UMRA.

List of Subjects in 24 CFR Part 50

Environmental impact statements.

Accordingly, for the reasons described in the preamble, HUD amends 24 CFR part 50 as follows:

PART 50—PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

- 1. The authority citation for part 50 is revised to read as follows:

Authority: 42 U.S.C. 3535(d) and 4321–4336e.

Subpart E—Environmental Assessments and Related Reviews

- 2. Revise § 50.32 to read as follows:

§ 50.32 Responsibility for environmental processing.

The program staff in the HUD office responsible for processing the project application or recommending a policy action is responsible for conducting the compliance finding, EA, or EIS. The collection of data and studies as part of the information contained in the environmental review may be done by an applicant or the applicant's contractor. The HUD program staff may use any information supplied by the applicant or contractor, provided HUD independently evaluates the information, will be responsible for its accuracy, supplements the information, if necessary, to conform to the requirements of this part, and prepares the environmental finding.

Ronald J. Kurtz,

Assistant Secretary for Community Planning and Development.

[FR Doc. 2026–10356 Filed 5–21–26; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165**

[Docket Number USCG–2026–0620]

RIN 1625–AA00

Safety Zone; Cheboygan River, Cheboygan, MI

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters on the Cheboygan River from the Cheboygan Lock & Dam Complex to the Lincoln Bridge. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with work to repair the safety cable and spillway gates damaged from flood waters. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector Northern Great Lakes, or their designated representative.

DATES: This rule is effective without actual notice from May 22, 2026 through May 31, 2026. For the purposes of enforcement, actual notice will be used from May 18, 2026, until May 22, 2026.

ADDRESSES: To view available documents go to <https://www.regulations.gov> and search for USCG–2026–0620.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact LT Rebecca Simpson, Sector Northern Great Lakes Waterways Management Division, U.S. Coast Guard; telephone 906–635–3237, or email ssmprevention@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 Coast Guard received notification that flood waters have damaged the safety cable and spillway gates of the Cheboygan Lock & Dam Complex on the Cheboygan River in Cheboygan, MI, necessitating their immediate repair. The Captain of the Port (COTP) Northern Great Lakes has determined that potential hazards associated with

the repairs are a safety concern for anyone from the Lincoln Bridge to the Cheboygan Lock & Dam Complex. 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.

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. The Coast Guard was notified of this issue on May 16, 2026, but we must establish this safety zone by May 18, 2026, to protect personnel, vessels, and the marine environment. Therefore, we do not have enough time to solicit and respond to comments.

For the same reason, 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 May 18, 2026 through May 31, 2026. The safety zone will cover all navigable waters in the Cheboygan River from the Cheboygan Lock & Dam Complex to the Lincoln Bridge. 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(d) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration

supporting this determination will be 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.T09–0620 to read as follows:

§ 165.T09165.T09–0620 Safety Zone; Cheboygan River, Cheboygan, MI.

(a) *Location.* The following area is a safety zone: All waters of the Cheboygan River from the Cheboygan Lock and Dam Complex (45°38′09.9″ N, 84°28′47.6″ W) to the Lincoln Bridge (45°38′01.9″ N, 84°28′55.5″ W). These coordinates are based on the 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 Northern Great Lakes (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 (906) 635–3237. 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 from May 18, 2026, to May 31, 2026.

D.M. Parker,

Commander, U.S. Coast Guard, Acting Captain of the Port Sector Northern Great Lakes.

[FR Doc. 2026–10261 Filed 5–21–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2026–0563]

Safety Zones; Annual Events in the Captain of the Port Eastern Great Lakes Zone

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce certain safety zones located in the federal regulations for Annual Events in the Captain of the Port Eastern Great Lakes Zone. This action is necessary and intended to protect the safety of life and property on navigable waters prior to, during, and immediately after these events. During each enforcement period, no person or vessel may enter the respective safety zone without the permission of the Captain of the Port Eastern Great Lakes or their designated representative.

DATES: The regulations in 33 CFR 165.939 as listed in Table 1 to § 165.939 will be enforced for the safety zones identified in the **SUPPLEMENTARY INFORMATION** section below for the dates and times specified.

FOR FURTHER INFORMATION CONTACT: If you have questions about this Notification of Enforcement, contact Ensign Sarah Eacho, Chief of Waterways Management, Sector Eastern Great Lakes, U.S. Coast Guard; telephone 716–931–4680, email D09-SMB-SECBuffalo-WWM@uscg.mil.

SUPPLEMENTARY INFORMATION: The regulations in 33 CFR 165.939 as listed in Table 1 to § 165.939 will be enforced for the following safety zones for the dates and times specified, listed in chronological order:

(1) City of Erie 4th of July Fireworks, Erie, PA: The safety zone listed in (G)(30) will be enforced on all waters of Lake Erie contained within a 280-foot radius of the Dobbins Landing launch site located at 42°08′17.13″ N, 080°05′30.17″ W in Erie, PA from 9:15 p.m. through 10:45 p.m. on July 3, 2026.

(2) SamSen Operation/Seneca Lake Resorts 4th of July, Romulus, NY: The safety zone listed in (G)(34) will be enforced on all waters of the Seneca Lake, contained in a 420-foot radius of 42°43′39.28″ N, 076°54′59.47″ W in Romulus, NY from 9:15 p.m. through 10:45 p.m. on July 3, 2026.

(3) Town of Newfane Annual Fireworks Show, Olcott, NY: The safety

zone listed in (G)(35) will be enforced on all waters of Lake Ontario within a 1,120-foot radius of land position 43°20'23.6" N, 078°43'09.5" W in Olcott, NY from 9:30 p.m. through 10:45 p.m. on July 3, 2026.

(4) Village of Sodus Point Fourth of July Fireworks, Sodus Point, NY: The safety zone listed in (G)(22) will be enforced on all U.S. waters of Sodus Bay within a 1,120-foot radius of land position 43°16'33" N, 076°58'27" W in Sodus Point, NY from 9:45 p.m. through 10:45 p.m. on July 3, 2026.

(5) Hamburg Beach Blast, Hamburg, NY: The safety zone listed in (G)(32) will be enforced on all U.S. waters of Lake Erie contained within a 280-foot radius of 42°45'59.21" N, 078°52'41.51" W in Hamburg, NY from 9:15 p.m. through 10:45 p.m. on July 26, 2026.

(6) Thunder on the Niagara Hydroplane Boat Races, North Tonawanda, NY: The safety zone listed in (H)(4) will be enforced on all U.S. waters of the Niagara River near the North Grand Island Bridge, encompassed by a line starting at 43°03'32.9" N, 078°54'46.9" W to 43°03'14.6" N, 078°55'16.0" W then to 43°02'39.7" N, 078°54'13.1" W then to 43°02'59.9" N, 078°53'42.0" W and returning to the point of origin from 9:30 a.m. through 5:30 p.m. on August 1, 2026 and August 2, 2026.

Pursuant to 33 CFR 165.23, entry into, transiting, or anchoring within these safety zones during an enforcement period is prohibited unless authorized by the Captain of the Port Eastern Great Lakes or their designated representative. Those seeking permission to enter these safety zones may request permission from the Captain of the Port Eastern Great Lakes via channel 16, VHF-FM. Vessels and persons granted permission to enter the safety zone must obey the directions of the Captain of the Port Eastern Great Lakes or their designated representative. While within a safety zone, all vessels must operate at the minimum speed necessary to maintain a safe course.

In addition to this Notice of Enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of the enforcement periods via Broadcast Notice to Mariners or other suitable means. If the Captain of the Port Eastern Great Lakes determines that the safety zone need not be enforced for the full duration stated in this notice, they may use a Broadcast Notice to Mariners to

grant general permission to enter the respective safety zone.

Matthew J. Walter,

Captain, U.S. Coast Guard, Captain of the Port Eastern Great Lakes.

[FR Doc. 2026–10265 Filed 5–21–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2026–0612]

Safety Zones; Recurring Safety Zones in Captain of the Port Northern Great Lakes Zone

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce various safety zones for maritime events in the Captain of the Port Northern Great Lakes. Enforcement of these safety zones is necessary to protect the safety of life and property on the navigable waters immediately prior to, during, and immediately after the events. During the periods in question, the Coast Guard will enforce restrictions upon, and control movement of, vessels in a specified area immediately prior to, during, and immediately after events. During each enforcement period, vessels must stay out of the established safety zone and may only enter with permission from the designated representative of the Captain of the Port Northern Great Lakes.

DATES: The regulations in 33 CFR 165.918 will be enforced for the safety zones identified in the **SUPPLEMENTARY INFORMATION** section below for the dates and times specified.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, contact LT Rebecca Simpson, Sector Northern Great Lakes Waterways Management Division, U.S. Coast Guard; telephone 906–635–3223, email ssmprevention@uscg.mil.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones in the Table to 33 CFR 165.918, Events (2), (3), (4), and (5), at the time, dates, and locations indicated below:

(a) Event (2), Jordan Valley Freedom Festival Fireworks (East Jordan, MI): from 10 p.m. through 10:30 p.m. on June 27, 2026. In the event of inclement weather, this event will be held on June 28, 2026, with the safety zone enforced

from 10 p.m. through 10:30 p.m. on June 28, 2026.

(b) Event (3), Grand Marais Splash In (Grand Marais, MI): from 1 p.m. through 5 p.m. on June 20, 2026.

(c) Event (4), Festivals of Fireworks Celebration Fireworks (St. Ignace, MI): from 9:45 p.m. to 10:15 p.m. every Saturday from June 27, 2026, until September 18, 2026.

(d) Event (5), National Cherry Festival Airshow (Traverse City, MI): from 1 p.m. to 4 p.m. on July 4 and 5, 2026.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Broadcast Notice to Mariners or Local Notice to Mariners. If the Captain of the Port Northern Great Lakes determines that the safety zone need not be enforced for the full duration stated in this notice, he or she may suspend such enforcement and notify the public of the suspension via Broadcast Notice to Mariners and grant general permission to enter the respective safety zone.

Dated: May 19, 2026.

D.M. Parker,

Commander, U.S. Coast Guard, Acting Captain of the Port Northern Great Lakes.

[FR Doc. 2026–10262 Filed 5–21–26; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2025–2961; FRL–13073–02–R9]

Air Plan Revisions; Arizona; Arizona Department of Environmental Quality; Gila County Reasonably Available Control Technology

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve, under the Clean Air Act (CAA or “Act”), revisions to the Arizona state implementation plan (SIP). These revisions concern the Arizona Department of Environmental Quality’s (ADEQ’s) demonstration regarding reasonably available control technology (RACT) requirements for the 2015 ozone national ambient air quality standards (NAAQS or “standards”) within the Gila County portion of the Phoenix-Mesa ozone nonattainment area.

DATES: This rule is effective June 22, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2025-2961. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://>

www.regulations.gov, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT:
Elijah Gordon, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105; telephone number: (415) 972-3158; email address: gordon.elijah@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” and “our” refer to the EPA.

Table of Contents

- I. Proposed Action
- II. Public Comments and EPA Responses
- III. EPA Action
- IV. Statutory and Executive Order Reviews

I. Proposed Action

On February 12, 2026 (91 FR 6557), the EPA proposed to approve the following submittal into the Arizona SIP.

TABLE 1—SUBMITTED DOCUMENT

Local agency	Document title	Adopted	Submitted
ADEQ	SIP Revision: Gila County, Arizona RACT Analysis and Negative Declarations for the 2015 Ozone NAAQS.	03/24/2025	03/26/2025

We proposed to approve the ADEQ’s submittal, “SIP Revision: Gila County, Arizona RACT Analysis and Negative Declarations for the 2015 Ozone NAAQS” (“2025 RACT SIP”), because we determined that it complies with the relevant CAA requirements. Our proposed action contains more information on the submittal and our evaluation.

II. Public Comments and EPA Responses

The EPA’s proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

No comments were submitted. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is approving the 2025 RACT SIP into the Arizona SIP.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this 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 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 the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose

substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 21, 2026. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 8, 2026.

Michael Martucci,
Acting Regional Administrator, Region IX.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart D—Arizona

■ 2. Section 52.120 is amended by adding in paragraph (e), table 1, under the subheading “Part D Elements and Plans for the Metropolitan Phoenix and Tucson Areas” an entry for “SIP Revision: Gila County, Arizona RACT Analysis and Negative Declarations for the 2015 Ozone NAAQS” after the entry for “Revision of Rule 322 of the

Maricopa County Air Pollution Control Regulations, Appendix 12: RACT Analyses Submitted to the Maricopa County Air Quality Department from the Arizona Public Service and the Salt River Project, only.” The revision reads as follows:

§ 52.120 Identification of plan.

* * * * *
(e) * * *

TABLE 1—EPA-APPROVED NON-REGULATORY AND QUASI-REGULATORY MEASURES

[Excluding certain resolutions and statutes, which are listed in tables 2 and 3, respectively]¹

Name of SIP provision	Applicable geographic or non-attainment area or title/subject	State submittal date	EPA approval date	Explanation
The State of Arizona Air Pollution Control Implementation Plan				
*	*	*	*	*
Part D Elements and Plans for the Metropolitan Phoenix and Tucson Areas				
*	*	*	*	*
SIP Revision: Gila County, Arizona RACT Analysis and Negative Declarations for the 2015 Ozone NAAQS.	Gila County portion of Phoenix-Mesa nonattainment area for 2015 8-hour ozone NAAQS.	March 26, 2025.	May 22, 2026, 91 FR [insert Federal Register page where the document begins].	Adopted by the Arizona Department of Environmental Quality on March 24, 2025.
*	*	*	*	*

¹ Table 1 is divided into three parts: Clean Air Act Section 110(a)(2) State Implementation Plan Elements (excluding Part D Elements and Plans), Part D Elements and Plans (other than for the Metropolitan Phoenix or Tucson Areas), and Part D Elements and Plans for the Metropolitan Phoenix and Tucson Areas.

* * * * *

■ 3. Section 52.122 is amended by adding paragraph (a)(4) to read as follows:

§ 52.122 Negative declarations.

* * * * *

(a) * * *
(4) Arizona Department of Environmental Quality
(i) The following negative declarations for the 2015 ozone NAAQS

were adopted by the Arizona Department of Environmental Quality for the Gila County portion of the Phoenix-Mesa 2015 ozone nonattainment area.

CTG document No.	Category	Adopted: 03/24/2025 Submitted: 03/26/2025 SIP-approved: 05/22/2026
(A) EPA-450/R-75-102	Design Criteria for Stage I Vapor Control—Gasoline Service Stations	X
(B) EPA-450/2-77-008	Surface Coating of Cans	X
(C) EPA-450/2-77-008	Surface Coating of Coils	X
(D) EPA-450/2-77-008	Surface Coating of Paper	X
(E) EPA-450/2-77-008	Surface Coating of Fabrics	X
(F) EPA-450/2-77-008	Surface Coating of Automobiles and Light-Duty Trucks	X
(G) EPA-450/2-77-022	Solvent Metal Cleaning	X
(H) EPA-450/2-77-025	Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds	X
(I) EPA-450/2-77-026	Tank Truck Gasoline Loading Terminals	X
(J) EPA-450/2-77-032	Surface Coating of Metal Furniture	X
(K) EPA-450/2-77-033	Surface Coating of Insulation of Magnet Wire	X
(L) EPA-450/2-77-034	Surface Coating of Large Appliances	X
(M) EPA-450/2-77-035	Bulk Gasoline Plants	X
(N) EPA-450/2-77-036	Storage of Petroleum Liquids in Fixed-Roof Tanks	X
(O) EPA-450/2-77-037	Cutback Asphalt	X
(P) EPA-450/2-78-015	Surface Coating of Miscellaneous Metal Parts and Products	X
(Q) EPA-450/2-78-029	Manufacture of Synthesized Pharmaceutical Products	X
(R) EPA-450/2-78-030	Manufacture of Pneumatic Rubber Tires	X
(S) EPA-450/2-78-032	Factory Surface Coating of Flat Wood Paneling	X

CTG document No.	Category	Adopted: 03/24/2025 Submitted: 03/26/2025 SIP-approved: 05/22/2026
(T) EPA-450/2-78-033	Graphic Arts-Rotogravure and Flexography	X
(U) EPA-450/2-78-036	Leaks from Petroleum Refinery Equipment	X
(V) EPA-450/2-78-047	Petroleum Liquid Storage in External Floating Roof Tanks	X
(W) EPA-450/2-78-051	Leaks from Gasoline Tank Trucks and Vapor Collection Systems	X
(X) EPA-450/3-82-009	Large Petroleum Dry Cleaners	X
(Y) EPA-450/3-83-006	Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment	X
(Z) EPA-450/3-83-007	Equipment Leaks from Natural Gas/Gasoline Processing Plants	X
(AA) EPA-450/3-83-008	Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins	X
(BB) EPA-450/3-84-015	Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry	X
(CC) EPA-450/4-91-031	Reactor Processes and Distillation Operations in Synthetic Organic Chemical Manufacturing Industry.	X
(DD) EPA-453/R-96-007	Wood Furniture Manufacturing Operations	X
(EE) EPA-453/R-94-032	Surface Coating Operations at Shipbuilding and Ship Repair Facilities	X
61 FR 44050; 8/27/96.		
(FF) EPA-453/R-97-004	Coating Operations at Aerospace Manufacturing and Rework	X
59 FR 29216; 6/06/94.		
(GG) EPA-453/R-06-001	Industrial Cleaning Solvents	X
(HH) EPA-453/R-06-002	Offset Lithographic Printing and Letterpress Printing	X
(II) EPA-453/R-06-003	Flexible Package Printing	X
(JJ) EPA-453/R-06-004	Flat Wood Paneling Coatings	X
(KK) EPA 453/R-07-003	Paper, Film, and Foil Coatings	X
(LL) EPA 453/R-07-004	Large Appliance Coatings	X
(MM) EPA 453/R-07-005	Metal Furniture Coatings	X
(NN) EPA 453/R-08-003	Miscellaneous Metal and Plastic Parts Coatings: Table 2—Metal Parts and Products	X
(OO) EPA 453/R-08-003	Miscellaneous Metal and Plastic Parts Coatings: Table 3—Plastic Parts and Products	X
(PP) EPA 453/R-08-003	Miscellaneous Metal and Plastic Parts Coatings: Table 4—Automotive/Transportation and Business Machine Plastic Parts.	X
(QQ) EPA 453/R-08-003	Miscellaneous Metal and Plastic Parts Coatings: Table 5—Pleasure Craft Surface Coating	X
(RR) EPA 453/R-08-003	Table 6—Motor Vehicle Materials	X
(SS) EPA 453/R-08-004	Fiberglass Boat Manufacturing Materials	X
(TT) EPA 453/R-08-005	Miscellaneous Industrial Adhesives	X
(UU) EPA 453/R-08-006	Automobile and Light-Duty Truck Assembly Coatings	X
(VV) EPA 453/B-16-001	Oil and Natural Gas Industry	X
(WW)—N/A—	Major non-CTG VOC Sources	X
(XX)—N/A—	Major non-CTG NO _x Sources	X

(ii) [Reserved]

* * * * *

[FR Doc. 2026-10280 Filed 5-21-26; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 180****[EPA-HQ-OPP-2023-0484; FRL-13354-01-OCSPP]****Aluminum in Pesticide Formulations; Exemption From the Requirement for a Tolerance****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of aluminum (CAS Reg. No. 7429-90-5) when used as an inert ingredient (seed treatment colorant) for seed treatment only at not more than 5% of pesticide formulation. Steptoe & Johnson, LLP on behalf of Sun

Chemical, submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of aluminum, when used in accordance with the terms of those exemptions.

DATES: This regulation is effective May 22, 2026. Objections and requests for hearings must be received on or before July 21, 2026 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of this document).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2023-0484, is available online at <https://www.regulations.gov>. Additional information about dockets generally, along with instructions for visiting the docket in-person, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Charles Smith, Registration Division

(7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; main telephone number: (202) 566-1030; email address: RDfRNtices@epa.gov.

SUPPLEMENTARY INFORMATION:**I. General Information****A. Does this action apply to me?**

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

If you have any questions regarding the applicability of this proposed action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What is EPA's authority for taking this action?

EPA is issuing this rulemaking under section 408 of the FFDCA, 21 U.S.C. 346a. FFDCA section 408(c)(2)(A)(i) allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is "safe." FFDCA section 408(c)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . . Additionally, FFDCA section 408(b)(2)(D) requires that the Agency consider, among other things, "available information concerning the cumulative effects of a particular pesticide's residues" and "other substances that have a common mechanism of toxicity."

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. If you fail to file an objection to the final rule within the time period specified in the final rule, you will have waived the right to raise any issues resolved in the final rule. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify the docket ID number EPA-HQ-OPP-2023-0484 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and

must be received by the Hearing Clerk on or before July 21, 2026.

EPA's Office of Administrative Law Judges (OALJ), in which the Hearing Clerk is housed, urges parties to file and serve documents by electronic means only, notwithstanding any other particular requirements set forth in other procedural rules governing those proceedings. See "Order Urging Electronic Filing and Service," dated December 3, 2025, which can be found at <https://www.epa.gov/system/files/documents/2025-12/2025-12-03-order-urging-electronic-filing-and-service.pdf>. Although EPA's regulations require submission via U.S. Mail or hand delivery, EPA intends to treat submissions filed via electronic means as properly filed submissions; therefore, EPA believes the preference for submission via electronic means will not be prejudicial. When submitting documents to the OALJ electronically, a person should utilize the OALJ e-filing system at https://yosemite.epa.gov/oa/eab/eab-alj_upload.nsf.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute. If you wish to include CBI in your request, please follow the applicable instructions at <https://www.epa.gov/dockets/commenting-epa-dockets#rules> and clearly mark the information that you claim to be CBI. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice.

II. Petition for Exemption

In the **Federal Register** of October 26, 2023 (88 FR 73571, FRL-10579-09-OCSP), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP IN-11737) by Steptoe & Johnson, LLP on behalf of Sun Chemical (5020 Spring Grove Avenue, Cincinnati, OH 45232). The petition requested that 40 CFR be amended by establishing an exemption from the requirement of a tolerance for residues of aluminum (CAS Reg. No. 7429-90-5) when used as an inert ingredient (seed treatment colorant) in pesticide formulations for seed treatment in occupational settings only at not more than 20% of pesticide formulation under 40 CFR 180.920. That document

referenced a summary of the petition prepared by Steptoe & Johnson, LLP, the petitioner, which is available in the docket. There were no relevant comments received in response to the notice of filing. The originally requested limitation was adjusted to 5%, per the applicant's request.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no harm to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for aluminum

including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with aluminum follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by aluminum as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in this unit.

The toxicological database of aluminum (aluminum metal) is supported by data regarding aluminum oxide, aluminum citrate and aluminum sulfate. EPA has determined that it is appropriate to bridge aluminum oxide, aluminum citrate and aluminum sulfate data to assess aluminum as a worst-case scenario. Aluminum is insoluble in water and it is anticipated to be less toxic than the water-soluble aluminum salts.

Aluminum exhibits low levels of acute toxicity via the oral and inhalation routes of exposure. The acute dermal toxicity of aluminum is anticipated to be low. It is an eye and dermal irritant, but it is not anticipated to be a dermal sensitizer. Main effects observed in laboratory animals following repeated exposure to aluminum salts include neurotoxicity and delayed maturation starting at 100 mg aluminum/kg/day. The available data indicates that aluminum is not mutagenic nor carcinogenic.

B. Toxicological Points of Departure/ Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/

safety factors are used in conjunction with the POD to calculate a safe exposure level, generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD), and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/overview-risk-assessment-pesticide-program>.

A combined one-year developmental and chronic neurotoxicity study with aluminum citrate in rats (Semple, 2010 and Poirier et al, 2011) was selected as the main study for endpoint selection for aluminum because it was conducted under a protocol similar to OECD test guideline 426, it followed good laboratory practices and it is protective of the neurotoxicity and delayed maturation observed in the aluminum database. The NOAEL is 30 mg Al/kg/day and the LOAEL is 100 mg Al/kg/day, based on impaired hind limb grip strength and splayfoot.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to aluminum, EPA considered exposure under the proposed exemption from the requirement of a tolerance. EPA assessed dietary exposures from aluminum in food as follows:

In conducting the dietary exposure assessment using the Dietary Exposure Evaluation Model DEEM-FCIDTM, Version 4.02, EPA used food consumption information from the U.S. Department of Agriculture's 2005–2010 National Health and Nutrition Examination Survey, What We Eat in America. As to residue levels in food, no residue data were submitted for aluminum. In the absence of specific residue data, EPA has developed an approach which uses surrogate information to derive upper bound exposure estimates for the subject inert ingredient. Upper bound exposure estimates are based on the highest tolerance for a given commodity from a list of high-use insecticides, herbicides, and fungicides. A complete description of the general approach taken to assess inert ingredient risks in the absence of residue data is contained in the memorandum titled "Update to D361707: Dietary Exposure and Risk Assessments for the Inerts" (12/21/

2021) which can be found at <https://www.regulations.gov> in docket ID number EPA-HQ-OPP-2018-0090.

In the dietary exposure assessments, the Agency assumed that the residue level of the inert ingredient would be no higher than the highest tolerance for a given commodity. Implicit in this assumption is that there would be similar rates of degradation (if any) between the active and inert ingredient and that the concentration of inert ingredient in the scenarios leading to these highest levels of tolerances would be no higher than the concentration of the active ingredient.

The Agency believes the assumptions used to estimate dietary exposures lead to an extremely conservative assessment of dietary risk due to a series of compounded conservatisms. First, assuming that the level of residue for an inert ingredient is equal to the level of residue for the active ingredient will overstate exposure. The concentrations of active ingredients in agricultural products are generally at least 50 percent of the product and often can be much higher. Further, pesticide products rarely have a single inert ingredient; rather there is generally a combination of different inert ingredients used which additionally reduces the concentration of any single inert ingredient in the pesticide product in relation to that of the active ingredient. In the case of aluminum, EPA made a specific adjustment to the dietary exposure assessment to account for the use limitations of the amount of aluminum that may be in pesticide formulations (limited to no more than 5%) present at the maximum limitation rather than at equal quantities with the active ingredient.

For the purpose of the screening level dietary risk assessment, a conservative drinking water concentration value of 100 parts per billion based on screening level modeling was used to assess the contribution to drinking water for the chronic dietary risk assessments for aluminum.

2. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables).

However, residential handler exposure is not expected for aluminum as the use is for occupational (seed treatment) purposes only.

3. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether

to establish, modify, or revoke a tolerance, the Agency consider “available information” concerning the cumulative effects of a particular pesticide’s residues and “other substances that have a common mechanism of toxicity.”

Based on the lack of toxicity in the available database, EPA has not found aluminum to share a common mechanism of toxicity with any other substances, and aluminum does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance exemption, therefore, EPA has assumed that aluminum does not have a common mechanism of toxicity with other substances. For information regarding EPA’s efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA’s website at <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides>.

D. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act (FQPA) Safety Factor. In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

Based on the evaluation of available toxicity studies, there is low concern for pre- and postnatal susceptibility from exposure to aluminum. The FQPA safety factor has been reduced to 1X because: (1) the toxicity database is adequate to characterize potential pre- and postnatal risk; (2) no teratogenic effects were observed in the available developmental studies; (3) the selected endpoints are protective of the neurotoxic and delayed maturation effects observed in the database; and (4) the assumptions for the exposure assessment are conservative and unlikely to underestimate risk.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, aluminum metal is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to aluminum from food and water will utilize approximately 9.5% and 34.3% of the cPAD for the U.S. population and children 1–2 years old (the most highly exposed populations).

3. *Short- and intermediate-term aggregate risks.* Short- and intermediate-term aggregate exposures take into account short- and intermediate-term residential exposures plus chronic exposures to food and water (considered to be a background exposure level).

Residential handler exposure is not expected for aluminum metal as the use is for occupational (seed treatment) purposes only.

Residential post-application scenarios include short- and intermediate-term dermal (skin contact with treated surfaces) exposure for adults and children as well as short-term incidental oral exposure for children (hand-to-mouth exposure with treated surfaces). However, residential post-application exposure is not expected for aluminum metal because it will be used in occupational settings (seed treatment) only.

F. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is not establishing a numerical tolerance for residues of aluminum in or on any food commodities. EPA is establishing a limitation on the amount of aluminum that may be used in pesticide formulations applied pre-harvest. This limitation will be enforced

through the pesticide registration process under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* EPA will not register any pesticide formulation for food use that exceeds 5% aluminum in the final pesticide formulation for seed treatment only.

G. Conclusions

Therefore, an exemption from the requirement of a tolerance is established for residues of aluminum (CAS Reg. No. 7429–90–5) when used as an inert ingredient (seed treatment colorant) for seed treatment only at not more than 5% of pesticide formulation under 40 CFR 180.920.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review

This action is exempt from review under Executive Order 12866 (58 FR 51735, October 4, 1993), because it establishes or modifies a pesticide tolerance or a tolerance exemption under FFDCA section 408 in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

Executive Order 14192 (90 FR 9065, February 6, 2025) does not apply because actions that establish a tolerance or a tolerance exemption under FFDCA section 408 are exempted from review under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA 44 U.S.C. 3501 *et seq.*, because it does not contain any information collection activities.

D. Regulatory Flexibility Act (RFA)

This action is not subject to the RFA, 5 U.S.C. 601 *et seq.* The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553, or any other statute. This rule is not subject to the APA but is subject to FFDCA section 408(d), which does not require notice and comment rulemaking to take this action in response to a petition.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million or more (in 1995 dollars and adjusted annually for inflation) as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not have substantial direct effects on Tribal governments, on the relationship between the Federal government and the Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 (62 FR 19885, April 23,

1997) because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866 (See Unit VI.A.), and because EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

However, EPA's 2026 *Policy on Children's Health* applies to this action. This rule finalizes tolerance actions under the FFDCA, which requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue" (FFDCA 408(b)(2)(C)). The Agency's consideration is documented in the pesticide-specific registration review documents, located in the applicable docket at <https://www.regulations.gov>.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211 (66 FR 28355) (May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer Advancement Act (NTTAA)

This action does not involve technical standards that would require Agency consideration under NTTAA section 12(d), 15 U.S.C. 272.

K. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.*, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action does not meet the criteria set forth in 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 18, 2026.

Charles Smith,

Director, Registration Division, Office of Pesticide Programs.

For the reasons stated in the preamble, the EPA amends 40 CFR chapter I as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.920, amend Table 1 to § 180.920 by adding, in alphabetical order, the entry for "Aluminum (CAS Reg. No. 7429–90–5)" to read as follows:

§ 180.920 Inert ingredients used pre-harvest; exemptions from the requirement of a tolerance.

* * * * *

TABLE 1 TO § 180.920

Inert ingredients	Limits	Uses
* * *	* * *	* * *
Aluminum (CAS Reg. No. 7429–90–5).	Not to exceed 5% by weight of pesticide formulation for seed treatment use in occupational settings only.	Seed treatment colorant.
* * *	* * *	* * *

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 716

[EPA-HQ-OPPT-2023-0360; FRL-13162-02-OCSPP]

RIN 2070-AL43

Reporting Deadline Extension for the Health and Safety Data Reporting Rule Under Toxic Substance Control Act (TSCA) Section 8(d)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is taking final action to extend the reporting deadline for the Health and Safety Data Reporting Rule under the Toxic Substances Control Act (TSCA) by one year to May 21, 2027.

DATES: This rule is effective on May 22, 2026.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPPT-2023-0360, is online at <https://www.regulations.gov>. Additional information about dockets generally, along with instructions for visiting the docket in person, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

For Technical Information contact: Lameka Smith, Chemical Information, Prioritization, and TRI Division (7406M), Office of Pollution Prevention and Toxics, U. S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 564-1629; email address: smith.lameka@epa.gov.

For general information contact: The TSCA Assistance Information Service Hotline, Goodwill Vision Enterprises, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (800) 471-7127 or (202) 554-1404; email address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

This action may apply to you if you manufactured (including imported) any of the chemical substances listed in 40 CFR 716.120(d) of the regulatory text of this document. The following list of North American Industrial Classification System (NAICS) codes affected by this rule are those that align with these activities:

- Chemical manufacturers (including importers), (NAICS code 325); and

- Petroleum refineries (NAICS code 324110).

This action applies to manufacturers in these NAICS codes who are currently manufacturing (including importing) a listed chemical substance (or will do so during the chemical's reporting period) or who have manufactured (including imported) or proposed to manufacture (including import) a listed chemical substance within the last 10 years.

If you have any questions regarding the applicability of this proposed action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What action is the Agency taking?

On March 30, 2026, EPA proposed a rule to extend the reporting deadline to May 21, 2027, for all 16 chemicals covered under this rule (91 FR 15582 (FRL-13162-01-OCSPP)). EPA is finalizing this rule to extend the reporting deadline from May 22, 2026, to May 21, 2027, for the data submission period for the TSCA section 8(d) Health and Safety Data Reporting Rule.

C. What is the Agency's authority for taking this action?

The Health and Safety Data Reporting rule for 16 listed chemical substances is promulgated under TSCA section 8(d) (15 U.S.C. 2607(d)) and codified at 40 CFR part 716. EPA is relying upon this statutory authority to modify the reporting deadline for the final TSCA section 8(d) rule, which is the same statutory authority relied upon to promulgate the underlying rule.

The statutory provision, along with administrative agencies' authority to reconsider prior regulations, provides EPA's authority for the targeted amendment to the compliance deadline finalized in this action. Unless provided otherwise by statute, an agency may change existing positions (e.g., reconsider, revise, or rescind prior rules) provided they acknowledge the change in position, offer a reasonable explanation for the change, and take any serious reliance interests into account. *See, e.g., FDA v. Wages & White Lion Invs., L.L.C.*, 145 S. Ct. 898, 917 (2025); *Encino Motorcars v. Navarro*, 579 U.S. 211, 221 (2016); *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009); *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 (1983). As discussed in this preamble, the EPA finds that it is appropriate and consistent with the statute's purposes to extend the reporting deadline by one year. The Agency has considered reliance interests, including those asserted during the public comment period for the proposed rule published

on March 30, 2026, to extend the reporting deadline, and determined that this one-year extension is the better course for the reasons set out below.

This final rule is effective immediately upon publication. Section 553(d)(1) of the Administrative Procedure Act, 5 U.S.C. 553(d)(1), provides that final rules shall not become effective until 30 days after publication in the **Federal Register**, with an exception for "a substantive rule [that] grants or recognizes an exemption or relieves a restriction." The primary purpose of the prescribed 30-day waiting period is to give affected parties a reasonable time to adjust their behavior and prepare before a final rule takes effect. This rule relieves a restriction by extending the reporting deadline by one year. As such, affected parties do not need time to adjust their behavior and it is appropriate for this final rule to go into effect immediately upon publication.

D. Why is the Agency taking this action?

EPA promulgated a final rule on December 13, 2024 (89 FR 100756 (FRL-11164-02-OCSPP)), to require manufacturers (including importers) of 16 specific chemical substances to submit copies and lists of certain unpublished health and safety studies to EPA. The 16 chemical substances were added to 40 CFR 716.120 to support ongoing and upcoming activities under TSCA section 6. On March 13, 2025, EPA extended the submission deadlines from March 13, 2025, to June 11, 2025, for vinyl chloride (CASRN 75-01-4) and from March 13, 2025, to September 9, 2025, for the remaining 15 chemical substances. *See* 90 FR 11899 (FRL-11164-02-OCSPP). On June 9, 2025, EPA amended the submission deadlines for all 16 chemical substances subject to the rule to May 22, 2026. EPA published a proposed action on March 30, 2026, to extend the reporting deadline by one year to May 21, 2027. This action will provide EPA with additional time to consider the need for modifications to the substantive TSCA section 8(d) reporting requirements that impact the ability of regulated parties to comply in a manner that provides useful information, ensure that regulated entities have sufficient time to understand reporting obligations, and allow industry adequate time to prepare data submissions.

EPA is considering a proposal to modify the scope of the TSCA section 8(d) Health and Safety Data Reporting Rule, including because of legitimate concerns raised regarding the scope of the rule and obligations arising thereunder and the ability of regulated

parties to comply in a cost reasonable manner that provides information that is useful to the purposes underlying the rule. The reporting deadline of May 22, 2026, is insufficient time for EPA to resolve the issues prompting modification to the rule's scope (90 FR 24228 June 9, 2025 (FRL-11164.2-02-OCSPP)). As such, EPA is extending the reporting deadline by one year to May 21, 2027.

EPA is also finalizing this action to extend the reporting period because the Agency has determined additional time is necessary to alleviate the compliance burdens associated with this one-time reporting rule while EPA considers potential modifications to the regulations, including aligning the rule with Executive Order 14219 "Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative" (90 FR 10583, February 19, 2025) and EPA's Powering the Great American Comeback Initiative Pillar 1: Clean Air, Land, and Water for Every American. Consistent with TSCA section 8(d), EPA is working to ensure that the information collected is necessary to carrying out the relevant statutory purposes furthered by the rule. Rather than requiring businesses to prepare submissions under a rule that is in the process of being revised, this action provides regulatory certainty and prevents duplicative or potentially inconsistent reporting. Once any substantive revisions to the rule are finalized and published, reporting requirements and updated timelines will be clearly communicated to ensure a smooth and efficient compliance process.

II. Response to Public Comments

EPA received a total of 47 comments on the proposed extension of the TSCA section 8(d) reporting deadline. Of the 47 submissions, 27 were part of a mass campaign of letters submitted primarily by private and anonymous citizens. The remaining 20 submissions represent unique comments, including a submission by a private citizen with 4,901 signatures, 10 individual private and anonymous commenters, five industry trade associations, one state government, three non-government organizations (NGOs), and one NGO submission that included support from 49 groups. Of the total comments received, 37 opposed the proposed extension, seven supported the extension, and three were general or informational submissions that substantively aligned with concerns about delay but did not clearly state a position.

This final rule is limited to the extension of the reporting deadline under the TSCA section 8(d) Health and Safety Data Reporting Rule. The Agency is not responding to comments that raised topics outside the scope of this action. Some commenters raised issues related to general policy views on chemical safety, public health protection, and environmental justice. These issues are outside the scope of this action, which does not reopen or revise the underlying substantive requirements of the Health and Safety Reporting Data rule and are not directly related to the timing of the reporting deadline extension. The comments received on the proposal that are within the scope of this action are summarized and addressed below.

A. Comments Supporting the Proposed Extension

Commenters supporting the proposed one-year extension, primarily representing industry trade associations generally agreed that additional time is needed to allow EPA time to complete modifications to the scope, guidance, and implementation of the TSCA section 8(d) reporting rule prior to the submission of data currently due May 22, 2026.

Commenters emphasized that extending the deadline would help avoid duplicative or inconsistent reporting obligations, reduce compliance burden, and prevent regulated entities from preparing submissions under a rule that may change. Several commenters noted that companies would incur unnecessary costs and effort if required to submit data under requirements that are under modification. Supportive commenters further stated that the extension would allow EPA time to finalize updated guidance and provide clearer implementation expectations, thereby improving overall regulatory efficiency and consistency.

B. EPA Response to Supporting Comments

EPA acknowledges commenters' support for the proposed extension and their concerns regarding potential duplicative reporting, administrative burden, and uncertainty while the rule is under modification. EPA agrees extending the reporting deadline is necessary while EPA considers modifications to the underlying TSCA section 8(d) rule and, if modifications are implemented, to ensure that companies understand any new requirements prior to the reporting deadline.

C. Comments Opposing the Proposed Extension

Opposing commenters included private citizens submitting campaign letters, anonymous commenters, members of academia, state government representatives, and environmental advocacy organizations. Overall, these commenters expressed concern that extending the reporting deadline from May 22, 2026, to May 21, 2027, would postpone submissions of health and safety data needed for EPA's TSCA section 6 prioritization, risk evaluation, and risk management actions. Many commenters expressed concern that delayed submission of unpublished health and safety studies could result in risk evaluations being conducted using incomplete or less current datasets, potentially affecting the completeness of EPA's regulatory determinations for the 16 chemical substances covered by the rule. Several commenters stated that delaying reporting increases the risk that unpublished studies may be lost or discarded due to routine corporate record retention practices, reducing the availability of information needed for EPA's administrative record. A state government commenter indicated that delays in federal data collection may affect coordination with state-level chemical safety programs and could delay downstream regulatory actions that rely on EPA-generated information. Many campaign letters from private citizens reiterated concerns about environmental justice and the need for timely access to chemical safety information to support EPA's science-based decision-making. A coalition of environmental organizations raised concerns regarding the administrative and legal implications of extending the reporting deadline, including assertions that repeated extensions may delay statutory obligations and reduce transparency in the regulatory process.

D. EPA Response to Opposing Comments

EPA acknowledges commenters' concerns that extending the reporting deadline could delay the availability of health and safety data, affect TSCA section 6 risk evaluation activities, and reduce transparency. EPA disagrees that the one-year extension undermines statutory obligations or the Agency's ability to rely on the best available science. The extension is an action that allows EPA to propose and finalize modifications of the scope of the TSCA section 8(d) reporting rule, including valid concerns raised regarding the rule that impact regulated parties' ability to comply and the Agency's ability to

receive useful information, and enables submitters additional time to provide complete and accurate information aligned with any updated requirements. This approach supports EPA's authority to reconsider the scope of data necessary for submission under TSCA section 8(d) collections for potential use in TSCA section 6 risk evaluation and risk management actions. This action does not alter EPA's ongoing use of existing or otherwise reasonably available information in support of TSCA section 6 activities. EPA notes that TSCA section 8(d) authorizes EPA to require submissions of unpublished health and safety studies "at such times and in such manner as the Administrator may reasonably prescribe" (15 U.S.C 2607(d)). This authority provides EPA discretion to establish and adjust reporting period deadlines as necessary to ensure effective implementation of information collection requirements. Adjusting the reporting deadline does not suspend statutory obligations but ensures that reporting requirements are implemented consistently with TSCA's risk-based framework and produce information that is relevant and usable for the Agency's statutory responsibilities. Also, this action affects only the timing of submissions for this data call and does not delay or suspend EPA's prioritization, risk evaluation, or risk management activities, which continue to proceed using the best available data sources and science, as required by TSCA section 26. EPA does not expect the extension to result in loss of relevant data, as entities remain subject to applicable recordkeeping requirements, and EPA retains authority to obtain information as needed to support ongoing risk evaluations. EPA considered potential impacts of the extension on TSCA section 6 risk evaluation activities and determined that receiving TSCA section 8(d) data by May 2027 will provide EPA sufficient time to incorporate information into the risk evaluations for the chemical substances covered by the rule. It is generally unexpected that any information received pursuant to TSCA section 8(d) will materially alter the ongoing work or outcomes of prioritization or risk evaluation or that any delay due to this extension will require rework that would delay any related TSCA section 6 activities. Commenters' broader concerns regarding TSCA section 6 considerations and issues related to Executive Branch policies or other rulemakings are outside the scope of this action. This rulemaking is limited

to consideration of whether to extend the reporting deadline.

A state government commenter indicated that delays in federal data collection may affect coordination with state-level chemical safety programs and could delay downstream regulatory actions that rely on EPA-generated information. The Agency appreciates that non-EPA entities—such as other federal agencies, states, and nongovernmental organizations—may rely on and derive benefits from TSCA section 8(d) information. However, EPA understands that these entities are not entirely reliant on this data (that is, this information supplements other information used by these other entities rather than serving as a uniquely critical source of information), and EPA anticipates making non-confidential information publicly available following the submission of information pursuant to this rule. To this end, EPA is seeking to expedite the posting of information received pursuant to TSCA section 8(d) to minimize delays between receipt and public dissemination of nonconfidential submissions.

Further, EPA does not expect the deadline extension to alter state reliance on EPA-generated information because this action only extends the timing of the reporting and does not change the scope of the information collected, TSCA authorities, or existing mechanisms through which the state accesses and uses EPA data. Overall, EPA has determined that the extension appropriately balances the need for timely data collection with the considerations associated with ongoing rule modifications and will help ensure that submitted information is complete, relevant, and usable to support the Agency's statutory responsibilities under TSCA.

III. Summary of the Final Rule

EPA has determined that a one-year extension of the reporting deadline for the Health and Safety Data Reporting Rule under TSCA section 8(d) is appropriate. Accordingly, EPA is finalizing this action to extend the reporting deadline to May 21, 2027. This action is effective upon publication in the **Federal Register**.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulations and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is an Executive Order 14192 deregulatory action. This final rule provides burden reduction by providing relief against existing compliance deadlines.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA, 44 U.S.C. 3501 *et seq.* OMB has previously approved the information collection activity contained in the existing regulation and has assigned OMB control number 2070-0224 (EPA ICR No. 2703.02). This action does not create any new reporting or recordkeeping obligations and does not otherwise change the burden estimates that were approved.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA, 5 U.S.C. 601 *et seq.* In making this determination, the EPA concludes that the impact of concern for this rule is any significant adverse economic impact on small entities and that the agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities because the rule relieves regulatory burden on the small entities subject to the rule. This final action will extend compliance dates of one data reporting rule and alleviate compliance burden on small entities subject to those actions. We have therefore concluded that this action will relieve regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate of \$100 million (adjusted annually for inflation) or more (in 1995 dollars) as described in UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments. This final action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999) because it will not have substantial direct effects on the States, on the relationship between the national government and the States or on the distribution of power and responsibilities among the various levels of government.

G. Executive Orders 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000) because it will not have substantial direct effects on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. This action does not impose substantial direct compliance costs on federally recognized Indian tribal governments. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Although this action does not concern an environmental health or safety risk, the information obtained from the reporting required by this rule will be used to inform the Agency's decision-making process regarding chemical substances to which children may be exposed. This information will also assist the Agency and others in determining whether the chemical

substances included in this proposed rule present potential risks, allowing the Agency and others to take appropriate action to investigate and mitigate those risks.

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions significant under section 3(f)(1) of Executive Order 12866 and that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2–202 of Executive Order 13045.

Since this is not a "covered regulatory action," E.O. 13045 does not apply. However, the Policy on Children's Health does apply.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve technical standards under the NTTAA section 12(d), 15 U.S.C. 272.

K. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.*, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 716

Environmental protection, Chemicals, Hazardous substances, Health and safety, Reporting and recordkeeping requirements.

Lee Zeldin,
Administrator.

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR 716 as follows:

PART 716—HEALTH AND SAFETY DATA REPORTING

■ 1. The authority citation for part 716 continues to read as follows:

Authority: 15 U.S.C. 2607(d).

■ 2. Amend § 716.120 in table 3 to paragraph (d), under the heading "OPPT 2024 Chemicals", by revising the entries for "Acetaldehyde", "Acrylonitrile", "2-anilino-5-[(4-methylpentan-2-yl)amino]cyclohexa-2,5-diene-1,4-dione (6PPD-quinone)", "Benzenamine", "Benzene", "Bisphenol A", "Ethylbenzene", "Hydrogen fluoride", "4,4-Methylene bis(2-chloroaniline)", "N-(1,3-Dimethylbutyl)-N'-phenyl-p-phenylenediamine (6PPD)", "Naphthalene", "Styrene", "4-tert-octylphenol(4-(1,1,3,3-Tetramethylbutyl)-phenol)", "Tribromomethane (Bromoform)", "Triglycidyl isocyanurate"; and "Vinyl Chloride."

The revisions read as follows:

§ 716.120 Substances and listed mixtures to which this subpart applies.

* * * * *

(d) * * *

TABLE 3 TO PARAGRAPH (D)

Category	CAS No.	Special exemptions	Effective date	Sunset date
* * * * *				
OPPT 2024 Chemicals				
Acetaldehyde	75–07–0	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
Acrylonitrile	107–13–1	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
2-anilino-5-[(4-methylpentan-2-yl)amino]cyclohexa-2,5-diene-1,4-dione (6PPD-quinone).	2754428–18–5	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
Benzenamine	62–53–3	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
Benzene	71–43–2	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
Bisphenol A	80–05–7	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
Ethylbenzene	100–41–4	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.

TABLE 3 TO PARAGRAPH (D)—Continued

Category	CAS No.	Special exemptions	Effective date	Sunset date
Hydrogen fluoride	7664–39–3	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply	January 13, 2025	May 21, 2027.
4,4-Methylene bis(2-chloraniline)	101–14–4	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply	January 13, 2025	May 21, 2027.
N-(1,3-Dimethylbutyl)-N'-phenyl-p-phenylenediamine (6PPD).	793–24–8	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
Naphthalene	91–20–3	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
Styrene	100–42–5	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
4-tert-octylphenol(4-(1,1,3,3-Tetramethylbutyl)-phenol).	140–66–9	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
Tribromomethane (Bromoform)	75–25–2	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
Triglycidyl isocyanurate	2451–62–9	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
Vinyl chloride	75–01–4	§ 716.21(a)(11) applies; § 716.20(a)(9) does not apply.	January 13, 2025	May 21, 2027.
*	*	*	*	*

[FR Doc. 2026–10263 Filed 5–21–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 721****[EPA–HQ–OPPT–2024–0514; FRL–12730–02–OCSPP]****RIN 2070–AB27****Significant New Use Rules on Certain Chemical Substances (25–1.5e)****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: EPA is issuing significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for certain chemical substances that were the subject of premanufacture notices (PMNs) and are also subject to an Order issued by EPA pursuant to TSCA. The SNURs require persons to notify EPA at least 90 days before commencing the manufacture (defined by statute to include import) or processing of any of these chemical substances for an activity that is designated as a significant new use in the SNUR. The required notification initiates EPA's evaluation of the conditions of that use for that chemical substance. In addition, the manufacture or processing for the significant new use may not commence until EPA has conducted a review of the required notification; made an appropriate determination regarding that notification; and taken such actions as required by that determination.

DATES: This rule is effective on July 21, 2026. For purposes of judicial review, this rule shall be promulgated at 1 p.m. (EST) on June 5, 2026.

ADDRESSES: The docket for this action, identified under docket identification (ID) number EPA–HQ–OPPT–2024–0514, is available online at <https://www.regulations.gov> or in person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket) in the Environmental Protection Agency Docket Center (EPA/DC). Please review the visitor instructions and additional information about the docket available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

For technical information: Joseph Said, New Chemicals Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–0848; email address: said.joseph@epa.gov.

For general information on SNURs: William Wysong, New Chemicals Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–4163; email address: wysong.william@epa.gov.

For general information on TSCA: The TSCA Assistance Information Service Hotline, Goodwill of the Finger Lakes, 422 South Clinton Ave., Rochester, NY 14620–1198; telephone number: (202) 554–1404; email address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Executive Summary****A. What is the Agency's authority for taking this action?**

TSCA section 5(a)(2) (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a “significant new use.” EPA must make this determination by rule after considering all relevant factors, including the factors in TSCA section 5(a)(2).

B. What action is the Agency taking?

EPA is finalizing SNURs under TSCA section 5(a)(2) for the chemical substances identified in this document. These chemical substances were the subject of PMNs and are also subject to an Order issued by EPA pursuant to TSCA section 5(e)(1)(A), as required by the determinations made under TSCA section 5(a)(3)(B). The SNURs identify as significant new uses any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to the restrictions imposed by the underlying TSCA Orders, consistent with TSCA section 5(f)(4). The SNURs require persons who intend to manufacture or process any of these chemical substances for an activity that is designated as a significant new use in the SNURs to notify EPA at least 90 days before commencing that activity.

Previously, EPA proposed SNURs for these chemical substances in the **Federal Register** of November 3, 2025 (90 FR 49016 (FRL–12730–01–OCSPP)). The docket includes information considered by the Agency in developing the proposed and final rules, including public comments and EPA's responses

to the comments received as discussed in Unit II.D.

C. Does this action apply to me?

1. General Applicability

This action applies to you if you manufacture, process, or use the chemical substances identified in this document. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Manufacturers or processors of one or more subject chemical substances (NAICS codes 325 and 324110), e.g., chemical manufacturing and petroleum refineries.

2. Applicability to Importers and Exporters

This action may also apply to certain entities through pre-existing import certification and export notification requirements under TSCA (<https://www.epa.gov/tsca-import-export-requirements>).

Chemical importers are subject to TSCA section 13 (15 U.S.C. 2612), the requirements in 19 CFR 12.118 through 12.127, 19 CFR 127.28, and 40 CFR part 707, subpart B. Importers of chemical substances in bulk form, as part of a mixture, or as part of an article (if required by rule) must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA, including regulations issued under TSCA sections 5, 6, 7 and Title IV.

Pursuant to 40 CFR 721.20, any persons who export or intend to export a chemical substance identified in this document are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) and must comply with the export notification requirements in 40 CFR part 707, subpart D.

D. What are the incremental economic impacts of this action?

EPA has evaluated the potential costs of establishing Significant New Use Notice (SNUN) reporting requirements for potential manufacturers and processors of the chemical substances identified in this document. This analysis, which is available in the docket, is briefly summarized here.

1. Estimated Costs for SNUN Submissions

A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by

submitting a SNUN. If a SNUN is submitted, costs are an estimated \$45,000 per SNUN submission for large business submitters and \$14,500 for small business submitters. These estimates include the cost to prepare and submit the SNUN (including registration for EPA's Central Data Exchange (CDX)), and the payment of a user fee. Businesses that submit a SNUN would be subject to either a \$37,000 user fee required by 40 CFR 700.45(c)(2)(ii) and (d), or, if they are a small business as defined at 13 CFR 121.201, a reduced user fee of \$6,480 (40 CFR 700.45(c)(1)(ii) and (d)). These estimates reflect the costs and fees as they are known at the time of this rulemaking.

2. Estimated Costs for Export Notifications

EPA has also evaluated the potential costs associated with the pre-existing export notification requirements under TSCA section 12(b) and the implementing regulations at 40 CFR part 707, subpart D. For persons exporting a substance that is the subject of a SNUR, a one-time notice to EPA must be provided for the first export or intended export to a particular country. The total costs of export notification will vary by chemical, depending on the number of required notifications (i.e., the number of countries to which the chemical is exported). While EPA is unable to make any estimate of the likely number of export notifications for the chemical substances covered by these SNURs, as stated in the accompanying economic analysis, the estimated cost of the export notification requirement on a per unit basis is approximately \$106.

II. Background

A. General Information About SNURs

Unit II. of the proposed rule provides general information about SNURs, and additional information about EPA's new chemical program is available at <https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca>.

B. Applicability of the Significant New Use Designation

To establish a significant new use, EPA must determine that the use is not ongoing. As discussed in Unit II.E. of the proposed rule, EPA concluded that the proposed significant new uses were not ongoing. If EPA subsequently determines that such a use was ongoing as of the date of publication of the proposed rule and did not cease prior to issuance of the final rule, EPA will not designate that use as a significant new use in the final rule. EPA has no

information to suggest that any of the significant new uses identified in this rule meet this criterion.

As discussed in the **Federal Register** of April 24, 1990 (55 FR 17376 (FRL-3658-5)), EPA believes that the intent of TSCA section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of publication of the proposed rule rather than as of the effective date of the final rule. The objective of EPA's approach is to ensure that a person cannot impede finalization of a SNUR by initiating a significant new use after publication of the proposed rule but before the effective date of the final rule. Uses arising after the publication of the proposed rule are distinguished from uses that are identified in the final rule as having been ongoing on the date of publication of the proposed rule. The former would be new uses, the latter ongoing uses, except that uses that are identified as ongoing as of the publication of the proposed rule would not be considered ongoing uses if they have ceased by the date of issuance of a final rule.

In the unlikely event that before a final rule becomes effective a person begins commercial manufacturing (including importing) or processing of the chemical substances for a use that is designated as a significant new use in that final rule, such a person would have to cease any such activity upon the effective date of the final rule. To resume their activities, these persons would have to first comply with all applicable SNUR notification requirements and wait until all TSCA prerequisites for the commencement of manufacture or processing have been satisfied.

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Chemical Substance Inventory (TSCA Inventory). Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the internet at <https://www.epa.gov/tsca-inventory>.

C. Important Information About SNUN Submissions

1. SNUN Submissions

SNUNs must be submitted on EPA Form No. 7710-25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 720.40 and 721.25. E-PMN software is available electronically at <https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca>.

2. Development and Submission of Information

EPA recognizes that TSCA section 5 does not require development of any particular new information (*e.g.*, generating test data) before submission of a SNUN. There is an exception: If a person is required to submit information for a chemical substance pursuant to a rule, order or consent agreement under TSCA section 4, then TSCA section 5(b)(1)(A) requires such information to be submitted to EPA at the time of submission of the SNUN.

In the absence of a rule, TSCA order, or consent agreement under TSCA section 4 covering the chemical substance, persons are required only to submit information in their possession or control and to describe any other information known to or reasonably ascertainable by them (see 40 CFR 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. To assist with EPA's analysis of the SNUN, submitters are encouraged, but not required, to provide the potentially useful information as identified for the chemical substance in Unit III.C. of the proposed rule.

EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection. Furthermore, pursuant to TSCA section 4(h), which pertains to reduction of testing in vertebrate animals, EPA encourages consultation with the Agency on the use of alternative test methods and strategies (also called New Approach Methodologies, or NAMs), if available, to generate the recommended test data. EPA encourages dialog with Agency representatives to help determine how best the submitter can meet both the data needs and the objective of TSCA section 4(h). For more information on alternative test methods and strategies to reduce vertebrate animal testing, visit <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/alternative-test-methods-and-strategies-reduce>.

The potentially useful information described in Unit III. of the proposed rule may not be the only means of providing information to evaluate the chemical substance associated with the significant new uses. However, submitting a SNUN without any test data may increase the likelihood that EPA will take action under TSCA sections 5(e) or 5(f). EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information about human exposure and environmental release that may result from the significant new use of the chemical substances.

D. Public Comments on Proposed Rule and EPA Responses

EPA received public comments on the proposed SNURs and prepared a Response to Comment document that provides the Agency responses. The comments and the Response to Comment document are available in the docket, ID number EPA-HQ-OPPT-2024-0514. As described in the Response to Comment document, EPA corrected a typo (from “steams” to “streams”) in the Disposal section of the SNUR for PMN P-22-68 (40 CFR 721.12114). EPA also corrected a similar typo in the Release to Water section of the SNUR for PMN P-23-127 (40 CFR 721.12128). Additionally, EPA is not finalizing the SNURs proposed at 40 CFR 721.12115 through 721.12120 for the substances which were the subjects of PMNs P-22-95 through P-22-100 because the Agency has received new information on these substances requiring further review. These proposed SNURs, and the comment specific to these substances, will be addressed in a separate action.

III. Chemical Substances Subject to These SNURs

A. What is the designated cutoff date for ongoing uses?

EPA designates the date of publication of the proposed rule as the cutoff date for determining whether the new use is ongoing, *i.e.*, November 3, 2025 (90 FR 49016 (FRL-12730-01-OCSP)). This designation is explained in more detail in Unit II.B.

B. What information was provided for each chemical substance?

In Unit III.C. of the proposed rule, EPA provided the following information for each chemical substance subject to these SNURs:

- PMN number (the CFR citation assigned in the regulatory text section of this document).
- Chemical name (generic name, if the specific name is claimed as confidential business information (CBI)).
- Chemical Abstracts Service Registry Number (CASRN) or Accession Number (if assigned, for confidential chemical identities).
- Basis for the SNUR (*e.g.*, effective date of and basis for the TSCA Order).

- Potentially useful information.

The regulatory text section of this document specifies the chemical substances and activities designated as significant new uses. Certain new uses, including production volume limits and other uses designated, may be claimed as CBI, as discussed in more detail in Unit II.C. of the proposed rule.

In addition, as discussed in Unit III.B. of the proposed rule, these SNURs include PMN substances that are subject to orders issued under TSCA section 5(e)(1)(A), as required by the determinations made under TSCA section 5(a)(3)(B). Those TSCA Orders require protective measures to limit exposures or otherwise mitigate the potential unreasonable risk. As such, the SNURs identify as significant new uses any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to the restrictions imposed by the underlying TSCA Orders, consistent with TSCA section 5(f)(4).

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at <https://www.epa.gov/laws-regulations>.

A. Executive Order 12866: Regulatory Planning and Review

This action establishes SNURs for new chemical substances that were the subject of PMNs. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866 (58 FR 51735, October 4, 1993).

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

Executive Order 14192 (90 FR 9065, February 6, 2025) does not apply because a significant new use rule for a new chemical under TSCA section 5 is exempt from review under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

According to the PRA (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable.

The information collection requirements related to SNURs have already been approved by OMB pursuant to PRA under OMB control number 2070–0038 (EPA ICR No. 1188). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per submission. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). The requirement to submit a SNUN applies to any person (including small or large entities) who intends to engage in any activity described in the final rule as a “significant new use.” Because these uses are “new,” based on all information currently available to EPA, EPA has concluded that no small or large entities presently engage in such activities.

A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN. Although some small entities may decide to pursue a significant new use in the future, EPA cannot presently determine how many, if any, there may be. However, EPA’s experience to date is that, in response to the promulgation of SNURs covering over 1,000 chemicals, the Agency receives only a small number of notices per year. For example, the number of SNUNs received was 7 in Federal fiscal year (FY) 2020, 9 in FY2021, 9 in FY2022, 23 in FY2023, and 7 in FY2024, and only a fraction of these submissions were from small businesses.

In addition, the Agency currently offers relief to qualifying small businesses by reducing the SNUN submission fee from \$37,000 to \$6,480. This lower fee reduces the total reporting and recordkeeping cost of submitting a SNUN to about \$14,500 per SNUN submission for qualifying small firms. Therefore, the potential economic impacts of complying with these proposed SNURs are not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published in the **Federal Register** of June 2, 1997 (62 FR 29684 (FRL–5597–1)), the Agency presented its general determination that SNURs are not expected to have a significant

economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million or more (in 1995 dollars) in any one year as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. Based on EPA’s experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by SNURs, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by these SNURs. In addition, the estimated costs of this action to the private sector do not exceed \$183 million or more in any one year (the 1995 dollars are adjusted to 2023 dollars for inflation using the GDP implicit price deflator). The estimated costs for this action are discussed in Unit I.D.

F. Executive Order 13132: Federalism

This action will not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it is not expected to have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the requirements of Executive Order 13132 do not apply to this action.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action will not have Tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because it is not expected to have substantial direct effects on Indian Tribes, significantly or uniquely affect the communities of Indian Tribal governments and does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175 do not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it does not concern an environmental health or safety risk. Since this action does not concern a human health risk, EPA’s 2021 Policy

on Children’s Health also does not apply. Although the establishment of these SNURs do not address an existing children’s environmental health concern because the chemical uses involved are not ongoing uses, SNURs require that persons notify EPA at least 90 days before commencing manufacture (defined by statute to include import) or processing of the identified chemical substances for an activity that is designated as a significant new use by the SNUR. This notification allows EPA to assess the intended uses to identify potential risks and take appropriate actions before the activities commence.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a “significant energy action” as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

J. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve any technical standards subject to NTTAA section 12(d) (15 U.S.C. 272 note).

K. Congressional Review Act (CRA)

This action is subject to the CRA (5 U.S.C. 801 *et seq.*), and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: May 18, 2026.

Mary Elissa Reaves,

Director, Office of Pollution Prevention and Toxics.

For the reasons stated in the preamble, 40 CFR chapter I is amended as follows:

PART 721—SIGNIFICANT NEW USES OF CHEMICAL SUBSTANCES

■ 1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 2. Add §§ 721.12112 through 721.12114 and 721.12121 through 721.12146 to subpart E to read as follows:

* * * * *

Sec.
 721.12112 Alkane diglycidyl ether, polymer with alkyl-cycloalkane diamines (generic).
 721.12113 Benzenesulfonic acid, polyalkyl derivs., calcium salts (generic).
 721.12114 2-Propanamine, 1,1'-[(1-methylethylidene)bis(oxy)]bis-.
 721.12121 Carbopolycycle octa-alkene, alkenylaryloxy- (generic).
 721.12122 Acetamide, N-[3-alkyl(carbomonocyclic) substituted]carbomonocycle-, coupled with diazotized 2-substituted-3-halo-5-nitrobenzonitrile (generic).
 721.12123 Amides, alkyl, N-[3-(dimethylamino)propyl] (generic).
 721.12124 Phosphoric acid, dialkyl ester, transition metal salt (generic).
 721.12125 2-Propanol, 1,3-bis[(3-methyl-2-buten-1-yl)oxy]-.
 721.12126 Heteromonocyclic, dialkyl amide, substituted alkyl salt (generic).
 721.12127 Oxirane, 2-methyl-, polymer with 2-[[3-(triethoxysilyl)propoxy]methyl]oxirane, monoether with .alpha.-butyl-.omega.-hydroxypoly[oxy(methyl-1,2-ethanedyl)].
 721.12128 Polysaccharide lyase (generic).
 721.12129 Fatty acids reaction products with polyalkylpolyamines, salts (generic).
 721.12130 Fatty acids reaction products with alcoholamine reaction by-products, salts (generic).
 721.12131 Poly[oxy(methyl-1,2-ethanedyl)], .alpha.-hydro-.omega.-[[2-[(1-chloro-9-oxo-9H-thioxanthene-4-yl)oxy]acetyl]oxy]-, ether with 2,2-bis(hydroxymethyl)-1,3-propanediol (4:1).
 721.12132 L-Lysine, N-(3-carboxy-1-oxopropyl) derivs., calcium salts.
 721.12133 Dialkyltin fatty acids ester (generic).
 721.12134 Polypropylene glycol allyloxymethyl acrylate (generic).
 721.12135 Bisalkyldiacid fluorophosphate salt (generic).
 721.12136 Sulfamide fluorophosphate salt (generic).
 721.12137 Benzenamine, 4,4'-(9H-fluorene-9-ylidene)bis-.
 721.12138 Alkanedioic acid, polymer with mixed alkanediol, polyalkyl glycol, carbomonocycle carbomonocycle, alkane carbopolycycle diisocyanate (generic).
 721.12139 2-Propenoic acid, 2-methyl-, butyl ester, polymer with 2-dodecylhexadecyl 2-methyl-2-propenoate, 2-oxepanone homopolymer, 2-[(2-methyl-1-oxo-2-propen-1-yl)oxy]ethyl ester, and 2-tetradecyloctadecyl 2-methyl-2-propenoate.
 721.12140 Poly(oxy-alkylene), .alpha.-alkenyl-.omega.-hydroxy- (generic).
 721.12141 Methanethioic acid, 1,1'-tetrathiobis-, O1,O1'-bis(1-methylethyl) ester.
 721.12142 Oxa-thiaspiro alkane, oxide (generic).
 721.12143 Sulfonyl carbamate of propoxylated alkyl alcohol (generic).

721.12144 Sulfonyl carbamate of ethoxy/propoxylated alkyl alcohol ethoxy (generic).
 721.12145 Iodonium, bis(dialkyl carbomonocycle) salt with alkyl carbomonocycle hetero-acid (generic).
 721.12146 Aromatic sulfonium tricyclo salt with alkyl carbomonocycle hetero-acid (generic).

* * * * *

§ 721.12112 Alkane diglycidyl ether, polymer with alkyl-cycloalkane diamines (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as alkane diglycidyl ether, polymer with alkyl-cycloalkane diamines (PMN P-20-138) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 1,000.

(ii) *Hazard communication.*

Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, serious eye damage, skin corrosion, skin sensitization, reproductive toxicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (o). It is a significant new use to use the substance in any manner that is a spray application.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=1.

(b) *Specific requirements.* The provisions of subpart A of this part

apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12113 Benzenesulfonic acid, polyalkyl derivs., calcium salts (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as benzenesulfonic acid, polyalkyl derivs., calcium salts (PMN P-21-101) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 10.

(ii) *Hazard communication.*

Requirements as specified in § 721.72(a) through (d), (f), and (g)(1) and (5). For purposes of § 721.72(g)(1), this substance may cause: skin irritation, eye irritation, skin sensitization, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (k), and (o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The

provisions of § 721.185 apply to this section.

§ 721.12114 2-Propanamine, 1,1'-[(1-methylethylidene)bis(oxy)]bis-

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as 2-propanamine, 1,1'-[(1-methylethylidene)bis(oxy)]bis- (PMN P-22-68; CASRN 2267262-12-2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50, or 1,000 if spray applied.

(ii) *Hazard communication.*

Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin corrosion, serious eye damage, respiratory sensitization, skin sensitization, reproductive toxicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (o).

(iv) *Disposal.* It is a significant new use to dispose of the substance, or waste streams containing the substance, other than by hazardous waste incineration.

(v) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=60.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (k) are applicable

to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12121 Carbopolycycle octa-alkene, alkenylaryloxy- (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as carbopolycycle octa-alkene, alkenylaryloxy- (PMN P-22-116; Accession No. 303094) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance when completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50.

(ii) *Hazard communication.*

Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin irritation, eye irritation, respiratory sensitization, skin sensitization, genetic toxicity, carcinogenicity, reproductive toxicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) and (t). It is a significant new use to manufacture, process, or use the substance without capturing all airborne releases of the substance from manufacture, processing, or use and either landfill, incinerate, or route through a HEPA filtration system with a minimum control efficiency of 90%.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12122 Acetamide, N-[3-[alkyl(carbomonocyclic) substituted]carbomonocycle]-, coupled with diazotized 2-substituted-3-halo-5-nitrobenzonitrile (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as acetamide, N-[3-[alkyl(carbomonocyclic) substituted]carbomonocycle]-, coupled with diazotized 2-substituted-3-halo-5-nitrobenzonitrile (PMN P-22-143) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.*

Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: specific target organ toxicity, genetic toxicity, and carcinogenicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (o), and (t). It is a significant new use to process or use the substance in any manner that results in inhalation exposure to the substance.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=2. For purposes of § 721.91(a)(7), the control technology is primary and secondary wastewater treatment as defined in 40 CFR part 133 and the percentage removal of the substance resulting from use of the specified control technology is 90%.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12123 Amides, alkyl, N-[3-(dimethylamino)propyl] (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as amides, alkyl, N-[3-(dimethylamino)propyl] (PMN P-22-168) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.*

Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin corrosion, serious eye damage, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o), (v)(1), (2), and (4), (w)(1), (2), and (4), and (x)(1), (2), and (4). It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure to the substance.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=2.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are

applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12124 Phosphoric acid, dialkyl ester, transition metal salt (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as phosphoric acid, dialkyl ester, transition metal salt (PMN P-22-186) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.*

Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: eye irritation, skin irritation, reproductive toxicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(y)(1) and (2). It is a significant new use to manufacture or process the substance in a manner that generates a dust, vapor, mist, or aerosol containing the substance. It is a significant new use to process for use or use the substance in a consumer product unless the concentration of the substance does not exceed the confidential concentration by weight listed in the Order in the consumer product.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=32.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are

applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12125 2-Propanol, 1,3-bis[(3-methyl-2-buten-1-yl)oxy]-.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as 2-propanol, 1,3-bis[(3-methyl-2-buten-1-yl)oxy]- (PMN P-23-16; CASRN 2337348-25-9) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 10.

(ii) *Hazard communication.*

Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: skin irritation, eye irritation, skin sensitization, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* It is a significant new use to process for use or use the substance in a consumer product unless the concentration of the substance is less than 1% by weight in the consumer product. It is a significant new use to process for use or use the substance in an industrial or commercial product unless the concentration of the substance is less than or equal to 2% by weight in the industrial or commercial product.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=230.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12126 Heteromonocyclic, dialkyl amide, substituted alkyl salt (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as heteromonocyclic, dialkyl amide, substituted alkyl salt (PMN P-23-47; Accession No. 303481) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50.

(ii) *Hazard communication.*

Requirements as specified in § 721.72(a) through (d), (f), and (g)(1) and (5). For purposes of § 721.72(g)(1), this substance may cause: reproductive toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=1600.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12127 Oxirane, 2-methyl-, polymer with 2-[[3-(triethoxysilyl)propoxy]methyl]oxirane, monoether with .alpha.-butyl-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)].

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as oxirane, 2-methyl-, polymer with 2-[[3-(triethoxysilyl)propoxy]methyl]oxirane, monoether with .alpha.-butyl-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)] (PMN P-23-87; CASRN 1973415-03-0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance when completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 10.

(ii) *Hazard communication.*

Requirements as specified in § 721.72(a) through (d), (f), and (g)(1) and (5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin irritation, eye irritation, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* It is a significant new use to process for use or use the substance in a consumer product unless the concentration of the substance is less than 3% (by weight) in the consumer product. It is a significant new use to use the substance in a commercial or industrial product unless the concentration of the substance in the product does not exceed the confidential percentage (by weight) listed in the Order. It is a significant new use to spray apply the substance unless done in an enclosed process.

(b) *Specific requirements.* The provisions of subpart A of this part

apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12128 Polysaccharide lyase (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as polysaccharide lyase (PMN P-23-127) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication.*

Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: respiratory sensitization. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(v)(1), (2), and (4), (w)(1), (2), and (4), and (x)(1), (2), and (4). It is a significant new use to process for use or use the substance other than as an ingredient in laundry detergent that is used for degradation of stains on fabric.

(iii) *Release to water.* It is a significant new use to release the substance, or any waste stream containing the substance, into waters of the United States if the substance is not deactivated before release to water. To deactivate the substance, hold at a heat of 65 °C or greater for at least 10 minutes.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (f) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12129 Fatty acids reaction products with polyalkylpolyamines, salts (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as fatty acids reaction products with polyalkylpolyamines, salts (PMN P-23-130) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.*

Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: skin irritation, eye irritation, skin sensitization, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance other than in a liquid or asphalt formulation. It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure to the substance.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12130 Fatty acids reaction products with alcoholamine reaction by-products, salts (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as fatty acids reaction products with alcoholamine reaction by-products, salts (PMN P-23-133) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured (i.e., the chemical has been reacted or cured to the extent that no release of the chemical can be detected).

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.*

Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: skin corrosion, eye irritation, skin sensitization, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance other than in a liquid or asphalt formulation. It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure to the substance.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12131 Poly[oxy(methyl-1,2-ethanediyl)], .alpha.-hydro.-omega.-[[2-[(1-chloro-9-oxo-9H-thioxanthen-4-yl)oxy]acetyl]oxy]-, ether with 2,2-bis(hydroxymethyl)-1,3-propanediol (4:1).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as poly[oxy(methyl-1,2-ethanediyl)], .alpha.-hydro.-omega.-[[2-[(1-chloro-9-oxo-9H-thioxanthen-4-yl)oxy]acetyl]oxy]-, ether with 2,2-bis(hydroxymethyl)-1,3-propanediol (4:1) (PMN P-23-134; CASRN 1003567-83-6) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.*

Requirements as specified in § 721.72(a) through (d), (f), and (g)(1) and (5). For purposes of § 721.72(g)(1), this substance may cause: serious eye damage. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture the substance at a molecular weight of 10,000 Daltons or greater.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12132 L-Lysine, N-(3-carboxy-1-oxopropyl) derivs., calcium salts.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as L-Lysine, N-(3-carboxy-1-oxopropyl) derivs., calcium salts (PMN P-23-144;

CASRN 1917323–93–3) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been incorporated as part of an “article” as defined at 40 CFR 720.3(c).

(2) The significant new uses are:

(i) *Hazard communication.*

Requirements as specified in § 721.72(a) through (d), (f), (g)(3)(iii), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N = 405.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (f) through (h), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12133 Dialkyltin fatty acids ester (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as dialkyltin fatty acids ester (PMN P–23–149) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 10.

(ii) *Hazard communication.*

Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1),

this substance may cause: acute toxicity, reproductive toxicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture or process the substance in any manner that generates a vapor, mist, dust, or aerosol containing the substance. It is a significant new use to use the substance unless the concentration of the substance does not exceed 1.0% by weight in formulation.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12134 Polypropylene glycol allyloxymethyl acrylate (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as polypropylene glycol allyloxymethyl acrylate (PMN P–23–166) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured (i.e., the substance has been reacted or cured to the extent that no release of the substance can be detected).

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.*

Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1),

this substance may cause: acute toxicity, skin irritation, skin sensitization, respiratory sensitization, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure to the substance.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N = 10.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12135 Bisalkyldiacid fluorophosphate salt (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as bisalkyldiacid fluorophosphate salt (PMN P–23–167; Accession No. 302773) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance when incorporated into an article as defined at 40 CFR 720.3(c).

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.*

Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin irritation, serious eye damage, skin sensitization, reproductive toxicity, and specific target organ toxicity.

Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure to the substance.

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (b)(1), and (c)(1).

(v) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N = 53.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12136 Sulfamide fluorophosphate salt (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as sulfamide fluorophosphate salt (PMN P-23-168; Accession No. 303038) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance when completely sealed within an article such as a battery.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.*

Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin irritation, serious eye damage, skin sensitization, reproductive toxicity, and specific target organ toxicity.

Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure to the substance.

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (b)(1), and (c)(1).

(v) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12137 Benzenamine, 4,4'-(9H-fluoren-9-ylidene)bis-

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as benzenamine, 4,4'-(9H-fluoren-9-ylidene)bis- (PMN P-23-178; CASRN 15499-84-0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured (i.e., the substance has been reacted or cured to the extent that no release of the substance can be detected).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 1,000.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: eye irritation, carcinogenicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o) and (y)(1) and (2). It is a significant new use to manufacture or process the substance in a manner that generates a dust, vapor, mist, or aerosol containing the substance.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12138 Alkanedioic acid, polymer with mixed alkanediol, polyalkyl glycol, carbomonocycle carbomonocycle, alkane carbopolycycle diisocyanate (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as alkanedioic acid, polymer with mixed alkanediol, polyalkyl glycol, carbomonocycle carbomonocycle, alkane carbopolycycle diisocyanate (PMN P-23-181) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured (i.e., the substance has been reacted or cured to the extent that no release of the substance can be detected).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be

considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.*

Requirements as specified in § 721.72(a) through (d), (f), and (g)(1) and (5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin irritation, eye irritation, respiratory sensitization, skin sensitization, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o) and (y)(1) and (2). It is a significant new use to manufacture or process the substance in a manner that generates a dust, vapor, mist, or aerosol containing the substance.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12139 2-Propenoic acid, 2-methyl-, butyl ester, polymer with 2-dodecylhexadecyl 2-methyl-2-propenoate, 2-oxepanone homopolymer, 2-[(2-methyl-1-oxo-2-propen-1-yl)oxy]ethyl ester, and 2-tetradecyloctadecyl 2-methyl-2-propenoate.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as 2-propenoic acid, 2-methyl-, butyl ester, polymer with 2-dodecylhexadecyl 2-methyl-2-propenoate, 2-oxepanone homopolymer, 2-[(2-methyl-1-oxo-2-propen-1-yl)oxy]ethyl ester, and 2-tetradecyloctadecyl 2-methyl-2-propenoate (PMN P-24-18; CASRN 2854367-08-9) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be

considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.*

Requirements as specified in § 721.72(a) through (d), (f), and (g)(1) and (5). For purposes of § 721.72(g)(1), this substance may cause: eye irritation and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(v)(1), (2), and (4), (w)(1), (2), and (4), and (x)(1), (2), and (4). It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure to the substance. It is a significant new use to use the substance other than as an additive for lubricating oil.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12140 Poly(oxy-alkylene), .alpha.-alkenyl-.omega.-hydroxy- (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as poly(oxy-alkylene), .alpha.-alkenyl-.omega.-hydroxy- (PMN P-24-36; Accession No. 303050) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.*

Requirements as specified in § 721.72(a) through (d), (f), and (g)(1) and (5). For purposes of § 721.72(g)(1), this substance may cause: specific target organ toxicity. Alternative hazard and

warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12141 Methanethioic acid, 1,1'-tetrathiois-, O1,O1'-bis(1-methylethyl) ester.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as methanethioic acid, 1,1'-tetrathiois-, O1,O1'-bis(1-methylethyl) ester (PMN P-24-67; CASRN 69303-50-0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance when completely reacted or cured (i.e., the substance has been reacted or cured to the extent that no release of the substance can be detected).

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 10.

(ii) *Hazard communication.*

Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin irritation, skin sensitization, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA

Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to use the substance in a spray application.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N = 169.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12142 Oxa-thiaspiro alkane, oxide (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as oxa-thiaspiro alkane, oxide (PMN P-24-69) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance when incorporated into an article as defined at 40 CFR 720.3(c).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), and (g)(1) and (5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, genetic toxicity, carcinogenicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(a) through (c) and (o).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (b)(1), and (c)(1).

(v) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12143 Sulfonyl carbamate of propoxylated alkyl alcohol (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as sulfonyl carbamate of propoxylated alkyl alcohol (PMN P-24-100) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been entrained in cured resin or destroyed.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin irritation, eye irritation, reproductive toxicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o) and (y)(1) and (2). It is a significant new use to manufacture or process the substance in a manner that generates a dust, vapor, mist, or aerosol containing the substance.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N = 41 in aggregate of P-24-100 and P-24-101.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12144 Sulfonyl carbamate of ethoxy/propoxylated alkyl alcohol ethoxy (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as sulfonyl carbamate of ethoxy/propoxylated alkyl alcohol ethoxy (PMN P-24-101) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been entrained in cured resin or destroyed.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin irritation, eye irritation, reproductive toxicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o) and (y)(1) and (2). It is a significant new use to manufacture or process the substance in a manner that generates a dust, vapor, mist, or aerosol containing the substance.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and

(c)(4), where N = 41 in aggregate of P–24–100 and P–24–101.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12145 Iodonium, bis(dialkyl carbomonocycle) salt with alkyl carbomonocycle hetero-acid (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as iodonium, bis(dialkyl carbomonocycle) salt with alkyl carbomonocycle hetero-acid (PMN P–24–160; Accession No. 303107) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or adhered (during photolithographic processes) onto a semiconductor wafer surface or similar manufactured article used in the production of semiconductor technologies.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i) and (iii), (a)(3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.*

Requirements as specified in § 721.72(a) through (f), (g)(1), (g)(2)(i) through (iii) and (v), (g)(3)(i) and (ii), and (g)(5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(1), this substance may cause: skin irritation, skin sensitization, genetic toxicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (k), and (t). It is

a significant new use to import the substance other than in solution, unless in sealed containers weighing 5 kilograms or less. It is a significant new use to process the substance in any way that generates dust, mist, or aerosol in a non-enclosed process. It is a significant new use to manufacture the substance longer than 18 months.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12146 Aromatic sulfonium tricyclo salt with alkyl carbomonocycle hetero-acid (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as aromatic sulfonium tricyclo salt with alkyl carbomonocycle hetero-acid (PMN P–24–190; Accession No. 303049) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or adhered (during photolithographic processes) onto a semiconductor wafer surface or similar manufactured article used in the production of semiconductor technologies.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i) and (iii), (a)(3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.*

Requirements as specified in § 721.72(a) through (f), (g)(1), (g)(2)(i) through (iii) and (v), (g)(3)(i) and (ii), and (g)(5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin irritation, serious eye damage, skin sensitization, genetic toxicity, and specific target organ toxicity.

Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (k), and (t). It is a significant new use to import the substance other than in solution, unless in sealed containers weighing 5 kilograms or less. It is a significant new use to process the substance in any way that generates dust, mist, or aerosol in a non-enclosed process. It is a significant new use to manufacture the substance longer than 18 months.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

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DEPARTMENT OF THE INTERIOR

43 CFR Part 17

[DOI–2026–0034; 256D0102DM;
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DX6CS25]

RIN 1093–AA30

Rescinding Portions of Department of the Interior Title VI Regulations To Conform More Closely With the Statutory Text and To Implement Executive Order 14281

AGENCY: Office of Civil Rights, Department of the Interior.

ACTION: Final rule.

SUMMARY: The Department of the Interior amends its regulations implementing Title VI of the Civil Rights Act of 1964 (“Title VI”) to eliminate disparate-impact liability. These amendments align the conduct prohibited by the Department’s regulations with Title VI’s original public meaning, avoid constitutional concerns, reduce compliance costs, and serve the public interest. In addition, these revisions implement changes directed in Executive Order 14281.

DATES: The rule is effective on May 22, 2026.

FOR FURTHER INFORMATION CONTACT:

Shayan Modarres, Acting Director, Office of Civil Rights, 202–208–4548. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:**I. Executive Summary**

The Department is rescinding portions of its regulations promulgated pursuant to Title VI, 42 U.S.C. 2000d–1, to more closely align its regulations to the language that Congress enacted in Title VI prohibiting intentionally discriminatory conduct. *See* 42 U.S.C. 2000d. There are serious statutory and constitutional concerns with the legality of the Department's Title VI regulations that go beyond intentional discrimination by prohibiting conduct that has an unintentional disparate impact. This rule accordingly rescinds those portions of the regulations that prohibit conduct having a disparate impact, which are in considerable tension with both the statute and the Constitution and do not sufficiently serve the public interest. First, this rule rescinds the full text of 43 CFR 17.3(b)(2), which currently prohibits the utilization of “criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin.” Second, this rule removes the two uses of the phrase “or effect” from 43 CFR 17.3(b)(3). Third, this rule rescinds the full text of 43 CFR 17.3(b)(4). Fourth, this rule rescinds the full text of 43 CFR 17.3(c)(3), which addresses employment practices subject to Federal financial assistance.

The rule's revisions also conform to Executive Order 14281, *Restoring Equality of Opportunity and Meritocracy*, 90 FR 17537 (Apr. 23, 2025). That Order stated that “[i]t is the policy of the United States to eliminate the use of disparate-impact liability in all contexts to the maximum degree possible to avoid violating the Constitution, Federal civil rights laws, and basic American ideals.” *Id.* at 17537. The Order directed the Attorney General to, among other things, review

Title VI regulations and “initiate appropriate action to repeal or amend” these regulations “to the extent they contemplate disparate-impact liability.” *Id.* at 17538. Section 3 of the Order specifically revoked the Presidential approvals of certain Interior Department Title VI regulations that address disparate-impact liability promulgated under 42 U.S.C. 2000d–1. *Id.* Though the Department would take this action independent of Executive Order 14281, the Order supports this action.

The practical impact of this rule's modifications will be to make clear to Department Federal-funded recipients that the Department's Title VI regulations do not prohibit conduct or activities that have a disparate impact and prohibit only intentional discrimination, and the Department thus will not pursue Title VI disparate-impact liability against its Federal-funding recipients.

II. Discussion**A. Statutory History of Title VI**

Title VI of the Civil Rights Act of 1964, as amended, provides: “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” 42 U.S.C. 2000d. Title VI also directs Federal departments and agencies that extend Federal financial assistance to “effectuate the provisions of” Title VI “by issuing rules, regulations, or orders of general applicability.” 42 U.S.C. 2000d–1. The section of Title VI that sets forth the prohibited conduct, 42 U.S.C. 2000d, prohibits specifically intentional discrimination and makes no reference to unintentional disparate effects or impact.

See Alexander v. Sandoval, 532 U.S. 275, 280 (2001) (“[I]t is . . . beyond dispute—and no party disagrees—that [Title VI] prohibits only intentional discrimination.”). The statute does not explicitly provide any Federal department or agency with authority to prohibit unintentional disparate impact. Despite ample opportunities, Congress has enacted no subsequent amendments to Title VI to impose disparate-impact liability.

B. Regulatory History of Title VI

Pursuant to Executive Order 12250, “[t]he Attorney General shall coordinate the implementation and enforcement by Executive agencies of . . . Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*)” 45 FR 72995, 72995

(Nov. 2, 1980). Accordingly, the Department of the Interior follows the Department of Justice as it is the lead Federal agency responsible for defining the nature and scope of Title VI's prohibition of discrimination on the basis of race, color, and national origin in programs or activities receiving Federal financial assistance. The Order directs the Department, among other things, to “develop standards and procedures for taking enforcement actions and for conducting investigations and compliance reviews.” *Id.* Further, as part of this responsibility, the Order provides that other agencies' Federal regulations implementing Title VI are also subject to the Attorney General's approval. *Id.* at 72996.

The Department's Title VI implementing regulations are codified at 43 CFR 17.1, and 17.12. The initial set of model regulations for Title VI were issued by the then-Department of Health, Education, and Welfare on December 4, 1964, which included only one reference to the “effect of” language in the “discrimination prohibited” provision of the rule. *See* 29 FR 16298, 16299 (Dec. 4, 1964) (provision found at 45 CFR 80.3(b)(2)). In 1973, the Department substantively amended its regulatory description of prohibited discrimination. *See* 38 FR 17986 (July 5, 1973). These substantive changes include, among other things, the addition of 43 CFR 17.3(b)(3) (which added the “or effect” language to an additional provision), 43 CFR 17.3(b)(4) (i–ii) (which introduced the “affirmative action” language to the regulations), and 43 CFR 17.3(c)(3) (which extends the rule to Federal financial assistance whose primary objective is not to provide employment). In 2003, the Department added language regarding “program or activity” to reflect the amendment of Title VI by the Civil Rights Restoration Act of 1987. *See* 68 FR 51334, 51364 (Aug. 26, 2003); Public Law 100–259, sec. 6, 102 Stat. 28, 31 (1988). Thus, beyond the required updating of the phrase “program or activity” pursuant to the Civil Rights Restoration Act, the Department has not substantively updated its Title VI regulations since 1973—over 50 years ago.

The Department's implementing regulation describing the scope of prohibited discriminatory conduct, 43 CFR 17.3, currently includes prohibitions on conduct that has an unintentional disparate impact, discussed more fully below.

C. Relevant Supreme Court Decisions

The Supreme Court has found that Title VI, 42 U.S.C. 2000d, does not

prohibit facially neutral policies that result in disparate outcomes when there is no discriminatory intent. Rather, it prohibits only intentional discrimination. In 1978, five years after the Department last substantively amended its Title VI regulations, the Supreme Court found that Congress intended Title VI to prohibit “only those racial classifications that would violate the Equal Protection Clause” if committed by a government actor. *Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265, 287 (1978) (Powell, J., announcing the judgment of the Court); *id.* at 325, 328, 352–53 (Brennan, White, Marshall, and Blackmun, JJ., concurring in part and dissenting in part); *see also Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 198 n.2 (2023) (“SFFA”). Shortly before *Bakke*’s Title VI holding, the Supreme Court held that the Equal Protection Clause requires proof of intentional discrimination and that “a law or other official act” that has a “racially disproportionate impact” alone does not violate that Clause. *Washington v. Davis*, 426 U.S. 229, 239 (1976); *see also Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265 (1977) (“Proof of racially discriminatory intent or purpose is required to show a violation of the Equal Protection Clause.”). Taken together, these Supreme Court cases establish that Title VI’s statutory prohibition, like the Equal Protection Clause, extends only to intentional discrimination.

In 2001, the Supreme Court, in *Alexander v. Sandoval*, reaffirmed that settled understanding. 532 U.S. at 280 (“[I]t is . . . beyond dispute . . . that [Title VI] prohibits only intentional discrimination.”). In *Sandoval*, the Supreme Court held that private plaintiffs lacked a private right of action to enforce the Department’s “disparate-impact regulations.” *Id.* at 285–87. Though the Supreme Court had previously found a private cause of action to enforce Title VI’s bar on intentional discrimination, *id.* at 279–80, that conclusion did not extend to enforcing the Department’s “disparate-impact regulations.” *Id.* at 285. As the Supreme Court explained, it is “clear” that “the disparate-impact regulations do not simply apply” the statutory prohibition, as the regulations “forbid conduct that [Title VI] permits,” so it is equally “clear that the private right of action to enforce [Title VI] does not include a private right to enforce these regulations.” *Id.* While the Supreme Court in *Sandoval* “assume[d],” without deciding, that the Department’s

disparate-impact regulations were valid, the Court explained that the regulations are in “considerable tension” with the Supreme Court’s Title VI precedents. Similarly, the regulations do not “authoritatively” construe Title VI because the regulations “forbid conduct”—namely, policies that unintentionally result in a disparate impact—that Title VI “permits.” *Id.* at 281–82, 284–85; *see also id.* at 286 n.6 (“[Title VI] permits the very behavior that the regulations forbid.”).

Finally, in 2024, the Supreme Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984). *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 409–12 (2024). In reaching that result, the Supreme Court made clear that “statutes . . . have a single, best meaning” that is “‘fixed at the time of enactment.’” *Id.* at 400 (quoting *Wis. Cent. Ltd. v. United States*, 585 U.S. 274, 284 (2018)). Thus, Title VI’s bar on discrimination can have only one meaning. And under Supreme Court precedent, the single, best meaning of Title VI is that it “prohibits only intentional discrimination” and “permits” facially neutral policies that result in disparate outcomes when there is no discriminatory intent. *Sandoval*, 532 U.S. at 280, 286 n.6.

D. Executive Order 14281

On April 23, 2025, the President issued Executive Order 14281. This Order restated the “bedrock principle of the United States . . . that all citizens are treated equally under the law.” 90 FR at 17537. The Order explained that this “principle guarantees equality of opportunity, not equal outcomes,” and “promises that people are treated as individuals, not components of a particular race or group.” *Id.*

That Order also explained that disparate-impact liability “endangers this foundational principle.” *Id.* Disparate-impact liability, the Order reasoned, “all but requires individuals and businesses to consider race and engage in racial balancing to avoid potentially crippling legal liability.” *Id.* As the Order explained, disparate-impact liability “not only undermines our national values, but also runs contrary to equal protection under the law and, therefore, violates our Constitution.” *Id.*

The Order relayed that because of disparate-impact liability’s problems, “[i]t is the policy of the United States to eliminate the use of disparate-impact liability in all contexts to the maximum degree possible to avoid violating the Constitution, Federal civil rights laws, and basic American ideals.” *Id.* The

Order directed the Attorney General to, among other things, review Title VI regulations and “initiate appropriate action to repeal or amend” them “to the extent they contemplate disparate-impact liability.” *Id.* at 17538.

Section 3 of the Order also specifically revoked prior Presidential approvals of the disparate-impact regulations promulgated under Title VI, including the presidential approval of July 25, 1966, of 28 CFR 42.104(b)(2) and the presidential approval of July 5, 1973, of 28 CFR 42.104(b)(3), (b)(6)(ii) and (c)(2). *Id.* Section 5 of the Order directed the Attorney General to “initiate appropriate action to repeal or amend the implementing regulations for Title VI of the Civil Rights Act of 1964 for all agencies to the extent they contemplate disparate-impact liability.” *Id.* Accordingly, this rule revises the Department’s currently existing Title VI regulations to effectuate the Order’s policy and purpose.

In any event, the Department would have independently initiated steps toward making these changes regardless of Executive Order 14281. Even if Executive Order 14281 did not exist, in other words, the Department would have taken steps to adopt the policy to eliminate the use of disparate-impact liability under Title VI. The Order states, and the Department firmly agrees, that a “bedrock principle of the United States is that all citizens are treated equally under the law. This principle guarantees equality of opportunity, not equal outcomes. It promises that people are treated as individuals, not components of a particular race or group. It encourages meritocracy and a colorblind society,” not race-, color-, or national-origin-based favoritism. 90 FR at 17537. And adherence to this principle, including in the issuance of grants, “is essential to creating opportunity, encouraging achievement, and sustaining the American Dream.” *Id.* But imposing disparate-impact liability endangers these policy objectives. Disparate-impact liability also raises serious constitutional concerns, is in considerable tension with the original public meaning of Title VI, creates confusion, increases the costs of compliance, and does not serve the public interest. After considering the relevant issues and factors and weighing the relevant considerations, the Department concludes that these reasons together support eliminating disparate-impact liability from the Department’s Title VI regulations. In any event, the Department concludes that each reason is a separate and independent basis for eliminating

disparate-impact liability from the Department's Title VI regulations.

E. Need for Rulemaking

The Department's regulation at 43 CFR 17.3, entitled "Discrimination prohibited," contains several provisions that prohibit conduct or activities causing unintentional disparate impact, without a statutory or constitutional basis for doing so, and in some instances, may encourage or even require unlawful discrimination labeled as "affirmative action." Section 17.3(b)(2) is the current regulation's general disparate-impact prohibition, which states that a "recipient . . . may not . . . utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin." 43 CFR 17.3(b)(2). Beyond that general prohibition, section 17.3(b)(3) addresses a Federal funding recipient's selection of the site or location of facilities and includes two references to "effect" that extend the scope of prohibited conduct to include conduct with unintentional disparate impact. *Id.* 17.3(b)(3). 43 CFR 17.3(b)(4)(i–ii) concerns the use of "affirmative action," and provides that funding recipients may (and sometimes must) use race, color, or national origin to overcome unintentional disparate "effects," but does not expressly specify that the funding recipient must narrowly tailor such use nor that this use must serve a compelling governmental interest, as is required to satisfy strict scrutiny. *Id.* 43 CFR 17.3(b)(4)(i–ii). Finally, 43 CFR 17.3(c)(3) addresses prohibited discriminatory employment practices and extends beyond intentional discrimination to prohibiting conduct that "tends" to have a discriminatory effect. *Id.* 43 CFR 17.3(c)(3).

There are serious statutory and constitutional concerns with the legality of the Department's Title VI disparate-impact regulations. The Department also has serious policy concerns with its current disparate-impact regulations because they create confusion, undermine public confidence in the nation's civil rights laws and the rule of law, and produce burdensome litigation and compliance costs.

1. Serious Legal Concerns

There are serious statutory concerns as to whether Title VI authorizes the disparate-impact provisions of the current regulations. As the Supreme Court has made clear, Title VI prohibits "only intentional discrimination" and "permits" facially neutral policies that result in disparate outcomes when there is no discriminatory intent. *Sandoval*,

532 U.S. at 280, 286 n.6. That is the "single, best meaning" of Title VI. *Loper Bright*, 603 U.S. at 400. As summarized above, *Sandoval* calls into serious doubt the legality of the Department's "disparate-impact regulations." *Sandoval*, 532 U.S. at 281–82, 284–85 (noting that the Department's regulations are in "considerable tension" with the Supreme Court's Title VI precedents); *see also id.* at 286 n.6 ("[Title VI] permits the very behavior that the regulations forbid."). Although *Sandoval* resolved only the question of private enforceability, subsequent cases such as *Loper Bright* have made clear that the Department cannot extend Title VI beyond its original public meaning. *See* 603 U.S. at 412–13 (holding that "courts must . . . ensur[e] that [an] agency acts within" its statutory authority). And even in the absence of Supreme Court precedent, the Department would have concluded that the best reading of Title VI is that it prohibits only intentional discrimination.

Title VI authorizes agencies to promulgate regulations "to effectuate" the statute's prohibition of intentional discrimination. 42 U.S.C. 2000d–1. The current regulations' extension of prohibited conduct to include conduct with an unintentional disparate impact reaches a vastly broader scope than the statute itself. This scope is too broad to be considered a simple prophylactic measure aimed at preventing intentional discrimination. *See Sandoval*, 532 U.S. at 286 n.6 ("[Title VI] permits the very behavior that the regulations forbid."). Thus, the disparate-impact regulations do not "effectuate" Title VI. 42 U.S.C. 2000d–1.

There are also serious concerns about whether the Department's Title VI regulations pass constitutional muster under the Equal Protection Clause. As the Supreme Court recently held in *SFFA*, "the Equal Protection Clause . . . applies without regard to any differences of race, of color, or of nationality—it is universal in its application" and the "guarantee of equal protection cannot mean one thing when applied to one individual and something else when applied to a person of another color." 600 U.S. at 206 (internal quotation marks omitted) (first quoting *Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886); and then quoting *Bakke*, 438 U.S. at 289–90 (Powell, J.)). Despite the promises of the Equal Protection Clause, a funding recipient's risk of disparate-impact liability under the Department's regulations is triggered by unintentional disparate outcomes, which the recipient may not even know about without investigation. To evaluate

and avoid this risk, the funding recipient must incur investigatory costs, such as conducting an impact analysis, and is coerced to proactively consider race, color, and national origin, and potentially use it to change the unintended disparate outcomes. In short, disparate-impact liability encourages and, in some cases, requires covered entities to engage in the intentional use of race and racial balancing to eliminate those disparate outcomes by treating certain racial groups differently from others—the exact conduct the Equal Protection Clause forbids. *See id.* This serious constitutional concern further confirms that the best reading of Title VI is that it prohibits only intentional discrimination and does not authorize the Department to impose disparate-impact liability. *See Edward J. DeBartolo Corp. v. Fla. Gulf Coast Bldg. & Constr. Trades Council*, 485 U.S. 568, 575 (1988) ("[W]here an otherwise acceptable construction of a statute would raise serious constitutional problems, the Court will construe the statute to avoid such problems unless such construction is plainly contrary to the intent of Congress." (citing *NLRB v. Catholic Bishop of Chi.*, 440 U.S. 490, 499–501, 504 (1979))).

This use of race, color, or national origin violates the Equal Protection Clause unless it survives review under the "daunting" strict-scrutiny standard. *SFFA*, 600 U.S. at 206; *see also Free Speech Coal., Inc. v. Paxton*, 145 S. Ct. 2291, 2310 (2025) ("Strict scrutiny—which requires a restriction to be the least restrictive means of achieving a compelling governmental interest—is 'the most demanding test known to constitutional law.'" (quoting *City of Boerne v. Flores*, 521 U.S. 507, 534 (1997))). The use of race, color, or national origin necessitated by the disparate-impact provisions runs into serious issues with the requirement of narrow tailoring to achieve a compelling interest. *SFFA*, 600 U.S. at 206–07.

Similarly, the "affirmative action" provision authorizes and sometimes requires the intentional use of race without requiring that this intentional use be narrowly tailored to serve a recognized compelling interest. Instead, it encourages intentional racial balancing "to overcome the effects of" unintended racial disparities. 28 CFR 42.104(b)(6). Thus, for substantially the same reasons as above, the "affirmative action" provision raises serious constitutional concerns.

As summarized above, there are serious statutory and constitutional concerns with the Department's disparate-impact regulations. But even if

the regulations were statutory, the Department finds that eliminating the potential constitutional concerns addressed above would independently justify the amendment of the regulations. *Cf. U.S. Tel. Ass'n v. FCC*, 188 F.3d 521, 528 (D.C. Cir. 1999) (concluding it was not “arbitrary and capricious” to adopt a certain policy in order to “avoid[] raising a non-trivial constitutional question”). And even if the regulations did not raise serious constitutional concerns, the Department finds that eliminating the costs and confusion caused by the mismatch between the statute and the disparate-impact regulations would independently justify the repeal of the regulations.

2. Serious Policy Concerns

The Department also has serious policy concerns with the Title VI regulations’ imposition of disparate-impact liability. While the Department expresses its policy concerns with disparate-impact liability independent of Executive Order 14281, that Order sets forth many valid policy concerns with disparate-impact liability. As noted in section 1 of the Order,

On a practical level, disparate-impact liability has hindered businesses from making hiring and other employment decisions based on merit and skill, their needs, or the needs of their customers because of the specter that such a process might lead to disparate outcomes, and thus disparate-impact lawsuits. This has made it difficult, and in some cases impossible, for employers to use bona fide job-oriented evaluations when recruiting, which prevents job seekers from being paired with jobs to which their skills are most suited—in other words, it deprives them of opportunities for success.

90 FR at 17537. Moreover, the legal concerns identified above have caused uncertainty and confusion for Federal financial assistance recipients as to whether and when they need to comply with the disparate-impact regulations and when they can or must consider race, color, and national origin. As explained above, *Sandoval* casts substantial doubt on the validity of the disparate-impact regulations that many Federal departments and agencies have promulgated pursuant to Title VI. 532 U.S. at 280–82.

Additionally in practice, and as explained above, disparate-impact liability leads covered entities to engage in racial balancing even as the underlying Title VI statute forbids intentional racial discrimination. This tension tends to create confusion, undermine public confidence in the nation’s civil rights laws, and

undermine public confidence in the rule of law itself, as the law seems to both forbid and require the same conduct.

These problems are amplified by the arbitrary nature of the racial and ethnic categories typically used to measure disparate effects, which, by virtue of their arbitrariness, typically lack a meaningful connection to a compelling interest. *See, e.g., SFFA*, 600 U.S. at 216–17 (explaining that the “[racial] categories” utilized by Harvard and University of North Carolina were “themselves imprecise in many ways” and “the use of these opaque racial categories undermine[d], instead of promote[d], [their] goals”). This confusion undermines the law’s ability to teach principles of nondiscrimination and is evident in, among other things, some of the grant proposals that the Department awarded funds to in past years. The Department believes that these policy concerns independently justify repealing certain parts of its regulation to cure this confusion, remove the incentive for covered entities to engage in racial balancing, and maintain clarity and public confidence in the nation’s civil rights laws.

The Department has considered the view that looking at disparate effects can sometimes be useful in uncovering or deterring subtle intentional discrimination or intentional indifference to unnecessary and arbitrary barriers. But that view’s alleged benefits are outweighed by the other issues and factors the Department has considered. And in any event, the concern is mitigated by the fact that eliminating disparate-impact liability does not preclude the use of data on disparate outcomes to help prove intentional discrimination. Indeed, under the Department’s Title VI regulations, which the current changes do not alter, “recipients should have available for the Department racial and ethnic data showing the extent to which members of minority groups are beneficiaries of federally assisted programs.” 43 CFR 17.5(b). Both the Department and private litigants rely on such data as a potential indicator of intentional discrimination. This use of statistical disparity to help establish, as an evidentiary matter, liability for intentional discrimination materially differs from using it to impose liability for an unintentional disparate impact.

The Department has also considered the alternative of trying to adopt a modified version of disparate-impact liability, for example, by requiring covered entities to remedy unintentional discrimination for only certain types of cases in education or

housing. But any version of imposing liability for unintentional discrimination is inconsistent with Title VI’s original public meaning. Regardless, even a modified version of disparate-impact liability would not eliminate the Department’s serious legal and policy concerns. The Department determines that any benefits from a regulation adopting alternative versions of disparate-impact liability are outweighed by the Department’s legal and policy concerns. And even if possible, developing such a rule would not solve the confusion or rule-of-law concerns expressed above, nor reduce the compliance and litigation costs that covered entities face. The Department believes that the better course is to avoid the complexities, costs, and litigation associated with this alternative, even if eliminating disparate-impact liability ultimately would leave some problems unaddressed and others inadequately addressed.

The Department has additionally considered the potential reliance interests of funding recipients and others on the disparate-impact regulations. The *Sandoval* decision in 2001, however, cast serious doubt on the continuing viability of the regulations more than 20 years ago. At least since *Sandoval*, the Department’s enforcement of its Title VI disparate-impact regulations has been minimal and sporadic. And Executive Order 14281 also directed all agencies to “deprioritize enforcement of all statutes and regulations to the extent they include disparate-impact liability,” including specifically the Department’s Title VI disparate-impact regulations. 90 FR at 17538. The Department accordingly believes that any reliance interests should be minimal and do not outweigh the Department’s legal and other policy concerns. Further, each of the Department’s concerns, whether considered cumulatively or separately, outweighs any reliance interests.

The Department notes that *Sandoval* has also led to a divergence between Title VI enforcement by private plaintiffs and enforcement by Federal departments and agencies. After *Sandoval*, private plaintiffs can enforce only Title VI’s statutory prohibition on intentional discrimination, while the Department could continue to pursue disparate-impact liability.

Repealing the disparate-impact regulations would eliminate this incongruent enforcement. Overall, after considering the relevant issues and factors and weighing the relevant considerations, the Department finds that, regardless of the legality of the

Department’s disparate-impact regulations, the above summarized policy concerns, when viewed separately or cumulatively, independently justify the repeal of its disparate-impact regulations.

III. Regulatory Amendments

This rule’s regulatory changes address the concerns regarding the statutory authority that the Supreme Court questioned in *Sandoval* and the other

legal and policy concerns discussed above, harmonize the implementing regulations’ scope with the conduct that Congress intended Title VI to prohibit, promote consistent enforcement among private plaintiffs and Federal departments and agencies, and provide much needed clarity to the courts and Federal financial assistance recipients and beneficiaries.

For the reasons summarized above, the Department amends the following

provisions in its Title VI implementing regulation that explain the particular types of discrimination prohibited, located at 43 CFR 17.3.

A. Table Summarizing Amendments

The table below indicates the exact wording changes. For each section indicated in the left column, the text shown in the middle column is removed and the text shown in the right column is added:

Section	Remove	Add
43 CFR 17.3(b)(2)	Full text of paragraph: “(2) A recipient . . . or national origin.”	“[Removed]”.
43 CFR 17.3(b)(3)	“or effect” from both places	
43 CFR 17.3(b)(4)	Full text of paragraph (4), subparts (i) and (ii)	
43 CFR 17.3(c)(3)	Full text of paragraph: “(3) Where a primary objective . . . of beneficiaries.”.	

B. Section-by-Section Analysis

43 CFR 17.3(b)(2)

Section 17.3(b)(2) is the current regulation’s general prohibition of conduct with unintentional disparate impact. It expands prohibited conduct from purposeful discrimination to imposed liability on Federal funding recipients who “utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination.” Because section 43 CFR 17.3 (b)(2)’s only purpose is to extend the scope of Title VI to reach unintentional disparate-impact discrimination, this rule deletes this paragraph in its entirety. It thus amends the Department’s Title VI implementing regulations to conform to the scope of coverage Congress intended when it enacted Title VI and to address the legal and policy considerations and determinations described in this document. The rule replaces paragraph (b)(2) with a placeholder to maintain the numbering accuracy of previous citations and other references to parts of this section.

43 CFR 17.3(b)(3)

Section 17.3(b)(3) addresses a Federal funding recipient’s or applicant’s selection of the site or location of facilities. It provides that a funding recipient may not make selections with the “purpose or effect” of discriminating, or “with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of” Title VI or the Department’s implementing regulations. The paragraph’s two references to “effect” extend its scope to unintentional disparate impacts. This rule deletes both “or effect” references to conform paragraph (b)(3) more

closely to the scope of coverage Congress intended when it enacted Title VI and to address the legal and policy considerations and determinations described in this document.

43 CFR 17.3(b)(4)

Section 17.3(b)(4) deals with “affirmative action.” Paragraph (b)(4)(ii) authorizes affirmative action even in the absence of a finding of prior discrimination in a program “to overcome the effects of conditions which resulted in limiting participation by persons of a particular race, color, or national origin.” This provision points not to intentional discrimination, but rather to the unintentional “effects of conditions.” It consequently encourages intentional racial classifications, racial preferences, and other race-based actions without specifying the compelling governmental interest and narrow tailoring that the Equal Protection Clause demands. This section has long been unlawful under an Equal Protection Clause analysis.

Paragraph (b)(4)(i) requires that a recipient “must take affirmative action to overcome the effects of prior discrimination” if, in “administering a program,” the funding “recipient has previously discriminated against persons on the grounds of race, color, or national origin.” This provision goes beyond the Equal Protection Clause, which permits in limited circumstances, but does not mandate, a government to take narrowly tailored action to remedy the effects of its identified past discrimination. *See, e.g., Bakke*, 438 U.S. at 307 (Powell, J.). Moreover, even putting aside the mandatory language, this provision does not expressly require narrow tailoring to counter particular past discrimination, but rather just “affirmative action to

overcome the effects of prior discrimination.” This provision accordingly promotes potentially illegal race, color, and national origin discrimination. Moreover, in some instances, it may even coerce recipients to consider and use race preferences when the recipient does not want to. This is contrary to the Department’s goal of promoting and defending a culture of nondiscrimination and is destructive to the public’s understanding of and faith in the nation’s civil rights laws. This rule, therefore, removes paragraph (b)(4).

43 CFR 17.3(c)(3)

Section 17.3(c) addresses prohibited discriminatory employment practices. Paragraph (c)(1) prohibits intentionally discriminatory employment practices in a program when a primary objective of the Federal financial assistance that program receives is to provide employment.

Paragraph (c)(3) extends the prohibition on discrimination to employment practices of the funding recipient even when “a primary objective of the Federal financial assistance is not to provide employment” if discrimination in the non-funded “employment practices of the recipient or other persons subject to the regulation tends, on the ground of race, color, or national origin, to exclude individuals from participation in, to deny them the benefit of, or to subject them to discrimination under any program to which this regulation applies.” This paragraph does not prohibit only intentional discrimination but rather extends the prohibition to conduct that “tends” to have a discriminatory effect.

Moreover, the Department notes that paragraph (c)(3)’s extension to

employment practices where the Federal funding's primary objective is not to provide employment conflicts with the statutory limitation found in 42 U.S.C. 2000d–3. That section states that “[n]othing contained in [Title VI] shall be construed to authorize action under [Title VI] by any department or agency with respect to any employment practice of any employer, employment agency, or labor organization except where a primary objective of the Federal financial assistance is to provide employment.” 42 U.S.C. 2000d–3; *see also Johnson v. Transp. Agency, Santa Clara Cnty.*, 480 U.S. 616, 627–28 n.6 (1987) (citing the statutory limitation and noting Congress’s intent that Title VI not “impinge” on Title VII, which prohibits discriminatory employment practices). The rule deletes paragraph (c)(3) to amend the regulation so that it more closely adheres to the scope of conduct Congress prohibited with Title VI and to address the legal and policy considerations and determinations described in this document.

IV. Severability

The Department’s position is that each of the amendments serve a vital, related, but distinct purpose. The Department also confirms that each of the amendments is intended to operate independently of each other and that the potential invalidity of one amendment should not affect the other amendments. The Department would adopt any of the amendments independent to, and regardless of, the invalidity of a separate amendment.

V. Regulatory Certifications

Administrative Procedure Act

The Department issues this final rule without prior public notice and comment or a delayed effective date pursuant to the Administrative Procedure Act’s exception for rules “relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.” 5 U.S.C. 553(a)(2).

Title VI concerns non-discrimination conditions on the receipt of Federal financial assistance, and more particularly to the receipt of Federal “[g]rants and loans,” “property,” “personnel” and “[a]ny Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.” 43 CFR 17.12(e); *see also* 43 CFR 17.4 (requiring funding recipient sign contractual assurance of compliance with Title VI); *Cummings v. Premier Rehab Keller, P.L.L.C.*, 596 U.S. 212, 217–18 (2022) (observing that Congress

enacted Title VI “[p]ursuant to its authority to ‘fix the terms on which it shall disburse federal money’” (internal citation omitted)). *Cf. Education Programs or Activities Receiving or Benefitting from Federal Financial Assistance*, 82 FR 46655, 46655 (Oct. 6, 2017) (invoking the section 553(a)(2) exception to amend Title IX regulations to “promote consistency in the enforcement of Title IX for [the Department of Agriculture] financial assistance recipients”); *Preserving Community and Neighborhood Choice*, 85 FR 47899 (Aug. 7, 2020) (invoking the exception to repeal Housing and Urban Development rule regarding Federal grantees); *Participation by Minority Business Enterprise in Department of Transportation Programs*, 53 FR 18285 (May 23, 1988) (invoking the exception to expand coverage of Department of Transportation regulation regarding Federal Aviation Administration’s airport financial assistance program); *Nondiscrimination on the Basis of Handicap in Federally Assisted Programs—Suspension of Guidelines with Respect to Mass Transportation*, 46 FR 40687 (Aug. 11, 1981) (invoking the exception to suspend Department of the Interior guidelines regarding prohibiting disability discrimination in transportation programs and activities receiving Federal financial assistance).

Indeed, invoking 5 U.S.C. 553(a)(2) is consistent with the Office of Management and Budget’s (OMB) definition for Federal financial assistance under 2 CFR 200.1, which defines Federal financial assistance with the same categories as the Administrative Procedure Act’s exception for rules “relating to agency management or personnel or to public property, loans, grants, benefits, or contracts,” 5 U.S.C. 553(a)(2). With potentially limited exceptions not applicable to the Department, all the forms of Federal financial assistance set forth under 2 CFR 200.1 that the Department administers would fall under the “public property, loans, grants, benefits, or contracts” exception. Thus, the Department issues this final rule without prior public notice and comment or a delayed effective date under 5 U.S.C. 553(a)(2).

Executive Order 12250 (Regulatory Review)

In accordance with Executive Order 12550 which requires federal agencies to submit proposed changes concerning this subject matter to the Department of Justice, the Department of Justice has reviewed and determined that these changes are warranted.

Executive Orders 12866 and 13563 (Regulatory Review)

The Department has determined that this rulemaking is a “significant regulatory action” under section 3(f) of Executive Order 12866, 58 FR 51735, 51738 (Sep. 30, 1993), but it is not an “economically significant” action under section 3(f)(1). Accordingly, this rule has been submitted to OMB for review.

This regulation has been drafted and reviewed in accordance with Executive Order 12866 section 1(b), *id.* at 51735, and in accordance with Executive Order 13563 section 1(b), 76 FR 3821, 3821 (Jan. 18, 2011), which supplements and reaffirms the principles of Executive Order 12866. These Executive Orders 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. 58 FR at 51735; 76 FR at 3821. Executive Order 13563 also recognizes that some benefits and costs are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and discuss qualitatively values that are difficult or impossible to quantify. *Id.*

As explained in the preamble, the regulatory modifications this rule makes are necessary to conform Department regulations to Executive Order 14281, address serious concerns regarding the Department’s Title VI regulation that the Supreme Court raised in *Sandoval*, harmonize the implementing regulation’s scope with the scope of conduct that Congress intended Title VI to prohibit, promote consistency in enforcement among private plaintiffs and Federal departments and agencies, and provide much needed clarity to courts and Federal funding recipients and beneficiaries regarding the scope of the Department’s Title VI regulations. Indeed, with respect to section 42.104(c) of the Department’s Title VI implementing regulations, the changes this rule makes are clearly necessary to bring the regulations into compliance with 42 U.S.C. 2000d–3. In short, this rule is necessary to conform the Department’s regulation to existing statutory law, as interpreted by the Supreme Court.

Data limitations make the costs and benefits of the rule difficult to quantify. While not representing the monetary impact of the rule, more generally the Department of the Interior issued approximately 53,700 separate awards totaling approximately \$28.4 billion over the past four years. In FY2024 alone, the Department issued approximately 31,000 separate awards

totaling \$8.2 billion. The Department's Title VI related, active investigations and compliance reviews regarding these funds and their recipients totaled just over 40 for FY2020 through FY2024. The Department does not track which of its investigations and compliance reviews involve solely allegations of disparate-impact discrimination. For enforcement actions that relate to both intentional discrimination and conduct having an unintentional disparate impact, the Department does not track and cannot reliably quantify the costs attributable to the varying disparate-impact portions of enforcement actions. That the existence of a disparate impact is sometimes a factor that may be considered in determining whether discrimination was intentional further impedes monetizing costs and benefits. Therefore, the overall cost effect on the Department is difficult to quantify. The deregulatory action should decrease the Department's enforcement costs, however. It should also have the benefit, also difficult to quantify, of bringing the Department's conduct in line with the law. Similarly, the Department is unable to quantify how funding recipients will respond to the regulatory changes. But the deregulatory action should result in greater flexibility and lower compliance costs for recipients.

The Department recognizes that a funding recipient may receive Federal funds from sources other than, and in addition to, the Department. The Department does not envision that this rule will appreciably increase administrative costs or compliance costs for funding recipients who must also adhere to the regulations of another department or agency. The deregulatory action the Department takes here does not create any new obligations for funding recipients. On the contrary, by eliminating disparate-impact liability from the regulation, it eliminates a source of regulatory confusion, narrows and makes more specific the conduct prohibited, and thus lessens the costs of compliance and potential liability. Moreover, recipients who receive funds for the same program or activity from more than one Federal entity already enter into separate contractual assurances with each funding entity, *see, e.g.*, 28 CFR 42.105. These contractual assurances already impose varying requirements that each Federal funding source deems necessary. Funding recipients will continue to be held to the most stringent contractual assurance and regulation.

Based on the analysis of the practical qualitative costs and benefits noted above, the Department believes that this rule is consistent with the principles of

Executive Orders 12866 and 13563, including the requirements that, to the extent permitted by law, the Department adopt a regulation only upon a reasoned determination that its benefits justify its costs and choose a regulatory approach that maximizes net benefits. *See* 58 FR at 51735; 76 FR at 3821.

Executive Order 14192 (Unleashing Prosperity Through Deregulation)

Executive Order 14192 requires an agency, unless prohibited by law, to identify at least 10 existing regulations to be repealed when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation. 90 FR 9065, 9065 (Jan. 31, 2025). In furtherance of this requirement, section 3(c) of the Order requires that "any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations." *Id.* By revising the Department's current Title VI regulations, which extend prohibited conduct to include unintentional disparate impacts and thus expand the scope of those regulations to a vastly broader range of conduct than the statute prohibits, this rule eliminates unnecessary regulation. Accordingly, the Department expects this rule to be a deregulatory action under Executive Order 14192.

Executive Order 14294 (Fighting Overcriminalization in Federal Regulations)

Executive Order 14294 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. 90 FR 20363, 20363 (May 9, 2025). This rule does not impose a criminal regulatory penalty and is thus exempt from Executive Order 14294 requirements.

Executive Order 13132 (Federalism)

This rule will not have a substantial, direct effect on the relationship between the national government and the states, on distribution of power and responsibilities among various levels of government, or on states' policymaking discretion. States that choose to receive Federal financial assistance from the Department do so voluntarily and agree to comply with relevant statutory requirements as a condition of receiving such funding. This rule does not subject states or any other funding recipients or beneficiaries to new obligations. This

rule amends and clarifies existing regulations that are required by statute. Therefore, in accordance with section 6 of Executive Order 13132, 64 FR 43255, 43257–58 (Aug. 4, 1999), the Department has determined that these amendments do not have sufficient Federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988 (Civil Justice Reform)

This rule meets the applicable standards set forth in sections 3(a) and (b)(2) of Executive Order 12988 to specify provisions in clear language. *See* 61 FR 4729, 4731–32 (Feb. 5, 1996). Pursuant to section 3(b)(1)(I) of the Executive Order, *id.* at 4731, nothing in this proposed or any previous rule (or in any administrative policy, directive, ruling, notice, guideline, guidance, or writing) directly relating to the Program that is the subject of this proposed rule is intended to create any legal or procedural rights enforceable against the United States.

Regulatory Flexibility Act

This rule does not require a regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 603, 604, because, for the reasons described above, no notice of proposed rulemaking is required under 5 U.S.C. 553. *See Or. Trollers Ass'n v. Gutierrez*, 452 F.3d 1104, 1123–24 (9th Cir. 2006) (noting that the RFA does not apply when an agency validly invokes an exception to the public comment requirements of 5 U.S.C. 553). Further, the Department, in accordance with 5 U.S.C. 605(b), has reviewed these regulations and certifies that the rule's changes will not have a significant economic impact on a substantial number of small entities, in large part because these regulatory changes do not impose any new substantive obligations on Federal funding recipients. The rule amends and clarifies existing regulations that are required by Title VI. The rule merely brings the Department into compliance with the Equal Protection Clause and harmonizes the scope of its regulations to conform with the scope of Title VI, which does not prohibit unintentional disparate impact. All Federal funding recipients have been bound by the existing standards that will remain in place after this rule since their initial promulgation.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 ("UMRA"), 2 U.S.C. 1501 *et seq.*, requires agencies to prepare several analytic statements before proposing

any rule that may result in annual expenditures of \$100 million by state, local, or tribal governments, or the private sector. 2 U.S.C. 1532(a). The UMRA also, however, excludes from its coverage any proposed or final Federal regulation that “establishes or enforces any statutory rights that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability.” 2 U.S.C. 1503(2). Accordingly, this rulemaking is not subject to the provisions of the UMRA.

Congressional Review Act

The Office of Information and Regulatory Affairs determined that this rule is not a “major rule” as defined by the Congressional Review Act, 5 U.S.C. 804(2).

Paperwork Reduction Act of 1995

This rule will not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

List of Subjects for 43 CFR Part 17

Administrative practice and procedure, civil rights, equal employment opportunity, grant programs.

Accordingly, for the reasons set forth above, and pursuant to the authority vested in the Secretary of the Interior by law, part 17 of title 43 of the Code of Federal Regulations is amended as follows:

PART 17—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE DEPARTMENT OF THE INTERIOR

Subpart A—Nondiscrimination on the Basis of Race, Color, or National Origin

- 1. The authority citation for subpart A of part 17 is revised to read as follows:

Authority: Sec. 602, 78 Stat. 252; 42 U.S.C. 2000d–1; E.O. 12250; E.O. 14281, 90 FR 17537.

- 2. In § 17.3:

- a. Remove and reserve paragraph (b)(2);
- b. Revise paragraph (b)(3);
- c. Remove and reserve paragraph (b)(4); and
- d. Remove paragraph (c)(3). The revisions read as follows:

§ 17.3 Discrimination prohibited.

* * * * *

(b) * * *

(3) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose of

excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the ground of race, color, or national origin; or with the purpose of defeating or substantially impairing the accomplishment of the objectives of the Act or this part.

* * * * *

Troy Finnegan

Deputy Assistant Secretary, Exercising the Delegated Authority of the Assistant Secretary—Policy, Management and Budget.

[FR Doc. 2026–10258 Filed 5–21–26; 8:45 am]

BILLING CODE 4334–CC–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 220919–0193; RTID 0648–XF717]

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; Closure of the Angling Category Gulf of America Trophy Fishery for 2026

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the Angling category Gulf of America fishery for large medium and giant (“trophy” (*i.e.*, measuring 73 inches (185 centimeters (cm)) curved fork length or greater)) Atlantic bluefin tuna (BFT). This action applies to Highly Migratory Species (HMS) Angling and HMS Charter/Headboat permitted vessels when fishing recreationally.

DATES: Effective 11:30 p.m., local time, May 21, 2026, through December 31, 2026.

FOR FURTHER INFORMATION CONTACT:

Larry Redd, Jr., larry.redd@noaa.gov, or Becky Curtis, becky.curtis@noaa.gov, by email, or by phone at 301–427–8503.

SUPPLEMENTARY INFORMATION: Atlantic BFT fisheries are managed under the 2006 Consolidated Highly Migratory Species Fishery Management Plan (HMS FMP) and its amendments, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) and consistent with the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*). ATCA is the implementing statute for binding recommendations of

the International Commission for the Conservation of Atlantic Tunas (ICCAT). The HMS FMP and its amendments are implemented by regulations at 50 CFR part 635. Section 635.27(a) divides the U.S. BFT quota, established by ICCAT and as implemented by the United States among the various domestic fishing categories, per the allocations established in the HMS FMP and its amendments. NMFS is required under the Magnuson-Stevens Act at 16 U.S.C. 1854(g)(1)(D) to provide U.S. fishing vessels with a reasonable opportunity to harvest quotas under relevant international fishery agreements such as the ICCAT Convention, which is implemented domestically pursuant to ATCA.

Under § 635.28(a)(1), NMFS files a closure notice with the Office of the Federal Register for publication when a BFT quota (or subquota) is reached or is projected to be reached. Retaining, possessing, or landing BFT under that quota category is prohibited on and after the effective date and time of a closure notice for that category, for the remainder of the fishing year, until the opening of the subsequent quota period or until such date as specified.

Every year, the BFT fishing year starts on January 1 and ends on December 31. The Angling category opens on January 1 and continues through December 31 or until the applicable quota or subquota is reached or projected to be reached, whichever comes first. As described in § 635.27(a), the current baseline U.S. BFT quota is 1,316.14 metric tons (mt) (not including the 25 mt ICCAT allocated to the United States to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area per § 635.27(a)(3)). The Angling category baseline quota is 297.4 mt, of which 9.2 mt (3.1 percent of the annual Angling category quota) is sub-allocated for the harvest of large medium and giant (trophy) BFT by vessels fishing under the Angling category quota, with 2.3 mt (25 percent of the annual large medium and giant BFT Angling category quota) allocated for each of the following areas: north of 42° N latitude (lat.) (the Gulf of Maine area); south of 42° N lat. and north of 39°18′ N lat. (the southern New England area); south of 39°18′ N lat. and outside of the Gulf of America (the southern area); and the Gulf of America region. Trophy BFT measure 73 inches (185 cm) curved fork length or greater. NMFS notes, when the Gulf of America trophy fishery is open, no large medium or giant BFT may be retained, possessed, landed, or sold in the Gulf of America, except one per vessel per year may be landed if caught incidentally to fishing

for other species as specified at § 635.23(b)(1)(i) while the fishery is open. This closure action applies to the Gulf of America.

Separate from this action, NMFS is working on a rulemaking that would implement the 2025 ICCAT recommendation (Recommendation 25–05) regarding western BFT management. Consistent with the recommendation, that proposed rule proposes increasing the baseline U.S. BFT quota from 1,316.14 mt to 1,509.98 mt and adjusting all the subquotas accordingly. In that proposed rule, the Angling baseline quota would increase from 297.4 mt to 341.3 mt (of which, 10.6 mt would be sub-allocated for the harvest of trophy BFT). The comment period on that proposed rule ends on June 8, 2026. Any final rule implementing ICCAT Recommendation 25–05 would likely be effective in mid-2026 or later.

Angling Category Trophy Bluefin Tuna Gulf of America Fishery Closure

Based on landings data from the NMFS Automated Catch Reporting System, as well as average catch rates and anticipated fishing conditions, NMFS has determined the Angling category Gulf of America trophy BFT subquota has been reached and exceeded. Therefore, retaining, possessing, or landing large medium or giant (*i.e.*, measuring 73 inches (185 cm) curved fork length or greater) BFT in the Gulf of America by persons aboard HMS Angling and HMS Charter/Headboat permitted vessels (when fishing recreationally) must cease at 11:30 p.m. local time on May 21, 2026. This closure will remain effective through December 31, 2026. This action applies to HMS Angling and HMS Charter/Headboat permitted vessels when fishing recreationally for BFT, and is taken consistent with the regulations at § 635.28(a)(1). This action is intended to prevent further overharvest of the Angling category Gulf of America trophy BFT subquota. The Angling category BFT trophy fisheries for the Southern New England and Gulf of Maine areas remain open.

If needed to ensure available quotas or subquotas are not exceeded or to enhance fishing opportunities, subsequent Angling category adjustments or closures will be published in the **Federal Register** per § 635.27(a)(7) and § 635.28(a)(1). Information regarding the Angling category fishery for Atlantic tunas, including daily retention limits for BFT measuring 27 inches (68.5 cm) to less than 73 inches (185 cm), and any further Angling category adjustments, is available at <https://hmspermits.noaa.gov>. During a closure, fishermen aboard HMS Angling and HMS Charter/Headboat permitted vessels when fishing recreationally may continue to catch and release (or tag and release) BFT of all sizes, subject to the requirements of the catch-and-release and tag-and-release programs at § 635.26. All BFT that are released must be handled in a manner that will maximize survival, and without removing the fish from the water, consistent with requirements at § 635.21(a)(1). For additional information on safe handling, see the “Careful Catch and Release” brochure available at <https://www.fisheries.noaa.gov/resource/outreach-and-education/careful-catch-and-release-brochure/>.

Monitoring and Reporting

NMFS will continue to monitor the BFT fisheries closely. Per § 635.5(c)(1), HMS Angling and HMS Charter/Headboat permitted vessel owners are required to report the catch of all BFT retained or discarded dead, within 24 hours of the landing(s) or end of each trip, by accessing <https://hmspermits.noaa.gov>, using the HMS Catch Reporting app, or calling (888) 872–8862 (Monday through Friday from 8 a.m. until 4:30 p.m.).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act (16 U.S.C. 1855(d)) and regulations at 50 CFR part 635, and this action is exempt from review under Executive Order 12866.

The Assistant Administrator for NMFS (AA) finds that pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice of, and an opportunity for public comment on, this action because it is impracticable and contrary to the public interest for the following reasons. Specifically, the regulations implementing the HMS FMP and its amendments provide for inseason retention limit adjustments and fishery closures to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Providing for prior notice and opportunity to comment is impracticable and contrary to the public interest as this fishery is currently underway and, based on the most recent landings information, the Angling category Gulf of America trophy BFT fishery subquota has been reached and exceeded. Delaying this action could result in further excessive trophy BFT landings that may result in future potential quota reductions for the Angling category, depending on the magnitude of a potential Angling category overharvest. NMFS must close the Gulf of America trophy BFT fishery before additional landings of these sizes of BFT occur. Taking this action does not raise conservation and management concerns, and would support effective management of the BFT fishery. NMFS notes that the public had an opportunity to comment on the underlying rulemakings that established the U.S. BFT quota and the inseason adjustment criteria.

For all of the above reasons, the AA also finds that pursuant to 5 U.S.C. 553(d)(3), there is good cause to waive the 30-day delay in effectiveness.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: May 20, 2026.

David R. Blankinship,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026–10317 Filed 5–20–26; 4:15 pm]

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Proposed Rules

Federal Register

Vol. 91, No. 99

Friday, May 22, 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 Parts 1, 91, 121, and 135

[Docket No.: FAA–2026–5479; Notice No. 26–05]

RIN 2120–AM17

Flexibility Enhancements of Weather Reporting Systems

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to revise its regulations to substitute weather reports from the National Weather Service with weather reports prepared by FAA and other sources approved by the Administrator. The National Weather Service no longer provides weather reports in the capacity described in the relevant provisions of the regulations. Therefore, this change is necessary to remove outdated references and to maintain weather awareness in the National Airspace System.

DATES: Submit comments on or before June 22, 2026.

ADDRESSES: Send comments identified by docket number FAA–2026–5479 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 (DOT), 1200 New Jersey Avenue SE, West Building, 5th Floor (W58–213), Washington, DC 20590.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W58–213 of the West Building Ground 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 Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Gordon Rother, Safety Standards, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–8166; email Gordon.Rother@faa.gov.

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I. Executive Summary

This proposed rule would remove outdated references to weather reports prepared by the U.S. National Weather Service (NWS) and would give the FAA Administrator greater ability to approve alternate sources of weather information. Current regulations require that, for domestic and flag operations, no certificate holder may use any weather report to control flight unless, for operations within the 48 contiguous States and the District of Columbia, it was prepared by NWS or a source approved by NWS (14 CFR 121.101). Similar requirements exist for certificate holders conducting supplemental operations (14 CFR 121.119), for commuter and on-demand operations (14 CFR 135.213), and for operations conducted under subpart K of part 91 (14 CFR 91.1039). Further, both parts 121 and 135 provide that no pilot may begin an instrument approach procedure to an airport unless that airport has a weather reporting facility operated by NWS, a source approved by NWS, or a source approved by the Administrator (14 CFR 121.651, 135.225, and 135.611).

This proposed rule would remove the outdated references to NWS from parts 91, 121, and 135. This action is necessary because NWS has discontinued providing the weather reports referenced in the regulations. Specifically, NWS no longer provides the weather reporting for flight operations required by §§ 91.1039, 121.101, 121.119, 121.651, 135.213, 135.225, and 135.611. Therefore, this rule proposes to remove the outdated references to NWS and the Weather Bureau, where applicable, from these regulations. Instead, in alignment with current practices, FAA would be the source for weather reports. Because FAA is already providing these reports in practice, this action imposes no additional burdens on operators and, in some instances, relieves operators from the need for exemptions or other cumbersome approval processes.

In addition, this rule adds to §§ 121.101 and 121.119 the ability for domestic and flag operators, and supplemental operators, respectively, to use a weather source approved by the Administrator. Under current regulations, an alternate weather source must be approved by NWS, for § 121.101, and the “Weather Bureau” for § 121.119. This proposed rule would substitute the “Administrator” for the “Weather Bureau” and “U.S. National Weather Service” in these regulations, where applicable, to allow FAA to approve alternate weather sources. This proposed change would enhance weather information availability by enabling the Administrator to approve third-party weather sources.

II. Authority for This Rulemaking

FAA’s authority to issue rules on 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 FAA’s authority. This rulemaking is promulgated under the authority described in 49 U.S.C. 106(f), which establishes the authority of the Administrator to promulgate and revise regulations and rules related to aviation safety. This rulemaking is also promulgated under 49 U.S.C. 44701(a)(5) which requires the Administrator to promote safe flight of civil aircraft in air commerce by prescribing regulations and setting minimum standards for other practices, methods, and procedures necessary for safety in air commerce. These proposed regulations are within the scope of that authority.

III. Background

In 2013, FAA and NWS agreed to transfer the certification, training and inspection authority for weather observation programs operating under FAA requirements from NWS to FAA.¹ Specifically, the Limited Aviation Weather Reporting Service (LAWRS), the Contract Weather Observers (CWOs) and Non-Federal Observers (NF-OBS) programs were successfully transitioned on March 31, 2013.² In addition, the Supplementary Aviation Weather Reporting Stations (SAWRS) program would be studied for transitioning in the future. The SAWRS program was established by NWS to satisfy FAA’s requirement for uninterrupted weather observations at locations that did not have LAWRS, CWOs or NF-OBS. The SAWRS program was transferred to FAA on October 1, 2015.³ Accordingly, NWS no longer issues the weather reports contemplated by FAA’s

regulations and the respective agencies have been operating under this agreement for over a decade.

Specifically, §§ 91.1039, 121.101, 121.119, 121.651, 135.213, 135.225, and 135.611 each reference the use of weather reporting facilities operated by NWS, or a source approved by NWS. However, NWS no longer operates these weather reporting facilities nor provides the weather reports required by FAA’s regulations. Therefore, the references to NWS are outdated. However, FAA notes that NWS remains responsible for aviation weather forecasts, which involve the prediction of weather conditions in the future. Therefore, the proposed amendments in this rule would not affect weather forecast requirements.

FAA’s regulations also contain outdated references to NWS approval processes for alternate weather sources. For part 121 operators, §§ 121.101 and 121.119 state NWS must approve any alternative source of weather information for operations in the 48 contiguous States. However, NWS does not have a formal process to approve alternate sources of weather information for part 121 operations and, therefore, part 121 operators in the contiguous 48 States typically seek an exemption in order to use alternate sources. For part 135 operators, a formal advisory service process does exist, but it is cumbersome, does not lend itself to approvals, and is not frequently used. Specifically, when a part 135 operator makes a request to use an alternate source of weather information, FAA sends a letter to NWS. NWS then investigates this request along with the responsible Flight Standards office. If it is found that the standards of safety for that operation are maintained, the air carrier’s operating certificate will be amended appropriately to reflect the ability to use that alternate source of weather information.

Accordingly, this proposed rule would remove references to “a source approved by the U.S. National Weather service” and give the Administrator primary authority to approve alternate weather information. FAA is the meteorological authority for aviation weather for the United States and therefore has the responsibility and capability to approve weather sources. This proposed change would allow FAA to evaluate and approve an alternate weather source without NWS advisory service, resulting in a more streamlined, user-friendly, and efficient process. For part 121 operators, this proposed change would also void the need for operators to use the exemption process to use an

FAA-approved alternative weather source under §§ 121.101 and 121.119.

Because this proposed rule would eliminate the requirement that operators obtain weather reports and alternative source approvals from NWS, FAA expects it would enhance weather information availability by enabling the use of third-party weather sources approved by FAA. Weather information is required for many aviation operations and is critical for aviation safety. In some areas, sources of weather information for aviation operations are limited and may not be sufficient to provide for safe operations. For additional sources, such as sensors, observers, and alternate locations to be used, the data they provide must be reliable and add to operational safety. These proposed changes would give FAA greater ability to review and approve third-party weather sources.

To this end, a Safety Risk Management (SRM) Panel met on the topic of *Use of Analyzed Weather Information*, February 6–8, 2024, and completed May 13, 2024.⁴ This panel met for the purpose of determining the safety risk associated with FAA allowing the use of Performance-Based Analyzed Weather information as an approved source of weather information for parts 121 and 135 operations where certified/approved sensed weather information is not available (*i.e.*, no sensor) or missing (*i.e.*, incomplete weather information). The SRM document addresses the safety risk assessment of the hazards associated with using Analyzed Weather Information as approved weather for parts 121 and 135 operations where approved sensed weather information is unavailable or missing.⁵ The SRM Panel issued its report in October 2024. The SRM Panel addressed weather information required by FAA regulations for aviators to use in their operations found in the Meteorological Aerodrome Report (METAR) describing ceiling and visibility, temperature and dew point, atmospheric pressure, wind speed and direction, and present weather. The SRM Panel identified hazards and risks that require mitigation. FAA Order 8900.1, Volume 3, Chapter 18, Section 3 and/or OpSpec A010 will be updated to incorporate mitigation guidance based on the variability of the analyzed weather relative to the current performance of the data quality of an ASOS/AWOS. Mitigation adjustments will be made for latency and data variability as well as geographic variability of data where station-based information is not possible/available. The SRM Panel noted with applicable mitigations

applied, hazards would be reduced to low risk and at a level no different than how the NAS operates today with respect to Weather Information. With the resultant low risk assessment, the Panel concluded a Monitoring Plan was not required.⁶ FAA anticipates this rule, if adopted as proposed, would give the agency more flexibility to approve the use of the kinds of analyzed weather information identified by the SRM panel.

IV. Discussion of the Proposed Rule

This proposed rule would align FAA regulations with current practices by removing outdated references to NWS and “weather reporting facilities.” The adoption of this proposed rule would also alleviate the burden on operators to engage in cumbersome approval processes through NWS and, for some part 121 operators, eliminate the need to obtain exemptions to utilize proven and reliable alternate sources of weather information.

A. 14 CFR 1.1 Definitions

Definitions applicable throughout FAA regulations are contained in 14 CFR 1.1, among which is the definition of “Ground visibility.” This rule, if finalized as proposed, would revise the definition of “Ground visibility” to change the source of weather information from NWS to FAA. FAA is already providing these weather observations either by sensors or human observation. This revision is a necessary amendment to ensure accuracy now that NWS no longer provides the referenced service.

The proposed definition reads: “Ground visibility means prevailing horizontal visibility near the earth’s surface as reported by the Federal Aviation Administration or an accredited observer.”

B. 14 CFR 91.1039 IFR Takeoff, Approach and Landing Minimums

Section 91.1039 prohibits a pilot from beginning an instrument approach to an airport unless that airport or the alternate airport has a weather reporting facility operated by NWS, a source approved by NWS, or a source approved by the Administrator. The proposed amendments to this section would remove references to NWS and change the source of weather information to FAA or a source approved by the Administrator.

Presently, because NWS has not produced weather reports for over ten years, pilots needing to fly to locations where the tower is unavailable must request approval from FAA to receive weather data from another source. The

proposed amendment would allow FAA to locate and approve alternate sources of weather data, which would provide more certainty to those seeking to use an alternate weather source at a particular location.

The proposed amendments also remove the phrase “weather reporting facility” from paragraphs (a)(1), (a)(2), and (b). This term is outdated, does not accurately encompass the kind of weather information used in practice, and is not in alignment with the terminology used throughout part 135. The proposed regulation will replace the term “weather reporting facility” with “weather report” and, as discussed previously, require that report to be prepared by FAA or a source approved by FAA.

C. 14 CFR 121.101 Weather Reports and Forecasts

Currently, § 121.101 requires a certificate holder conducting domestic or flag operations to ensure adequate weather reporting is available along each route and further requires any weather report used to control flight be prepared by NWS or a source approved by NWS. At present, the regulation does not enable the Administrator to approve alternate sources of weather information for such operators.

This proposed rule would remove references to NWS and instead require operators to use weather reports prepared by FAA. The proposed amendment would also add to § 121.101(b) the ability of the Administrator to approve alternative sources of weather information. Because current § 121.101(b)(2) already authorizes the Administrator to approve alternate sources of weather information for operators outside of the 48 contiguous States, a process already exists for such approvals. With this proposed amendment, FAA anticipates applying this same process to operators within the contiguous United States.

Further, in light of the amendment to the weather report language in § 121.101(b), FAA proposes to clarify in § 121.101(c) that forecasts used to control flight movement must still be prepared by NWS, or a source approved by the Administrator.

In addition, FAA proposes to amend the section heading of this regulation from “Weather reporting facilities” to “Weather reports and forecasts” to harmonize with the terminology used in part 135, remove the outdated term, and to be inclusive of forecasts.

D. 14 CFR 121.119 Weather Reports and Forecasts

Under the current regulation, only a weather report prepared and released by NWS, or a source approved by the Weather Bureau may be used to control flight by a certificate holder conducting supplemental operations. This proposed rule would remove the reference to NWS and the Weather Bureau and require such a report to be prepared by FAA, or a source approved by the Administrator.

The rule also proposes to amend paragraph (b) to clarify that forecasts used to control flight movements will still be prepared by NWS, as is current practice. FAA is also proposing to add new language to this paragraph to allow the Administrator to approve an alternate source of forecast information. As proposed, paragraph (b) would allow a certificate holder conducting supplemental operations to use a forecast prepared by NWS or a source approved by the Administrator to control flight movements.

For operations outside the U.S. or at U.S. Military airports, the regulation currently requires a weather report be “prepared by a source found satisfactory by the Administrator.” This rule proposes to remove the ambiguous phrase “found satisfactory” from paragraph (a) in favor of the more consistent phrase “approved by the Administrator.” This change would clarify a certificate holder conducting supplemental operations outside the U.S. can use a weather report “approved by the Administrator” and align the terminology used in paragraph (a) with the rest of the part 121 regulations.

Similar to the proposed section heading revision to § 121.101, FAA proposes to revise the section heading of this regulation to be inclusive of forecasts and weather reports. The proposed amendment would change the section heading from “Weather reporting facilities” to “Weather reports and forecasts.” Weather reporting facilities is an outdated, non-standardized term and this proposed change would align this section with the rest of the proposed rule.

E. 14 CFR 121.171 Subpart I—Airplane Performance Operating Limitations Applicability

The proposed rule would amend this section by adding a general statement that weather information required by subpart I of part 121 be provided by or approved by the Administrator. This amendment is intended to clarify that weather information required under subpart I of part 121, Airplane

Performance Operating Limitations, must be prepared by FAA or a source approved by FAA.

F. 14 CFR 121.651 Takeoff and Landing Weather Minimums: IFR: All Certificate Holders

Under the current § 121.651(a), no pilot may begin a takeoff in an airplane under IFR when the weather conditions reported by NWS, a source approved by NWS, or a source approved by the Administrator are less than those specified in the certificate holder's OpSpecs for parts 91 and 97, as applicable. Because NWS is no longer reporting weather conditions, this rule would remove the outdated reference to the "U.S. National Weather Service" and clarify that a pilot must utilize a report issued by FAA or a source approved by FAA to fulfil this regulatory requirement.

This rule also proposes to make corresponding amendments to paragraphs (b)(1) and (2) by removing the outdated references to NWS. The proposed changes to paragraph (b)(1) clarify that no pilot may continue an approach past the final approach fix, or where a final approach fix is not used, begin the final approach segment of an instrument approach procedure at any airport, "unless the Federal Aviation Administration or a source approved by the Administrator prepares a weather report for that airport." The proposed changes to paragraph (b)(2) similarly clarify that the "latest weather report for an airport issued by the Federal Aviation Administration or a source approved by the Administrator" must report the visibility to be equal to or more than the visibility minimums prescribed for that procedure.

G. Subpart D—VFR/IFR Operating Limitations and Weather Requirements 14 CFR 135.201 Applicability

This proposed rule would add a new paragraph to the applicability section for subpart D of part 135 that states weather information required by subpart D must be prepared by FAA or a source approved by the Administrator.

H. § 135.213 Weather Reports and Forecasts

This section currently states that whenever a person operating an aircraft under part 135 is required to use a weather report or forecast, that report or forecast must be from NWS or a source approved by NWS, or a source approved by the Administrator. In the context of weather reports, this proposed rule would remove the references to NWS and instead require the weather report to be prepared by FAA, or a source

approved by FAA. The proposed rule retains the requirement for a person to use a forecast prepared by NWS or a source approved by the Administrator.

I. 14 CFR 135.225 IFR: Takeoff, Approach and Landing Minimums

Paragraph (a) of this section currently states that no pilot may begin an instrument approach to an airport unless the airport has a weather reporting facility operated by NWS, a source approved by NWS, or a source approved by the Administrator. This proposed rule would remove the outdated reference to NWS and instead require the airport to have a weather report prepared by FAA or a weather source approved by FAA. The proposed rule also removes the term "weather reporting facility" from this paragraph, as well as from paragraph (b), because it is an outdated, non-standardized term. In its place, FAA is proposing to use the more accurate term "weather report."

For paragraph (b), applicable to eligible on-demand operations, this proposed rule would similarly remove the outdated reference to NWS. In parallel with the changes to paragraph (a), FAA is proposing to change the phrase "a weather reporting facility operated by the U.S. National Weather Service, a source approved by the U.S. National Weather Service, or a source approved by the Administrator" to "weather report prepared by the Federal Aviation Administration or a source approved by the Administrator."

For paragraph (b)(2) specifically, FAA is proposing to replace the phrase "the current altimeter setting provided by the facility" designated on the approach chart for the destination airport with "the Remote Altimeter Setting Source (RASS)." This change would continue to allow an eligible on-demand operation to use an alternate altimeter setting from a nearby weather report, if it is charted on the instrument approach chart for the intended destination. This change is intended to update and clarify the language of the current regulation, in order to align the regulation with current industry practice. It is not intended to alter its meaning or add a new regulatory burden for operators.

FAA is also proposing to make corresponding editorial amendments to paragraphs (c), (g), and (h) to remove the term "facility" and replace it with "report." In paragraph (d), FAA is also proposing to remove a reference to the "appropriate facility" for clarity. Though the use of this term in paragraph (d)(1)(iii)(A) does not refer to a weather reporting facility, the language is extraneous and its removal

does not change the meaning of the regulation.

J. Subpart I—Airplane Performance Operating Limitations 14 CFR 135.361 Applicability

The proposed rule would add to this applicability section a general statement that weather information required by subpart I of part 135 must be prepared by or approved by the Administrator.

K. 14 CFR 135.611 IFR Operations at Locations Without Weather Reporting

Section 135.611 currently requires certificate holders who are authorized to conduct helicopter IFR operations to obtain a weather report from a weather reporting facility operated by NWS, a source approved by NWS, or a source approved by FAA located within 15 nautical miles of the airport when conducting IFR helicopter air ambulance operations at airports with an instrument approach procedure and "at which a weather report is not available from the U.S. National Weather Service (NWS), a source approved by NWS, or a source approved by the FAA." The proposed rule would again remove the outdated references to NWS and substitute FAA, or a source approved by the Administrator, as the source for weather reports required by this regulation.

V. Regulatory Notices and Analyses

A. Regulatory Impact Analysis

Executive Order (E.O.) 12866 ("Regulatory Planning and Review") and E.O. 13563 ("Improving Regulation and Regulatory Review") require agencies to regulate in the "most cost-effective manner," to make a "reasoned determination the benefits of the intended regulation justify its costs," and to develop regulations that "impose the least burden on society." The Office of Management and Budget has determined this proposed rule is not a significant regulatory action as defined in section 3(f) of E.O. 12866.

This proposed rule would remove outdated references to weather reports prepared by NWS and give the FAA Administrator greater ability to approve alternate sources of weather information. Presently, FAA certifies weather reporting in the absence of NWS reports for parts 121 and 135 operations. This is possible because FAA is a source confirmed by NWS. Thus, there would be no change to existing industry practice due to these proposed changes and no impact for this update to outdated language.

This proposed rule would also streamline weather information

availability by enabling the FAA Administrator to approve third-party weather sources. Presently, domestic, flag, and supplemental operators conducting operations under part 121 must utilize the exemption process to use such sources, and part 135 operators must undergo a cumbersome approval process that requires coordination with NWS. It is expected that authorizing the Administrator to approve alternate weather sources would be a less labor-intensive process and more efficient for both FAA and operators, though FAA has not quantified any specific monetary savings.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires agencies to analyze the economic impacts of certain rules on small entities. When an agency proposes a rule likely to have a significant economic impact on a substantial number of small entities, it must prepare an initial regulatory flexibility analysis (IRFA) describing the rule's impact on small entities and any significant alternatives considered.

The adoption of this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would remove outdated, obsolete language regarding NWS and enable a more streamlined approval process for the approval of third-party weather sources. Currently, parts 121 and 135 operators would need to undergo a cumbersome exemption application process to use third-party weather sources, and this proposal would enable a streamlined approval process instead. These proposed provisions do not add any new costs to regulated entities. Therefore, FAA certifies the proposed rule will not have a significant economic impact on small entities. FAA welcomes comments on the basis for this certification.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety and does not operate in a manner that excludes

imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, they be the basis for U.S. standards.

FAA has assessed the potential effect of this rule and determined that it ensures the safety of the American public and does not exclude imports that meet this objective. As a result, FAA does not consider this rule as creating an unnecessary obstacle to foreign commerce.

D. Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or Tribal government or the private sector to incur direct costs without the Federal Government having first provided the funds to pay those costs. FAA has determined this proposed rule will not result in the expenditure of \$187 million or more by State, local, or Tribal governments, in the aggregate, or the private sector, in any one year.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires FAA to consider the impact of paperwork and other information collection burdens imposed on the public. FAA has determined there is no new requirement for information collection associated with this proposed rule.

F. International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. FAA has determined there are no ICAO Standards and Recommended Practices that correspond to these regulations.

G. Environmental Analysis

FAA has analyzed the environmental impacts of this proposed rule pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). FAA has determined this rule is categorically excluded pursuant to Paragraph B–2.6(f) of Appendix B to FAA Order 1050.1G, FAA National Environmental Policy Act Implementing Procedures.⁷ Categorical exclusions are categories of actions the agency has determined normally do not significantly affect the quality of the human environment and therefore do not require either an environmental

assessment (EA) or environmental impact statement (EIS).⁸ In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS.⁹ This rulemaking, which would remove outdated references to weather reports prepared by NWS and give the FAA Administrator greater ability to approve alternate sources of weather information, is categorically excluded pursuant to Paragraph B–2.6(f) of FAA Order 1050.1G: “Regulations, standards, and exemptions (excluding those if implemented may cause a significant impact on the human environment).” FAA does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

VI. Executive Order Determinations

A. Executive Order 13132, Federalism

FAA has analyzed this proposed rule under the principles and criteria of E.O. 13132, Federalism. FAA has determined this action will not have a substantial direct effect on the States, the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government and, therefore, will not have federalism implications.

B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

FAA analyzed this proposed rule under E.O. 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. FAA has determined it is not a “significant energy action” under the executive order and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

C. Executive Order 13609, Promoting International Regulatory Cooperation

E.O. 13609, Promoting International Regulatory Cooperation, promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. FAA has analyzed this action under the policies and agency responsibilities of E.O. 13609 and has determined this action will have no effect on international regulatory cooperation.

D. Executive Order 14192, Unleashing American Prosperity Through Deregulation

E.O. 14192 (“Unleashing Prosperity through Deregulation”) issued January 31, 2025, instructs agencies to “alleviate unnecessary regulatory burdens.” FAA expects this proposed rule, if finalized as proposed, to be an E.O. 14192 deregulatory action as it removes outdated references and enables a more efficient approval process.

VII. Additional Information

A. Comments Invited

FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the rule, 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.

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 rulemaking. Before acting on this rulemaking, FAA will consider all comments it receives on or before the closing date for comments. FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. FAA may change this rule in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), FAA solicits comments from the public to better inform its rulemaking process. FAA 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.

B. Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this proposed rule 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 proposed rule, it is

important you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this proposed rule. Submissions containing CBI should be sent to the person in the **FOR FURTHER INFORMATION CONTACT** section of this document. Any commentary FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

C. Electronic Access and Filing

A copy of this proposed rule, all comments received, any final rule, and all background material may be viewed online at www.regulations.gov using the docket number listed above. A copy of this proposed rule will be placed in the docket. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register’s website at www.federalregister.gov and the Government Publishing Office’s website at www.govinfo.gov. A copy may also be found on FAA’s Regulations and Policies website at www.faa.gov/regulations_policies.

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267-9677. Commenters must identify the docket or notice number of this rulemaking.

All documents FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed in the electronic docket for this rulemaking.

D. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document may contact its local FAA official or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the internet, visit www.faa.gov/regulations_policies/rulemaking/sbre_act/.

Endnotes

¹ Letter, March 6, 2015, Laura K. Furgione, NOAA to Dan Smiley, FAA. A copy of this letter has been placed in the docket for this rulemaking.

² Letter, May 08, 2015, Terry Biggio, FAA to Laura Furgione, NOAA. A copy of this letter has been placed in the docket for this rulemaking.

³ Letter, September 01, 2015, Dan Smiley FAA to Laura Furgione NOAA. A copy of this letter has been placed in the docket for this rulemaking.

⁴ *Use of Analyzed Weather Information Safety Risk Management Document*, FAA Flight Technologies and Procedures Division October 2024. A copy of this report has been placed in the docket for this rulemaking.

⁵ Analyzed weather is weather information provided from an alternate source than the currently approved ground-based weather reporting systems; alternate sources may include: model-derived, gridded estimations of current conditions, or in situ observations from novel data sources such as UAS or weather cameras, and surface sensors that are currently not approved to produce METARs. Analyzed weather consists of elements that are necessary for safe aviation operations and could be used where approved weather information is not available.

⁶ *Use of Analyzed Weather Information Safety Risk Management Document*, FAA Flight Technologies and Procedures Division October 2024. A copy of this report has been placed in the docket for this rulemaking.

⁷ 90 FR 29615, Jul. 3, 2025.

⁸ See DOT Order 5610.1D § 9.

⁹ Id. § 9(b).

List of Subjects

14 CFR Part 1

Air transportation.

14 CFR Part 91

Air carriers, Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Reporting and recordkeeping requirements, Transportation.

14 CFR Part 121

Air carriers, Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements, Safety, Transportation.

14 CFR Part 135

Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements.

The Proposed Amendment

For the reasons discussed in the preamble, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations as follows:

PART 1—DEFINITIONS AND ABBREVIATIONS

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

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

- 2. Amend § 1.1 by revising the definition of “ground visibility” to read as follows:

§ 1.1 General definitions.

* * * * *

Ground visibility means prevailing horizontal visibility near the earth’s surface as reported by the Federal Aviation Administration or an accredited observer.

* * * * *

PART 91—GENERAL OPERATING AND FLIGHT RULES

- 3. 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, 44740, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, 47534; Pub. L. 112–95, 126 Stat. 11; Pub. L. 114–190, 130 Stat. 615 (49 U.S.C. 44703 note); Sec. 828 of Pub. L. 118–63, 138 Stat. 1330 (49 U.S.C. 44703 note); articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180).

- 4. Amend § 91.1039 by revising paragraphs (a)(1) and (2), and (b) to read as follows:

§ 91.1039 IFR takeoff, approach and landing minimums.

(a) * * *

(1) Either that airport or the alternate airport has a weather report prepared by the Federal Aviation Administration or a source approved by the Administrator; and

(2) The latest weather report issued includes a current local altimeter setting for the destination airport. If no local altimeter setting is available at the destination airport, the pilot must obtain the current local altimeter setting from a source approved by the Administrator on the approach chart for the destination airport.

(b) For flight planning purposes, if the destination airport does not have a weather report described in paragraph (a)(1) of this section, the pilot must designate as an alternate an airport that has a weather report meeting that criteria.

* * * * *

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

- 5. The authority citation for part 121 is revised to read as follows:

Authority: 49 U.S.C. 106(f), 40103, 40113, 40119, 41706, 42301 preceding note added by Pub. L. 112–95, sec. 412, 126 Stat. 89,

44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44729, 44732; 46105; Pub. L. 111–216, 124 Stat. 2348 (49 U.S.C. 44701 note); Pub. L. 112–95, 126 Stat. 62 (49 U.S.C. 44732 note); Pub. L. 115–254, 132 Stat. 3186 (49 U.S.C. 44701 note).

- 6. Amend § 121.101 by revising the section heading and paragraphs (b) and (c) to read as follows:

§ 121.101 Weather reports and forecasts.

* * * * *

(b) Except as provided in paragraph (d) of this section, no certificate holder conducting domestic or flag operations may use any weather report to control flight unless it was prepared by the Federal Aviation Administration or a source approved by the Administrator.

(c) Except as provided in paragraph (d) of this section, each certificate holder conducting domestic or flag operations that uses forecasts to control flight movements shall use forecasts prepared by the National Weather Service or a source approved by the Administrator.

* * * * *

- 7. Revise § 121.119 to read as follows:

§ 121.119 Weather reports and forecasts.

(a) No certificate holder conducting supplemental operations may use any weather report to control flight unless it was prepared by the Federal Aviation Administration or a source approved by the Administrator. For operations outside the U.S., or at U.S. Military airports, where those reports are not available, the certificate holder must show that its weather reports are prepared by a source approved by the Administrator.

(b) Each certificate holder conducting supplemental operations that uses forecasts to control flight movements shall use forecasts prepared by the National Weather Service or a source approved by the Administrator.

- 8. Amend § 121.171 by adding paragraph (d) to read as follows:

121.171 Applicability.

* * * * *

(d) For the purposes of this subpart, weather information, including information used to obtain ambient temperature, wind components, wind velocity and direction, and other wind conditions, must be prepared by the Federal Aviation Administration or a source approved by the Administrator.

- 10. Amend § 121.651 by revising paragraph (a) introductory text, and paragraphs (b)(1) and (2) to read as follows:

121.651 Takeoff and landing weather minimums: IFR: All certificate holders.

(a) Notwithstanding any clearance from ATC, no pilot may begin a takeoff in an airplane under IFR when the weather conditions reported by the Federal Aviation Administration or a source approved by the Administrator are less than those specified in—

* * * * *

(b) * * *

(1) At any airport, unless the Federal Aviation Administration or a source approved by the Administrator prepares a weather report for that airport; and

(2) At airports within the United States and its territories or at U.S. military airports, unless the latest weather report for that airport issued by the Federal Aviation Administration or a source approved by the Administrator reports the visibility to be equal to or more than the visibility minimums prescribed for that procedure. For the purpose of this section, the term “U.S. military airports” means airports in foreign countries where flight operations are under the control of U.S. military authority.

* * * * *

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

- 11. 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).

- 12. Revise § 135.201 to read as follows:

135.201 Applicability

(a) This subpart prescribes the operating limitations for VFR/IFR flight operations and associated weather requirements for operations under this part.

(b) For the purposes of this subpart, weather information, including information used to obtain ambient temperature, wind components, wind velocity and direction, and other wind conditions, must be prepared by the Federal Aviation Administration or a source approved by the Administrator.

- 13. Amend § 135.213 by revising paragraph (a) to read as follows:

135.213 Weather reports and forecasts.

(a) Whenever a person operating an aircraft under this part is required to use a weather report, that person shall use a weather report prepared by the

Federal Aviation Administration or a source approved by the Administrator. Whenever a person operating an aircraft under this part is required to use a forecast, that person shall use a weather forecast issued by the National Weather Service, or a source approved by the Administrator. However, for operations under VFR, the pilot in command may, if such a report is not available, use weather information based on that pilot's own observations or on those of other persons competent to supply appropriate observations.

* * * * *

■ 14. Revise § 135.225 to read as follows:

135.225 IFR: Takeoff, approach and landing minimums.

(a) Except to the extent permitted by paragraphs (b) and (j) of this section, no pilot may begin an instrument approach procedure to an airport unless—

(1) That airport has a weather report prepared by the Federal Aviation Administration or a source approved by the Administrator; and

(2) The latest weather report issued by the Federal Aviation Administration or a source approved by the Administrator indicates that weather conditions are at or above the authorized IFR landing minimums for that airport.

(b) A pilot conducting an eligible on-demand operation may begin and conduct an instrument approach procedure to an airport that does not have a weather report prepared by the Federal Aviation Administration or a source approved by the Administrator if—

(1) The alternate airport has a weather report prepared by the Federal Aviation Administration or a source approved by the Administrator; and

(2) The latest weather report includes a current local altimeter setting for the destination airport. If no local altimeter setting for the destination airport is available, the pilot may use the Remote Altimeter Setting Source (RASS), if available, designated on the approach chart for the destination airport.

(c) Except as provided in paragraph (j) of this section, no pilot may begin the final approach segment of an instrument approach procedure to an airport unless the latest weather reported by the report described in paragraph (a)(1) of this section indicates that weather conditions are at or above the authorized IFR landing minimums for that procedure.

(d) Except as provided in paragraph (j) of this section, a pilot who has begun the final approach segment of an instrument approach to an airport under paragraph (c) of this section, and

receives a later weather report indicating that conditions have worsened to below the minimum requirements, may continue the approach only if the following conditions are met—

(1) The later weather report is received when the aircraft is in one of the following approach phases:

(i) The aircraft is on an ILS final approach and has passed the final approach fix;

(ii) The aircraft is on an ASR or PAR final approach and has been turned over to the final approach controller; or

(iii) The aircraft is on a non-precision final approach and the aircraft—

(A) Has passed the final approach fix; or

(B) Where a final approach fix is not specified, has completed the procedure turn and is established inbound toward the airport on the final approach course within the distance prescribed in the procedure; and

(2) The pilot in command finds, on reaching the authorized MDA or DA/DH, that the actual weather conditions are at or above the minimums prescribed for the procedure being used.

(e) The MDA or DA/DH and visibility landing minimums prescribed in part 97 of this chapter or in the operator's operations specifications are increased by 100 feet and ½ mile respectively, but not to exceed the ceiling and visibility minimums for that airport when used as an alternate airport, for each pilot in command of a turbine-powered airplane who has not served at least 100 hours as pilot in command in that type of airplane.

(f) Each pilot making an IFR takeoff or approach and landing at a military or foreign airport shall comply with applicable instrument approach procedures and weather minimums prescribed by the authority having jurisdiction over that airport. In addition, unless authorized by the certificate holder's operations specifications, no pilot may, at that airport—

(1) Take off under IFR when the visibility is less than 1 mile; or

(2) Make an instrument approach when the visibility is less than ½ mile.

(g) If takeoff minimums are specified in part 97 of this chapter for the takeoff airport, no pilot may take off an aircraft under IFR when the weather conditions reported by the report described in paragraph (a)(1) of this section are less than the takeoff minimums specified for the takeoff airport in part 97 or in the certificate holder's operations specifications.

(h) Except as provided in paragraph (i) of this section, if takeoff minimums

are not prescribed in part 97 of this chapter for the takeoff airport, no pilot may takeoff an aircraft under IFR when the weather conditions reported by the report described in paragraph (a)(1) of this section are less than that prescribed in part 91 of this chapter or in the certificate holder's operations specifications.

(i) At airports where straight-in instrument approach procedures are authorized, a pilot may takeoff an aircraft under IFR when the weather conditions reported by the report described in paragraph (a)(1) of this section are equal to or better than the lowest straight-in landing minimums, unless otherwise restricted, if—

(1) The wind direction and velocity at the time of takeoff are such that a straight-in instrument approach can be made to the runway served by the instrument approach;

(2) The associated ground facilities upon which the landing minimums are predicated and the related airborne equipment are in normal operation; and

(3) The certificate holder has been approved for such operations.

(j) A pilot may begin an instrument approach procedure, or continue an approach, at an airport when the visibility is reported to be less than the visibility minimums prescribed for that procedure if the pilot uses an operable EFVS in accordance with § 91.176 of this chapter and the certificate holder's operations specifications for EFVS operations.

■ 15. Amend § 135.361 by adding paragraph (d) to read as follows:

135.361 Applicability

* * * * *

(d) For the purposes of this subpart, weather information, including information used to obtain ambient temperature, wind components, wind velocity and direction, and other wind conditions, must be prepared by the Federal Aviation Administration or a source approved by the Administrator.

■ 16. Amend § 135.611 by revising paragraphs (a) introductory text and (a)(1) to read as follows:

135.611 IFR operations at locations without weather reporting.

(a) If a certificate holder is authorized to conduct helicopter IFR operations, the Administrator may authorize the certificate holder to conduct IFR helicopter air ambulance operations at airports with an instrument approach procedure and at which a weather report is not available from the Federal Aviation Administration or a source approved by the Administrator, subject to the following limitations:

(1) The certificate holder must obtain a weather report from the Federal Aviation Administration or a source approved by the Administrator that is located within 15 nautical miles of the airport. If a weather report is not available, the certificate holder may obtain weather reports, forecasts, or any combination of them from the Federal Aviation Administration or a source approved by the Administrator for information regarding the weather observed in the vicinity of the airport;

* * * * *

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

Hugh J. Thomas,

Acting Executive Director, Flight Standards Service.

[FR Doc. 2026-10286 Filed 5-21-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2026-4644; Project Identifier MCAI-2024-00418-R]

RIN 2120-AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2023-25-14, which applies to certain Airbus Helicopters Model EC130T2 helicopters. AD 2023-25-14 revises the procedures for inspecting the vibration level on the tail rotor drive shaft and, depending on these results, requires replacing certain parts. Since the FAA issued AD 2023-25-14, the manufacturer developed a modification of the rear drive shaft, sliding flange and equipped splined sleeve. This proposed AD would require installing this modification and repetitively inspecting the vibration level of the tail rotor drive shaft. This proposed AD would also prohibit the installation of certain parts and prohibit the performance of a balance correction unless certain requirements are met. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by July 6, 2026.

ADDRESSES: You may send comments, using the procedures found in 14 CFR

11.43 and 11.45, by any of the following methods:

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

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

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

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

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2026-4644; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI) any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

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

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 10101 Hillwood Parkway, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222 5110.

FOR FURTHER INFORMATION CONTACT: Eric Rivera, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (773) 412-9048; email: eric.rivera01@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under **ADDRESSES**. Include "Docket No. FAA-2026-4644; Project Identifier MCAI-2024-00418-R" at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other

information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to [regulations.gov](https://www.regulations.gov), including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

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

Background

The FAA issued AD 2023-25-14, Amendment 39-22641 (88 FR 89568, December 28, 2023) (AD 2023-25-14), for certain Airbus Helicopters Model EC130T2 helicopters. AD 2023-25-14 was prompted by an MCAI originated by EASA, which is the Technical Agent for the Member States of the European Union. EASA issued EASA Emergency AD 2023-0190-E, dated November 2, 2023 (EASA Emergency AD 2023-0190-E) to correct an unsafe condition identified as excessive vibration level on the tail rotor drive shaft, which could result in failure of the tail rotor drive shaft and subsequent loss of yaw control of the helicopter.

AD 2023-25-14 requires repetitively checking the balancing of the tail rotor drive shaft by measuring the vibration level. Depending on the results, AD 2023-25-14 requires replacing certain parts with new parts. AD 2023-25-14 prohibits installing certain part-numbered tail rotor drive shafts on any helicopter unless its requirements are met. The FAA issued AD 2023-25-14 to address an excessive vibration level on the tail rotor drive shaft. The unsafe condition, if not addressed, could result

in failure of the tail rotor drive shaft and loss of yaw control of the helicopter.

Actions Since AD 2023–25–14 Was Issued

Since the FAA issued AD 2023–25–14, EASA superseded EASA Emergency AD 2023–0190–E and issued EASA AD 2023–0190R1, dated February 20, 2024 (EASA AD 2023–0190R1). EASA AD 2023–0190R1 states a determination was made that a used equipped splined sleeve and sliding flange may be installed provided certain conditions are met. EASA then superseded EASA AD 2023–0190R1 and issued EASA AD 2024–0144, dated July 19, 2024 (EASA AD 2024–0144) (also referred to as the MCAI). The MCAI states that since EASA AD 2023–0190R1 was issued, the manufacturer developed a modification consisting of a new rear rotor drive shaft, a new sliding flange, and a new equipped splined sleeve, and that while these parts are less susceptible to cracks, insufficient data is available to treat them as terminating action for that AD's repetitive actions. In addition, EASA AD 2024–0144 expands the list of affected part numbers to include the new modified parts.

Since the issuance of AD 2023–25–14, the FAA also received a comment from Airbus Helicopters who requested changes to the actions of AD 2023–25–14, specifically in regard to the prohibition of performing a balance correction. The comment disposition below explains and addresses this comment.

The FAA is proposing this AD to continue to address excessive vibration level on the tail rotor drive shaft. The unsafe condition, if not addressed, could result in failure of the tail rotor drive shaft and loss of yaw control of the helicopter.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2026–4644.

Comment on AD 2023–25–14

The FAA gave the public the opportunity to comment on AD 2023–25–14. The following presents the comment received on AD 2023–25–14 and the FAA's response to the comment.

Request To Require the Prohibition of Balance Correction

Airbus Helicopters requested that the FAA revise AD 2023–25–14 to keep the EASA Emergency AD 2023–0190–E and associated Airbus Helicopters EASB 05A042 Revision 1 requirement to prohibit performing a balance correction, except if it is accomplished before next flight after replacing the

sliding flange and the equipped splined sleeve.

The FAA agrees. The FAA determined that the balance correction prohibition was incorrectly interpreted to refer to the accomplishment of a future action or maintenance task which is not an FAA enforceable action. This proposed AD includes the prohibition.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2024–0144, which specifies procedures for repetitively checking the balancing of the tail rotor drive shaft by measuring the vibration level and, depending on the results, replacing certain parts with either used, new, or modified parts. EASA AD 2024–0144 also prohibits performing a balance correction unless this action is performed concurrently with replacing certain parts. If a balance correction has already been performed independently of replacing those parts, EASA AD 2024–0144 specifies contacting Airbus Helicopters to obtain approved instructions and accomplishing those instructions. EASA AD 2024–0144 also specifies reporting the vibration measurements to Airbus Helicopters and installing modified rear drive shaft, sliding flange, and equipped splined sleeve parts. Lastly, EASA AD 2024–0144 prohibits installing certain part-numbered tail rotor drive shafts, sliding flanges, or equipped splined sleeves on any helicopter.

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

FAA's Determination

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

Proposed AD Requirements in This NPRM

This proposed AD requires accomplishing the actions specified in EASA AD 2024–0144, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD. See “Differences Between this Proposed AD

and the MCAI” for a discussion of the general differences included in this proposed AD.

Differences Between This Proposed AD and the MCAI

For helicopters that accomplished a balance correction in accordance with the instructions of the applicable aircraft maintenance manual (AMM) before the effective date of EASA AD 2024–0144, except if this balance correction was accomplished before next flight after replacing the sliding flange and the equipped splined sleeve, EASA AD 2024–0144 requires contacting AH [Airbus Helicopters] to obtain approved instructions, and within the compliance time(s) specified therein, accomplishing those instructions accordingly. Whereas, for helicopters that accomplished a balance correction in accordance with the instructions of the applicable AMM before the effective date of this proposed AD, except those that accomplished a balance correction before the next flight after installing a new (zero total hours time-in-service) sliding flange and a new (zero total hours time-in-service) equipped splined sleeve, this proposed AD requires corrective action accomplished in accordance with a method approved by the FAA, EASA, or Airbus Helicopters' EASA Design Organization Approval.

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 CAA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2024–0144 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2024–0144 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2024–0144 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 2024–0144. Material required by EASA AD 2024–0144 for compliance will be available at

regulations.gov under Docket FAA–2026–4644 after the FAA final rule is published.

Interim Action

The FAA considers that this proposed AD would be an interim action. If final action is later identified, the FAA might consider further rulemaking then.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 108 helicopters of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Vibration level inspection	1 work-hour × \$85 per hour = \$85	\$0	\$85	\$9,180
Install modified sliding flange, equipped splined sleeve, and rear rotor drive shaft.	8 work-hours × \$85 per hour = \$680	61,716	62,396	6,738,768

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

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

helicopters that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace sliding flange and equipped splined sleeve ...	8 work-hours × \$85 per hour = \$680	\$72,749	\$73,429
Balance correction	3 work-hours × \$85 per hour = \$255	0	255

For helicopters that accomplished a balance correction in accordance with the instructions of the applicable AMM before the effective date of this AD, except those that accomplished a balance correction before the next flight after installing a new (zero total hours time-in-service) sliding flange and a new (zero total hours time-in-service) equipped splined sleeve, the corrective action that may be needed could vary significantly from helicopter to helicopter. The FAA has no data to determine the costs to accomplish the corrective action or the number of helicopters that may require corrective action.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that the proposed regulation:

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Would not affect intrastate aviation in Alaska, and
- (3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by:
- a. Removing Airworthiness Directive 2023–25–14, Amendment 39–22641 (88 FR 89568, December 28, 2023); and
 - b. Adding the following new airworthiness directive:

Airbus Helicopters: Docket No. FAA–2026–4644; Project Identifier MCAI–2024–00418–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by July 6, 2026.

(b) Affected ADs

This AD replaces AD 2023–25–14, Amendment 39–22641 (88 FR 89568, December 28, 2023).

(c) Applicability

This AD applies to all Airbus Helicopters Model EC130T2 helicopters, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2024–0144, dated July 19, 2024 (EASA AD 2024–0144).

(d) Subject

Joint Aircraft System Component (JASC) Code 6510, Tail Rotor Drive Shaft.

(e) Unsafe Condition

This AD was prompted by a report of a crack in the tailboom. The FAA is issuing

this AD to address an excessive vibration level on the tail rotor drive shaft. The unsafe condition, if not addressed, could result in failure of the tail rotor drive shaft and loss of yaw control of the helicopter.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2024–0144.

(h) Exceptions to EASA AD 2024–0144

(1) Where EASA AD 2024–0144 requires compliance in terms of flight hours, this AD requires using hours time-in-service.

(2) Where EASA AD 2024–0144 refers to its effective date, or where EASA AD 2024–0144 refers to November 6, 2023 [the effective date of EASA Emergency AD 2023–0190–E], this AD requires using the effective date of this AD.

(3) Where EASA AD 2024–0144 refers to “checks”, this AD requires replacing that text with “inspections”.

(4) Where paragraph (4) of EASA AD 2024–0144 specifies to “contact AH [Airbus Helicopters] to obtain approved instructions, and within the compliance time(s) specified therein, accomplish those instructions accordingly”, this AD requires replacing that text with “accomplish corrective action in accordance with a method approved by the Manager, International Validation Branch, FAA; or EASA; or Airbus Helicopters’ EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature, and within the compliance time(s) specified therein, accomplish those instructions accordingly.”

(5) This AD does not adopt the “Remarks” section of EASA AD 2024–0144.

(i) No Reporting Requirement

Although the material referenced in EASA AD 2024–0144 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Additional Information

For more information about this AD, contact Eric Rivera, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (773) 412–9048; email: eric.rivera01@faa.gov.

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2024–0144, dated July 19, 2024.

(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; website easa.europa.eu. You may find the EASA material on the EASA website ad.easa.europa.eu.

(4) You may view this material at FAA, Airworthiness Products Section, Operational Safety Branch, 10101 Hillwood Parkway, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on May 19, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–10256 Filed 5–21–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2026–5908; Airspace Docket No. 26–AGL–9]

RIN 2120–AA66

Establishment of Class E Airspace; Monee, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Meadow Creek Airport, Monee, IL. The FAA is proposing this action to support new instrument procedures and instrument flight rule (IFR) operations.

DATES: Comments must be received on or before July 6, 2026.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2026–5908 and Airspace Docket No. 26–AGL–9 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, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W58–213, West Building, 5th Floor, Washington, DC 20590–0001.

* *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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Docket: Background documents or comments received may be read at www.regulations.gov at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room 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: Raul Garza Jr., Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, OH 76177; telephone (817) 222–5874.

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 would establish Class E airspace extending upward from 700 feet above the surface at Meadow Creek Airport, Monee, IL, to support IFR operations at this airport.

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 received 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-14FDMS), 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 Office (see the **ADDRESSES** section for the address, phone number, and hours of operation). An informal docket may also be examined during normal business hours at the Federal Aviation Administration,

Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Incorporation by Reference

Class E airspace is 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 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 subsequently 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 Proposal

The FAA is proposing an amendment to 14 CFR part 71 that would establish Class E airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Meadow Creek Airport, Monee, IL.

This action is the result of instrument procedures being developed for this airport to support IFR operations.

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, "Policies and Procedures for Rulemakings" (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 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth

* * * * *

AGL IL E5 Monee, IL [Establish]

Meadow Creek Airport, IL
(Lat. 41°26'00" N, long. 87°46'53" W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Meadow Creek Airport.

* * * * *

Issued in Fort Worth, Texas, on May 20, 2026.

Jerry J. Creecy,

*Acting Manager, Operations Support Group,
ATO Central Service Center.*

[FR Doc. 2026–10346 Filed 5–21–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2026–5746; Airspace
Docket No. 25–AWP–154]

RIN 2120–AA66

Amendment of United States Area Navigation Route T–306 and Establishment of United States Area Navigation Route T–647

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend United States Area Navigation Route (RNAV) Route T-306 and the establishment of RNAV Route T-647 in the Southwestern United States. The FAA is proposing to amend T-306 by revoking the portion of the route extending between Blythe, CA, Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) and El Paso, TX, VORTAC. FAA is also proposing to amend T-306 by extending the route between Blythe VORTAC and HUPUP, AZ, Waypoint (WP). FAA is proposing these actions to relieve areas where there are high traffic volumes of Visual Flight Rules (VFR) aircraft and Instrument Flight Rules (IFR) aircraft that often result in conflict alerts and pilot deviations.

DATES: Comments must be received on or before July 6, 2026.

ADDRESSES: Send comments identified by FAA Docket No. FAA-2026-5746 and Airspace Docket No. 25-AWP-154 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, M-30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, 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 Ground 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, Policy Directorate, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267-8783.

FOR FURTHER INFORMATION CONTACT: Ashley Toth, Rules and Regulations Group, Policy Directorate, 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 Operations Support Group, Central Service Center, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Incorporation by Reference

United States RNAV Routes are published in paragraph 6011 and Very High Frequency Omni-Directional Range (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 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 amendment to RNAV Route T-306 and the establishment of RNAV Route T-647 are proposed to alleviate areas where there are high traffic volumes of VFR aircraft and IFR aircraft that often result in conflict alerts and pilot deviations.

The amendment of RNAV Route T-306 will result in the removal of the route portion extending between Blythe, CA, VORTAC and El Paso, TX, VORTAC. After Blythe, CA, VORTAC on RNAV Route T-306, there will be the addition of SEAFM, AZ, WP, MSQET, AZ WP, and the route will terminate at HUPUP, AZ, WP. The amendment of

RNAV Route T-306 routes air traffic to the west of the Phoenix, AZ (PHX) Class B airspace.

FAA is proposing to establish RNAV Route T-647 to provide air traffic a route between El Paso, TX, VORTAC and the Drake, AZ, VORTAC. This route will circumnavigate VOR Federal Airway V-105. The circumnavigation will occur between Stanfield, AZ, VOR (TFD) and west of Buckeye, AZ, VOR (BKK) to redirect IFR aircraft on V-105 and V-16. V-105 is the primary low altitude airway used by most general aviation aircraft to and from southern Arizona. Between TFD VOR and Phoenix (PXR) VORTAC, there are two flight training practice areas and a published hold over the TFD VOR from the surface through 8,000 MSL. This has led to numerous conflict alerts and pilot deviations with IFR aircraft. RNAV Route T-647 will redirect the IFR aircraft away from the published hold and bypass the PXR VORTAC to join V-16 west of BKK VOR. V-16 extends between PXR VOR and BKK VOR and is the primary airway for low altitude, general aviation aircraft to proceed from the Phoenix metropolitan area to most airports west, including the Los Angeles area airports.

RNAV Route T-647 from ELP VORTAC to Northern Arizona will be utilized to bypass V-105 which currently connects PXR VOR and DRK VOR. Currently, aircraft are restricted to low altitudes to deconflict with Phoenix Sky Harbor arrivals and departures while on V-105. In addition, there are radio limitations on V-105 that inhibit air traffic controllers' ability to issue safety alerts and other pertinent information. RNAV Route T-647 will replace the RNAV Route T-306 between ELP VORTAC and TUS VORTAC. RNAV Route T-647 will continue from

TUS VORTAC to reduce conflicts along V-105 and offers increased radio reception for air traffic control. RNAV Route T-647 will provide vertical and lateral separation from the PHX and satellite airport arrivals.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to amend RNAV Route T-306 and to establish RNAV Route T-647 in the Southwestern United States.

T-306: T-306 currently extends between Los Angeles, CA, VORTAC and the El Paso VORTAC. The FAA is proposing to revoke the portion of the route extending between the Blythe VORTAC and the El Paso VORTAC. The FAA is also proposing to amend T-306 by extending the route between Blythe VORTAC and HUPUP WP.

T-647: T-647 is a new route that the FAA proposes to establish that would extend between the El Paso VORTAC and the Drake VORTAC.

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 established as follows:

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T-306 Los Angeles, CA (LAX) to HUPUP, AZ [Amended]

Los Angeles, CA (LAX)	VORTAC	(Lat. 33°55'59.34" N, long. 118°25'55.25" W)
Paradise, CA (PDZ)	VORTAC	(Lat. 33°55'06.01" N, long. 117°31'47.99" W)
Palm Springs, CA (PSP)	VORTAC	(Lat. 33°52'12.05" N, long. 116°25'47.18" W)
Blythe, CA (BLH)	VORTAC	(Lat. 33°35'45.83" N, long. 114°45'40.58" W)
SEAFM, AZ	WP	(Lat. 33°26'55.64" N, long. 112°53'40.45" W)
MSQET, AZ	WP	(Lat. 33°14'41.66" N, long. 112°45'41.69" W)
HUPUP, AZ	WP	(Lat. 33°11'04.28" N, long. 112°19'40.66" W)

* * * * *

T-647 El Paso, TX (ELP) to Drake, AZ (DRK) [New]

El Paso, TX (ELP)	VORTAC	(Lat. 31°48'57.28" N, long. 106°16'54.78" W)
Columbus, NM (CUS)	VOR/DME	(Lat. 31°49'08.76" N, long. 107°34'28.18" W)
NOCHI, AZ	WP	(Lat. 32°02'00.20" N, long. 109°45'29.53" W)
Tucson, AZ (TUS)	VORTAC	(Lat. 32°05'42.73" N, long. 110°54'53.48" W)
TORTS, AZ	Fix	(Lat. 32°13'51.27" N, long. 111°11'11.95" W)
ZEKAP, AZ	Fix	(Lat. 32°19'41.24" N, long. 111°23'30.55" W)
ALMON, AZ	Fix	(Lat. 32°23'00.78" N, long. 111°29'41.13" W)
FOUTZ, AZ	Fix	(Lat. 32°28'56.92" N, long. 111°41'45.43" W)
PEARL, AZ	WP	(Lat. 32°53'41.37" N, long. 111°59'19.10" W)
PRKLY, AZ	WP	(Lat. 33°09'14.59" N, long. 112°01'02.67" W)
RCDA, AZ	WP	(Lat. 33°34'57.73" N, long. 112°00'28.93" W)
CVCRC, AZ	WP	(Lat. 33°45'44.60" N, long. 112°01'34.42" W)

RDROK, AZ
VRTEX, AZ
Drake, AZ (DRK)

WP (Lat. 34°05'33.08" N, long. 111°56'09.42" W)
WP (Lat. 34°27'21.76" N, long. 111°57'18.46" W)
VORTAC (Lat. 34°42'09.19" N, long. 112°28'49.23" W)

* * * * *

Issued in Washington, DC, on May 20, 2026.

Alex W. Nelson,

Manager, Rules and Regulations Group.

[FR Doc. 2026–10348 Filed 5–21–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. FAA–2026–5413; Notice No. 26–04]

RIN 2120–AM10

Prohibition of Remote Dispatching

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FAA proposes to amend its regulations for domestic, flag, and supplemental operators to prohibit dispatch and flight following activities outside of locations designated as dispatch or flight following centers except in emergencies that render a dispatch or flight following center inoperable. FAA also proposes to reorganize certain sections of the regulations for clarity. The rule is required by section 420 of the FAA Reauthorization Act of 2024.

DATES: Send comments on or before July 21, 2026.

ADDRESSES: Send comments identified by docket number FAA–2026–5413 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 (DOT), 1200 New Jersey Avenue SE, West Building 5th Floor (W58–213), Washington, DC 20590–0001.
- *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, 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Scott Stacy, Air Transportation Division, 107 Charles West Grant Parkway, Hapeville, GA 30354; telephone (202) 267–8166; email 9-AFS-200-Correspondence@faa.gov.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

FAA proposes to revise several regulations related to dispatch centers to comply with the FAA Reauthorization Act of 2024 (Pub. L. 118–63) (“the Act”), section 420, Prohibition of Remote Dispatching, and to conform dispatch center regulations with statutory amendments. Section 420 amended title 49 of the United States Code (49 U.S.C.) in two sections. First, it added a new paragraph (10) to section 44711(a) prohibiting an aircraft dispatcher from working outside of a physical location designated as a dispatching center or flight following center of an air carrier except as provided in section 44747.¹ Second, section 420 added a new section 44748 to 49 U.S.C. This section, titled Aircraft dispatching, codifies: (1) requirements relating to aircraft dispatching certificates; (2) staffing, equipment, and security requirements of dispatch centers and flight following centers; and (3) a prohibition against dispatching aircraft from any location other than the dispatch center or flight following center of the air carrier with the exception of an event that renders a dispatch center or flight following center inoperable, in which case an air carrier may dispatch aircraft from another location for a period of time not to exceed 14 consecutive days per location without approval of the Administrator.

Section 420(a)(2) of the Act instructs the Administrator to issue regulations requiring persons to comply with 49 U.S.C. 44711(a)(10). This proposed rulemaking would amend title 14 of the Code of Federal Regulations (14 CFR) in accordance with the instructions of the Act, and, in doing so, would also apply

this prohibition to air carriers under 14 CFR part 121, taking into account the exception to this prohibition codified at 49 U.S.C. 44748(d).²

II. Authority for This Rulemaking

FAA’s authority to issue rules on 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 FAA’s authority. Section 106(f) establishes the authority of the Administrator to promulgate and revise regulations and rules related to aviation safety. This rulemaking is also issued under the authority described in subtitle VII, part A, subpart I, section 40103(b)(1) and (2), as well as subpart III, section 44701(a)(5). Under sections 40103(b)(1) and (2), FAA is charged with prescribing regulations for the use of navigable airspace to ensure the safety of aircraft and the efficient use of airspace. In addition, section 44701(a)(5) charges FAA with promoting safe flight of civil aircraft by prescribing regulations FAA finds necessary for safety in air commerce and national security. This regulation is within the scope of that authority.

In addition, this rulemaking implements the Congressional mandate set forth in section 420 of the Act, which states that an air carrier may not dispatch from any location other than the dispatch center or flight following center. Section 420 amends 49 U.S.C. 44711(a) to prohibit work as an aircraft dispatcher outside of a physical location designated as a dispatching center or flight following center of an air carrier, except as provided in 49 U.S.C. 44748,³ and directs the FAA Administrator to issue regulations requiring compliance with section 44711(a)(10).

III. Background

A. Overview of Part 121 Flight Operations

The regulations of 14 CFR part 121 generally apply to commercial airlines either operating on fixed schedules on predetermined routes (referred to as domestic or flag operations) or charter flight providers (referred to as supplemental operations). Domestic operations must originate and conclude in locations within the 48 contiguous States of the United States and the District of Columbia.⁴ Flag operations refers to scheduled flights operating: (1) between any point within the State of

Alaska or the State of Hawaii or any territory or possession of the United States and any point outside the State of Alaska or the State of Hawaii or any territory or possession of the United States, respectively; or (2) between any point within the 48 contiguous States of the United States or the District of Columbia and any point outside the 48 contiguous States of the United States and the District of Columbia; or (3) between any point outside the United States and another point outside the United States.⁵ In contrast, supplemental operations are those conducted by part 121 certificate holders for hire on a non-scheduled service, meaning the departure time, departure location, and arrival location are specifically negotiated with the customer.⁶ While the regulatory requirements for the three types of operations have some overlap, each have distinct requirements.

B. Dispatching and Flight Following

Subpart U of part 121 prescribes dispatching rules for domestic and flag operations and flight release rules for supplemental operations. In the context of domestic and flag operations, an aircraft dispatcher is required. Aircraft dispatchers are required to ensure the safe and efficient operation of commercial flights by sharing joint responsibility with the pilot in command (PIC), planning and monitoring flights, managing weather and airspace challenges, coordinating with various stakeholders, and complying with regulatory requirements. Aircraft dispatchers must be certificated by the Administrator to perform their duties, ensuring only qualified individuals hold this critical responsibility.⁷

Pursuant to subpart C of 14 CFR part 65, FAA will certificate aircraft dispatchers for domestic and flag operators if they meet certain eligibility, knowledge, training, and skill requirements. In addition, 14 CFR 65.51(a) requires that an aircraft dispatcher have such a certificate in his or her possession when acting as a dispatcher and present it for inspection upon the request of the Administrator or an authorized representative of the National Transportation Safety Board, or of any Federal, State, or local law enforcement officer.

For supplemental operations, functions similar to flight dispatching in the context of domestic or flag operations are sometimes referred to as flight following functions. FAA does not require operators engaged in supplemental operations to utilize a certificated aircraft dispatcher. Instead,

for supplemental operations, a flight may not depart unless it has been released by an individual authorized by the air carrier to exercise operational control over the flight.⁸ As with domestic or flag operations dispatchers, the individuals overseeing supplemental operations are responsible for ensuring the safety of the flight. Flight following personnel for supplemental operations do not need aircraft dispatcher certificates. However, flight following personnel must be authorized by the director of operations to exercise operational control of the flight.⁹

In most cases, it is the responsibility of these dispatchers and flight following personnel on the ground to maintain operational control through the planning of flight routes, monitoring the progress of the flights (including changing weather conditions, alternate airport options should an emergency landing be required, aircraft performance conditions, and airport traffic conditions at destination), communication of information to the PIC, and confirmation the flight has arrived safely at its destination. For virtually all airlines, these activities are conducted at a single facility, where all flight activity is coordinated. For flag and domestic carriers, this facility is called a dispatch center. For supplemental operations, it is referred to as a flight following center, but the two types of centers are largely identical in their features and setup. For both types of centers, these facilities are inspected and approved by FAA as part of the certification process of that air carrier.¹⁰

C. Remote Dispatching

Beginning in March 2020, in response to the COVID-19 public health emergency, a small number of air carriers expressed interest in allowing dispatching or flight following from locations other than the air carrier's designated dispatch center or flight following center. This practice allowed the air carriers to comply with the national health and safety recommendations such as social distancing, group size limits, and self-quarantining. This practice is referred to as remote dispatching.

Following a collaborative risk analysis, FAA's Flight Standards Service issued a memorandum to Flight Standards personnel who oversee air carriers in March 2020 describing factors to consider when determining whether to allow air carrier personnel to temporarily perform flight dispatching and flight following duties from their homes on a case-by-case basis, provided

the air carrier could show these duties were able to be performed safely.¹¹ The memorandum balanced the office's allowance of remote flight following and aircraft dispatch practices with the existing responsibilities required for air carriers conducting these operations, such as duty time requirements and regular inspections. Given the context of the COVID-19 transmission and fatality rates at the time of the initial requests and authorizations, FAA determined that any risks associated with remote dispatching and flight following were not greater than the risks of COVID-19 transmission within the confines of dispatching and flight following centers.

FAA granted a small number of authorizations allowing air carriers to dispatch or flight release from locations other than their approved dispatch or flight following centers. The first four air carriers to receive these authorizations conducted remote operations from dispatchers' or flight followers' private residences. Some authorizations included periodic expiration dates to ensure risk control, which also allowed FAA to renew or terminate the authorization. Subsequent authorizations did not contain specific expiration dates. Some air carriers were authorized to conduct remote operations, yet they opted not to do so.

These authorized air carriers remained responsible for evaluating whether their remote locations met regulatory requirements and individual operational needs. Further, air carriers remained responsible for evaluating any associated risks with the practice as part of their required Safety Management System.

D. Congressional Concerns

The practice of remote dispatching raised congressional interest in May 2022, when FAA briefed congressional staff regarding authorized remote dispatch work locations. FAA provided additional briefings to House and Senate Committees on alternate dispatch location approvals associated with a draft of the Fiscal Year 2023 House Appropriations Bill. In November 2022, FAA received a letter from the House Committee on Transportation and Infrastructure detailing the Committee's concern about the safety of air carriers operating remote dispatch.¹² In 2024, Congress imposed specific requirements on air carriers' dispatch and flight following centers in section 420 of the Act. Section 420 prohibits flight dispatching from any location other than the dispatch center or flight following center except in cases where a dispatch or flight following center has been rendered inoperable. Air carriers

may then use an alternate location for no more than 14 consecutive days before approval of the Administrator is required.

IV. Discussion of the Proposal

As required by the Act, this proposed rule would amend the regulations in §§ 121.107 and 121.127 to prohibit dispatching and flight following from a location other than the dispatch center or flight following center of the air carrier except in the event of an emergency or other event that renders a dispatch or flight following center inoperable. In such a situation, an air carrier could dispatch aircraft from a location other than a dispatch center or flight following center; however, the carrier would be required to notify the responsible Flight Standards office within 24 hours of each use of any alternate location. The operator would be prohibited from using any alternate location for a period of time exceeding 14 days unless approved by the Administrator. In addition, the proposed rule would reorganize §§ 121.125 and 121.127 to consolidate the requirements for flight following systems and individual flight following centers for supplemental operations. The reorganization would not alter the original requirements themselves.

A. Prohibition of Remote Dispatching/ Flight Following

This rulemaking proposes to introduce new paragraphs in §§ 121.107 and 121.127 to incorporate the requirements of 49 U.S.C. 44748(d). Specifically, proposed § 121.107(b) and (c) and proposed § 121.127(b) and (c) would prohibit the dispatch or flight following of aircraft from any location other than the dispatch center or flight following center of the air carrier except in the event of an emergency or other event that renders a dispatch center or flight following center inoperable. In such an event, an air carrier may dispatch aircraft from a location other than the dispatch center or flight following center of the air carrier. In addition, in proposed § 121.107(d) and proposed § 121.127(d), FAA would require the operator to inform the responsible Flight Standards office of the use of any alternate location within 24 hours. The alternate site could not be used for more than 14 consecutive days per location without the approval of the Administrator.

Despite the concerns with remote dispatching referenced above, Congress and FAA recognize that, in the unlikely event a dispatch or flight following center becomes inoperable, it may be necessary for dispatch or flight

following operations to continue, allowing the affected air carrier to land any aircraft already in flight safely or to maintain continuity of operations. In those circumstances, it may be preferable to conduct dispatch temporarily or flight following activities at alternate locations. The air carrier must inform the responsible Flight Standards office of each decision to utilize any alternate location as soon as possible, but no later than 24 hours after first use to ensure continued FAA oversight of that air carrier's activities.

FAA emphasizes, however, that dispatching or flight following from a location other than a dispatch or flight following center should only occur as a last resort. In addition, the air carrier should ensure the alternate location considers a dispatcher's or flight follower's ability to maintain operational control from that location effectively, and air carriers should remain aware that they remain subject to any requirements set forth in parts 119, 120, and 121. When dispatching or flight following from an alternate location, air carriers should consider secure non-public internet access, proper communication equipment, and freedom from outside distractions, which might reduce a dispatcher's or flight follower's ability to conduct their dispatching or flight following activities. Even if an alternate location meets these conditions, every effort should be made to return to the regularly used dispatch or flight following center as soon as possible.

B. Reorganization of §§ 121.125 and 121.127

FAA is proposing to reallocate certain provisions of §§ 121.125 and 121.127 between these two sections to consolidate requirements for flight following systems and flight following centers, providing increased regulatory clarity. The requirements themselves would remain the same, but would be grouped together by subject. Currently, § 121.125 is titled "Flight following system," and § 121.127 is titled "Flight following system; requirements." Though §§ 121.125 and 121.127 share a similar title, they contain varying and somewhat overlapping provisions. Provisions concerning a flight following system generally would appear under § 121.125, and those concerning individual flight following centers (including the proposed prohibition against remote flight following) would appear under § 121.127. This rule proposes to retitle § 121.127 "Flight following centers." These changes would reduce confusion regarding the

location of regulatory requirements and prohibitions related to flight following.

Current § 121.125(a)(1) requires each air carrier conducting supplemental operations to show it has an approved flight following system established in accordance with subpart U of part 121 and adequate for the proper monitoring of each flight, considering the operations to be conducted, and this language would remain unchanged. Current § 121.125(a)(2)(i) and (ii) provide additional specific requirements for flight following centers. This rule proposes to move these provisions to § 121.127(a)(1) and (2) without changing the requirements themselves. Paragraph 121.125(a)(2) would then refer generally to the requirements of proposed § 121.127. FAA also proposes to move current § 121.127(a)(1) and (2) to § 121.125(a)(3) and (4). These paragraphs require air carriers to have adequate facilities and personnel to provide information necessary for the initiation and safe conduct of each flight to the flight crew and the people designated to maintain operational control and to have a means of communication to monitor the progress of each flight. Paragraphs (b) and (c) of § 121.125 would remain unchanged.¹³ Paragraph § 121.125(d) would be amended slightly by adding the word "must" to clarify that the certificate holder's operations specifications are required to specify the authorized flight following system and the location of the centers. Finally, FAA proposes to move current § 121.127(b) to § 121.125(e).

With these proposed changes, § 121.127 would consist of the general requirements for flight following centers moved from § 121.125(a)(2)(i) and (ii) to § 121.127(a)(1) and (2) and the prohibition against remote flight following, with exception, at § 121.127(b) and (c).

V. Regulatory Notices and Analyses

A. Regulatory Impact Analysis

Executive Order (E.O.) 12866 ("Regulatory Planning and Review") and E.O. 13563 ("Improving Regulation and Regulatory Review") require agencies to regulate in the "most cost-effective manner," to make a "reasoned determination that the benefits of the intended regulation justify its costs," and to develop regulations that "impose the least burden on society." The Office of Management and Budget (OMB) determined that this proposed rule is not a significant regulatory action.

Existing regulations require part 121 certificate holders conducting domestic and flag operations to operate from

dispatch centers and those conducting supplemental operations to operate from flight following centers using authorized personnel conducting flight following operations. As no air carriers currently conduct remote dispatching, there would be no cost impacts of the proposed rule. The proposed rule would prevent remote dispatching in the event of similar circumstances to those during the COVID-19 public health emergency or any trend in remote work among part 121 certificate holders. However, because there have been no accidents associated with the practice and the likelihood of increased remote dispatching in the absence of the rule is unknown, FAA cannot estimate the impact of these potential benefits.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (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.

The proposed rule would prohibit part 121 certificate holders from conducting remote dispatch operations. No entities are currently conducting remote dispatch and FAA did not identify any incremental costs of the proposed rule. If an agency determines a rulemaking will not result in a significant economic impact on a substantial number of small entities, the head of the agency may so certify under section 605(b) of the RFA. Therefore, as provided in section 605(b) and based on the foregoing, the head of FAA certifies this rulemaking will not result in a significant economic impact on a substantial number of small entities. FAA welcomes comments on the basis for this certification.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the

establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

FAA has assessed the potential effect of this proposed rule and determined it ensures the safety of the American public and does not exclude imports that meet this objective. As a result, FAA does not consider this rule as creating an unnecessary obstacle to foreign commerce.

D. Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or Tribal government or the private sector to incur direct costs without the Federal government having first provided the funds to pay those costs. FAA determined the proposed rule would not result in the expenditure of \$187,000,000 or more (\$100,000,000 adjusted for inflation using the most current Implicit Price Deflator for the Gross Domestic Product) by State, local, or Tribal governments, in the aggregate, or the private sector, in any one year.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that FAA consider the impact of paperwork and other information collection burdens imposed on the public. While this NPRM proposes to require an air carrier to notify its responsible Flight Standards office within 24 hours of the use of any alternate dispatch location, based on the fact that only three operators ever used this exception throughout the COVID-19 public health emergency, FAA believes that fewer than ten persons would be required to provide notification to a responsible Flight Standards office in any 12 month period. Title 5 CFR 1320.3(c) states that OMB clearance of any information collection is required only if the information is to be collected from ten or more persons annually. Therefore, FAA has determined there would be no new requirement for information collection associated with this proposed rule.

F. International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. FAA has determined there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

G. Environmental Analysis

FAA has analyzed the environmental impacts of this proposed rule pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). FAA has determined this rule is categorically excluded pursuant to Paragraph B–2.6(f) of Appendix B to FAA Order 1050.1G, FAA National Environmental Policy Act Implementing Procedures.¹⁴ Categorical exclusions are categories of actions the agency has determined normally do not significantly affect the quality of the human environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS).¹⁵ In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS.¹⁶ This rulemaking, which proposes to amend FAA regulations for domestic, flag, and supplemental operators to prohibit remote dispatch and flight following activities except in the event of an emergency that renders a dispatch or flight following center inoperable, is categorically excluded pursuant to Paragraph B–2.6(f) of FAA Order 1050.1G: “Regulations, standards, and exemptions (excluding those that if implemented may cause a significant impact on the human environment.” FAA does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

VI. Executive Order Determinations

A. E.O. 13132, Federalism

FAA has analyzed this proposed rule under the principles and criteria of E.O. 13132, Federalism. FAA has determined this action would not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, would not have federalism implications.

B. E.O. 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

FAA analyzed this proposed rule under E.O. 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. FAA has determined it would not be a “significant energy action” under the Executive order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

C. E.O. 13609, Promoting International Regulatory Cooperation

E.O. 13609, Promoting International Regulatory Cooperation, promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609 and has determined this action would have no effect on international regulatory cooperation.

D. Executive Order 14192, Unleashing Prosperity Through Deregulation

The proposed rule is exempt from the requirements of E.O. 14192 because it has been determined to be not significant under Executive Order 12866.

VII. Additional Information

A. Comments Invited

FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. FAA also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. 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.

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 rule. Before acting on this proposal, FAA will consider all comments it receives on or before the closing date for comments. FAA will

consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. 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 inform its rulemaking process better. 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.

B. Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to the person in the **FOR FURTHER INFORMATION CONTACT** section of this document. Any commentary that FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

C. Electronic Access and Filing

A copy of this NPRM, all comments received, any final rule, and all background material may be viewed online at www.regulations.gov using the docket number listed above. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register’s website at www.federalregister.gov and the Government Publishing Office’s website at www.govinfo.gov. A copy may also be found at FAA’s Regulations and Policies website at www.faa.gov/regulations_policies.

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW, Washington, DC 20591, or

by calling (202) 267-9677. Commenters must identify the docket or notice number of this rulemaking.

All documents FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed in the electronic docket for this rulemaking.

D. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document may contact its local FAA official or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the internet, visit www.faa.gov/regulations_policies/rulemaking/sbre_act/.

Endnotes

¹ 49 U.S.C. 44747 addresses aviation safety oversight measures carried out by foreign countries. FAA staff has confirmed it was Congress’ intent to refer to § 44748 in this section, which addresses aircraft dispatching.

² The act does not instruct any rulemakings for 49 U.S.C. 44748 as it relates to aircraft dispatcher certificates, or requirements for dispatch and flight following centers. Paragraphs (a) and (b) of section 44748 require anyone serving as an aircraft dispatcher for a carrier to hold an appropriate aircraft dispatcher certificate issued by the Administrator of the Federal Aviation Administration, and that such a certificate shall be presented upon request by appropriate authorities for inspection. These requirements are already contained in 14 CFR 65.51. Paragraph (c) of section 44748 provides statutory authority for FAA to take staffing, equipment, and security requirements into account when issuing certificates to air carriers. Therefore, no additional rulemaking is necessary.

³ See endnote 1.

⁴ See 14 CFR 110.2.

⁵ *Id.*

⁶ *Id.*

⁷ 14 CFR 65.51.

⁸ 14 CFR 121.597.

⁹ “Operational Control” refers to the “initiation, continuation, diversion, and termination of a flight” as provided in 14 CFR 121.537(b).

¹⁰ This inspection will look to ensure that centers are properly staffed, equipped, and secured to allow air carriers to maintain operational control of all flight operations.

¹¹ “Operational Control Part 121 Air Carriers,” Memorandum from Thomas Malone, Manager of Air Transportation Division, AFS-200 (Mar. 20, 2020). A copy of this document is posted in the docket.

¹² Congressmen Peter A. DeFazio and Rick Larsen, November 29, 2022, House

Committee on Transportation and Infrastructure, Washington, DC. A copy of this letter can be found in the docket for this rulemaking.

¹³ The rulemaking would correct a typographical error in § 121.125(d), clarifying that a certificate holder's operations specifications must specify the flight following system it is authorized to use and location of flight following centers. Current practice in the FAA certification process already addresses this requirement, so no new requirements are resulting from the correction.

¹⁴ 90 FR 29615, Jul. 3, 2025.

¹⁵ See DOT Order 5610.1D § 9.

¹⁶ Id. § 9(b).

List of Subjects in 14 CFR Part 121

Air carriers, Aviation safety, Charter flights, Safety, Transportation.

The Proposed Amendment

For the reasons discussed in the preamble, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations as follows:

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

■ 1. The authority citation for part 121 is revised to read as follows:

Authority: 49 U.S.C. 106(f), 40103, 40113, 40119, 41706, 42301 preceding note added by Pub. L. 112–95, sec. 412, 126 Stat. 89, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44729, 44732, 44748; 46105; Pub. L. 111–216, 124 Stat. 2348 (49 U.S.C. 44701 note); Pub. L. 112–95, 126 Stat. 62 (49 U.S.C. 44732 note); Pub. L. 115–254, 132 Stat. 3186 (49 U.S.C. 44701 note).

■ 2. Revise § 121.107 to read as follows:

§ 121.107 Dispatch centers.

(a) Each certificate holder conducting domestic or flag operations must show that it has enough dispatch centers, adequate for the operations to be conducted, that are located at points necessary to ensure proper operational control of each flight.

(b) Except as provided in paragraph (c) of this section, a certificate holder may not allow a person to work as an aircraft dispatcher outside of a physical location designated as a dispatching center of the air carrier.

(c) In the event of an emergency or other event that renders a dispatch center inoperable, a certificate holder may dispatch aircraft from a location other than a dispatch center of the certificate holder for a period of time not to exceed 14 consecutive days per location without approval of the Administrator.

(d) The certificate holder must notify the responsible Flight Standards district

office within 24 hours of each use of any location other than a dispatch center.

■ 3. Revise § 121.125 to read as follows:

§ 121.125 Flight following system.

(a) Each certificate holder conducting supplemental operations must show that it has—

(1) An approved flight following system established in accordance with subpart U of this part and adequate for the proper monitoring of each flight, considering the operations to be conducted;

(2) Flight following centers as described in § 121.127;

(3) Adequate facilities and personnel to provide the information necessary for the initiation and safe conduct of each flight to—

(i) The flight crew of each aircraft; and
(ii) The persons designated by the certificate holder to perform the function of operational control of the aircraft; and

(4) A flight following system with a means of communication by private or available public facilities (such as telephone, telegraph, or radio) to monitor the progress of each flight with respect to its departure at the point of origin and arrival at its destination, including intermediate stops and diversions therefrom, and maintenance or mechanical delays encountered at those points or stops.

(b) A certificate holder conducting supplemental operations may arrange to have flight following facilities provided by persons other than its employees, but in such a case the certificate holder continues to be primarily responsible for operational control of each flight.

(c) A flight following system need not provide for in-flight monitoring by a flight following center.

(d) The certificate holder's operations specifications must specify the flight following system it is authorized to use and the location of the centers.

(e) The certificate holder conducting supplemental operations must show that the personnel specified in paragraph (a) of this section, and those it designates to perform the function of operational control of the aircraft, are able to perform their required duties.

■ 4. Revise § 121.127 to read as follows:

§ 121.127 Flight following centers.

(a) Each certificate holder conducting supplemental operations using a flight following system must show that it has dispatch or flight following centers located at those points necessary—

(1) To ensure the proper monitoring of the progress of each flight with respect to its departure at the point of origin and arrival at its destination, including

intermediate stops and diversions therefrom, and maintenance or mechanical delays encountered at those points or stops; and

(2) To ensure that the pilot in command is provided with all information necessary for the safety of the flight.

(b) Except as provided in paragraph (c) of this section, a certificate holder may not allow a person to work as an aircraft dispatcher or flight follower outside of a physical location designated as a dispatch or flight following center of the air carrier.

(c) In the event of an emergency or other event that renders a dispatch or flight following center inoperable, a certificate holder may dispatch or flight release aircraft from a location other than the dispatch or flight following center of the certificate holder for a period of time not to exceed 14 consecutive days per location without approval of the Administrator.

(d) The certificate holder must notify the responsible Flight Standards office within 24 hours of each use of any location other than a dispatch or flight following center.

Issued under authority provided by 49 U.S.C. 106(f), 40103(b), 44711, and 44748 in Washington, DC.

Hugh J. Thomas,

Acting Executive Director, Flight Standards Service.

[FR Doc. 2026–10293 Filed 5–21–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 405, 412, 413, 415, 419, 495, and 512

[CMS–1849–CN2]

RIN 0938–AV79

Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals (IPPS) and the Long-Term Care Hospital Prospective Payment System and Policy Changes and Fiscal Year (FY) 2027 Rates; Requirements for Quality Programs; and Other Policy Changes; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Proposed rule; correction.

SUMMARY: This document corrects technical and typographical errors in the proposed rule that appeared in the

April 14, 2026 **Federal Register** titled “Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals (IPPS) and the Long-Term Care Hospital Prospective Payment System and Policy Changes and Fiscal Year (FY) 2027 Rates; Requirements for Quality Programs; and Other Policy Changes.”

DATES: May 21, 2026.

FOR FURTHER INFORMATION CONTACT:

Donald Thompson, and Michele Hudson, (410) 786–4487 or *DAC@cms.hhs.gov*, Graduate Medical Education.

Lily Yuan, *NewTech@cms.hhs.gov*, New Technology Add-On Payments Issues.

Julia Venanzi, *julia.venanzi@cms.hhs.gov*, Hospital Inpatient Quality Reporting Program—Administration Issues.

Jessica Warren, *jessica.warren@cms.hhs.gov*, and Lisa Marie Gomez, *LisaMarie.Gomez1@cms.hhs.gov*, Medicare Promoting Interoperability Program.

John Green, *john.green1@cms.hhs.gov*, PPS-Exempt Cancer Hospital Quality Reporting Program—Administration Issues.

Katherine McDonald, *katherine.mcdonald@cms.hhs.gov*, Amanda Michael, *amanda.michael@cms.hhs.gov*, and Kellie Shannon, *kellie.shannon@cms.hhs.gov*, Organ Acquisition Payment, Reasonable Cost Payment, and Appeals for Independent Organ Procurement Organizations and Histocompatibility Laboratories.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2026–07203 of April 14, 2026 (91 FR 19312), there were a number of technical and typographical

errors that are identified and corrected in this correcting document.

II. Summary of Errors

A. Summary of Errors in the Preamble

On page 19413, in our discussion of the FY 2027 application for new technology add-on payments for Command Center Electronic Glycemic Management System, we are correcting a typographical error.

On page 19519, in our discussion of the Application Process for Available Resident Slots, we are correcting a technical error.

On pages 19587, 19588, 19595 in our discussion of the Hospital Inpatient Quality Reporting Program, we are correcting several typographical and technical errors.

On page 19612 in our discussion of the PPS-Exempt Cancer Hospital Quality Reporting Program, we are correcting a typographical error.

On pages 19621, 19625, 19626, 19631, and 19763 in the discussion of the Medicare Promoting Interoperability Program, we are correcting several typographical and technical errors in the preamble as well as adding inadvertently omitted **Federal Register** citations.

On page 19750, in the discussion of the Discretionary CMS Administrator Review of CMS Reviewing Official Determination With Respect to Appeals Under 42 CFR 413.420(g) for Independent Organ Procurement Organizations and Histocompatibility Laboratories we are correcting a typographical error.

B. Summary of Errors in the Regulations Text

On page 19768 in the regulations text for § 405.1834(g)(4)(ii), we made a typographical error.

On page 19769 in the regulations text for § 413.5, we erroneously included paragraph (c)(14) twice.

III. Correction of Errors

In FR Doc. 2026–07203 of April 14, 2026 (91 FR 19312), we are making the following corrections:

A. Corrections of Errors in the Preamble

1. On page 19413, lower half of the page, first column, second full paragraph, line 10 the parenthetical number “(K113852)” is corrected to read “(K113853)”.

2. On page 19519, first partial paragraph, lines 1 through 3, the phrase “[insert date 90 days from date of filing for public inspection].” is corrected to read “July 9, 2026.”.

3. On page 19587, third column, third full paragraph, lines 26 and 27 the parenthetical link “ (https://ecqi.healthit.gov/eh-cah?qt-tabs_eh=1) ” is corrected to read “(<https://ecqi.healthit.gov/eh-cah/ecqms>)”.

4. On page 19588, first column, a. Second full paragraph, lines 12 and 13 the phrase “endorsed the measure.” is corrected to read “endorsed the measure with conditions.”.

b. Third full paragraph, line 6 the phrase “the FY 2028” is corrected to read “the FY 2030”.

5. On page 19595, in the table titled Table IX.C.5.: Previously Finalized and Proposed Hospital Inpatient Quality Reporting Program Measure Set by Data Collection Method and Payment Determination (PD), column 6 (FY 2031 PD) for the listed claims-based mortality/complications measures entries are corrected to read as follows:

TABLE IX.C.5.—PREVIOUSLY FINALIZED AND PROPOSED HOSPITAL INPATIENT QUALITY REPORTING PROGRAM MEASURE SET BY DATA COLLECTION METHOD AND PAYMENT DETERMINATION (PD)

Measure Name	CBE Number	FY 2028 PD	FY 2029 PD	FY 2030 PD	FY 2031 PD
Claims-Based Mortality/Complications Measures					
Hospital 30-Day, All-Cause, Risk-Standardized Mortality Rate Following Acute Myocardial Infarction Hospitalization (MORT–30–AMI) **.	0230	Proposed for Adoption	✓	✓	✓
Hospital 30-Day, All-Cause, Risk-Standardized Mortality Rate Following Heart Failure Hospitalization (MORT–30–HF) **.	0229	Proposed for Adoption	✓	✓	✓
Hospital 30-Day, All-Cause, Risk-Standardized Mortality Rate Following Pneumonia Hospitalization (MORT–30–PN) **.	0468	Proposed for Adoption	✓	✓	✓
Hospital 30-Day, All-Cause, Risk-Standardized Mortality Rate Following Chronic Obstructive Pulmonary Disease (COPD) Hospitalization (MORT–30–COPD) **.	1893	Proposed for Adoption	✓	✓	✓

TABLE IX.C.5.—PREVIOUSLY FINALIZED AND PROPOSED HOSPITAL INPATIENT QUALITY REPORTING PROGRAM MEASURE SET BY DATA COLLECTION METHOD AND PAYMENT DETERMINATION (PD)—Continued

Measure Name	CBE Number	FY 2028 PD	FY 2029 PD	FY 2030 PD	FY 2031 PD
Hospital 30-Day, All-Cause, Risk-Standardized Mortality Rate Following Coronary Artery Bypass Graft (CABG) Surgery (MORT-30-CABG) measures**.	2558	Proposed for Adoption	✓	✓	✓

6. On page 19612, third column, third full paragraph, lines 1 and 2

the phrase “In alignment with the Hospital Inpatient Quality Reporting Program” is corrected to “In alignment with the Hospital Outpatient Quality Reporting Program”.

7. On page 19621, first column, last partial paragraph, last line the phrase “Providing Patients Access” is corrected to read “Provide Patients Electronic Access”.

8. On page 19625,

a. First column, first full paragraph, line 15 the phrase “eligible hospitals” is corrected to read “eligible hospitals and CAHs”.

b. Third column,

(1) Ninth full paragraph, line 15 the parenthetical phrase “proposed rule.” is corrected to read “proposed rule (91 FR 19890).”.

(2) Footnote paragraph (footnote 429), line 2 the phrase “proposed rule,” is corrected to read “proposed rule (91 FR 20002 through 20003).”.

9. On page 19626, first column,

a. First partial paragraph,

(1) Line 5 the parenthetical phrase “CY 2027).” is corrected to read “CY 2027) (91 FR 19908).”.

(2) Line 9 the phrase “and PAS IGs.” is corrected to read “and PAS IGs (91 FR 20002 through 20003).”.

b. First full paragraph, line 20 the phrase “Drugs proposed rule and” is corrected to read “Drugs proposed rule (91 FR 19890) and”.

10. On page 19631, second column, sixth bulleted paragraph, last line the word “explanation” is corrected to read “explantation”.

11. On page 19750, third column, first partial paragraph, lines 1 and 2, the phrase “official, contractor hearing” is corrected to read, “official or contractor hearing”.

12. On page 19763, top third of the page,

a. Second column, second partial paragraph, line 3 the date “April 30,

2027” is corrected to read “March 31, 2029”.

b. Third column, partial paragraph, line 3 the figure “\$6,258” is corrected to read “\$6,278”.

B. Corrections of Errors in the Regulations Text

13. On page 19768, first column, fourth full paragraph (§ 405.1834(g)(4)(ii)), lines 6 and 7 the phrase “official, contractor hearing” is corrected to read, “official or contractor hearing”.

14. On page 19769, third column, 12th full paragraph (this is the first reference to paragraph (c)(14)) is corrected by removing the paragraph.

Liesl I. Fowler,

*Executive Secretary to the Department,
Department of Health and Human Services.*

[FR Doc. 2026–10276 Filed 5–21–26; 8:45 am]

BILLING CODE 4120–01–P

Notices

Federal Register

Vol. 91, No. 99

Friday, May 22, 2026

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request; Correction

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by June 22, 2026 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it

displays a currently valid OMB control number.

Office of Partnerships and Public Engagement

Title: Agricultural Resource Management Phase 3 Economic Surveys.

OMB Control Number: 0535–0275.

Summary of Collection: The Department of Agriculture published a document in the **Federal Register** on May 18, 2026, Volume 91, page 28549 concerning a request for comments for Information Collection "Agricultural Resource Management Phase 3 Economic Surveys" OMB control number 0535–0275. In this FRN, the number of respondents 49,417 and total burden hours 76,175 are incorrect. The FRN should read for number of respondents 50,717 and total burden hours 76,964.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2026–10309 Filed 5–21–26; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2026–0497]

Notice of Request for Revision to and Extension of an Information Collection; Standards for Privately Owned Quarantine Facilities for Ruminants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of an information collection associated with regulations for privately owned quarantine facilities for ruminants.

DATES: We will consider all comments that we receive on or before July 21, 2026.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Enter

APHIS–2026–0497 in the Search field. Select the documents tab, then select the Comment button on the list of documents.

- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2026–0497, Regulatory Analysis and Development, PPD, APHIS, 5601 Sunnyside Ave., #AP760, Beltsville, MD 20705.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov> or in our reading room, which is located in Room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call 202–799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the regulations for privately owned quarantine facilities for ruminants, contact Dr. Mary Kate Anderson, Senior Staff Officer, Live Animal Imports, Strategy and Policy, VS, APHIS, 5601 Sunnyside Ave., Beltsville, MD 20705; 301–789–4466. For more information on the information collection process, contact Ms. Sheniqua Harris, APHIS' Paperwork Reduction Act Coordinator, at (301) 851–2528; APHIS.PRA@usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Standards for Privately Owned Quarantine Facilities for Ruminants.

OMB Control Number: 0579–0232.

Type of Request: Revision to and extension of an information collection.

Abstract: The Animal Health Protection Act (7 U.S.C. 8301 *et seq.*) authorizes the Secretary of Agriculture to, among other things, prohibit or restrict the importation and interstate movement of animals and animal products into the United States to prevent the introduction of animal diseases and pests.

The regulations in 9 CFR part 93 govern the importation into the United States of specified animals and animal products to help prevent the introduction of various animal diseases into the United States. The regulations in Part 93 require, among other things, that certain animals, as a condition of entry, be quarantined upon arrival in the United States. The Animal and Plant Health Inspection Service operates

animal quarantine facilities and authorizes the use of quarantine facilities that are privately owned and operated for certain animal importations.

The regulations in subpart D of Part 93 (9 CFR 93.400 through 93.442) pertain to the importation of ruminants. Ruminants include all animals that chew the cud, such as cattle, buffaloes, sheep, goats, deer, antelopes, camels, llamas, and giraffes. Ruminants imported into the United States must be quarantined upon arrival for at least 30 days, with-certain exceptions. Ruminants from Canada and Mexico are not subject to this quarantine.

The regulations for privately owned quarantine facilities for ruminants require the use of certain information collection activities, including an application for facility approval, a cooperative service (compliance) agreement explaining the conditions under which the facility must be operated, creation and maintenance of a daily log of persons entering and leaving the facility while quarantine is in process, request for variance, a manual of standard operating procedures, and maintenance of certain records covering quarantine operations.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years. APHIS has amended this information collection to more accurately reflect current application numbers and hours spent submitting applications and recordkeeping.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.*, permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.604 hours per response.

Respondents: Owners/operators of privately owned quarantine facilities for ruminants.

Estimated annual number of respondents: 2.

Estimated annual number of responses per respondent: 53.

Estimated annual number of responses: 106.

Estimated total annual burden on respondents: 64 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 18th day of May 2026.

Kelly Moore,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2026-10294 Filed 5-21-26; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS-2026-0100]

Notice of Request To Renew an Approved Information Collection: Accreditation of Laboratories, Transactions, and Exemptions

AGENCY: Food Safety and Inspection Service (FSIS), U.S. Department of Agriculture (USDA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, FSIS is announcing its intention to request a renewal of the information collection for the accreditation of laboratories; transactions with official meat and poultry establishments, egg products processing plants, and other firms; and exemptions from requirements of the Federal Meat Inspection Act and the Poultry Products Inspection Act. There are no changes to the existing information collection. The approval for this information collection will expire on October 31, 2026.

DATES: Submit comments on or before July 21, 2026.

ADDRESSES: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- **Federal eRulemaking Portal:** This website provides commenters the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Go to <https://www.regulations.gov>. Follow the online instructions at that site for submitting comments.

- **Mail:** Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Washington, DC 20250-3700.

- **Hand- or courier-delivered submittals:** Deliver to 1400 Independence Avenue SW, Jamie L. Whitten Building, Room 350-E, Washington, DC 20250-3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS-2026-0100. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to <https://www.regulations.gov>.

Docket: For access to background documents or comments received, call (202) 286-2255 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Washington, DC 20250-3700.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Mailstop 3758, South Building, Washington, DC 20250-3700; 202-720-5046.

SUPPLEMENTARY INFORMATION:

Title: Accreditation of Laboratories, Transactions, and Exemptions.

OMB Number: 0583-0082.

Type of Request: Renewal of an approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18 and 2.53), as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 *et seq.*). These statutes mandate that FSIS protect the public by verifying that meat, poultry, and egg products are safe, wholesome, and properly labeled.

FSIS is announcing its intention to renew the approved information collection for the accreditation of laboratories; transactions with official meat and poultry establishments, egg products processing plants, and other firms; and exemptions from requirements of the FMIA and the PPIA. There are no changes to the existing

information collection. The approval for this information collection will expire on October 31, 2026.

FSIS requires accredited non-Federal analytical laboratories to maintain certain records (9 CFR 439.20 & 590.580). The Agency uses this collected information to ensure that non-Federal laboratories act in accordance with FSIS regulations.

The FMIA (21 U.S.C. 642), the PPIA (21 U.S.C. 460(b)), and the EPIA (21 U.S.C. 1040) require establishments, brokers, wholesalers, or otherwise, to keep records that fully and correctly disclose all transactions involved in their businesses related to relevant animal carcasses and parts and egg products.

In addition, FSIS requires establishments to keep records to ensure that meat and poultry products exempted from Agency inspection are not commingled with inspected meat and poultry products (9 CFR 303.1(b)(3) and 381.175).

Finally, FSIS requires retail operations determined to have violated the requirements associated with the retail exemptions in the FMIA and PPIA to keep purchase and sales records to ensure future compliance (9 CFR 303.1(d)(3) and 381.10(d)(3)).

FSIS has made the following estimates based upon an information collection assessment:

Respondents: Accredited laboratories, official meat and poultry establishments, egg products processing plants and other firms.

Estimated No. of Respondents: 26,120.

Estimated No. of Annual Responses per Respondent: 122.

Estimated Total Annual Burden on Respondents: 113,458 hours.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record. Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Mailstop 3758, South Building, Washington, DC 20250-3700; 202-720-5046.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of FSIS' functions, including whether the information will have practical utility; (b) the accuracy of FSIS' estimate of the burden of the proposed collection of information, including the validity of the method and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be

collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20253.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication online through the FSIS web page located at: <https://www.fsis.usda.gov/federal-register>.

FSIS will also announce and provide a link to this **Federal Register** publication through the FSIS *Constituent Update*, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service that provides automatic and customized access to selected food safety news and information. This service is available at: <https://www.fsis.usda.gov/subscribe>. The available information ranges from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

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Justin Ransom,
Administrator.

[FR Doc. 2026-10315 Filed 5-21-26; 8:45 am]

BILLING CODE 3410-DM-P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

[Docket No. RUS-26-AGENCY-0067]

Notice of Funding Opportunity for the Section 313A Guarantees for Bonds and Notes Issued for Utility Infrastructure Purposes for Fiscal Year 2026

AGENCY: Rural Utilities Service, U.S. Department of Agriculture (USDA).

ACTION: Notice of funding opportunity.

SUMMARY: The Rural Utilities Service (RUS or the Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA) is announcing the acceptance of applications under the Guarantees for Bonds and Notes Issued for Utility Infrastructure Purposes Program (the 313A Program) for Fiscal Year (FY) 2026. In future years this funding opportunity will only be announced on the Agency website, without a **Federal Register** notice. Therefore, in future years, neither the funding opportunity nor reference to the funding opportunity

will appear in the **Federal Register**. Please make a note of this change in location of the funding announcement in your records.

DATES: May 22, 2026.

ADDRESSES: Completed applications must be submitted electronically to Amy McWilliams, Branch Chief, Policy and Outreach Branch, Office of Customer Service and Technical Assistance, Electric Program, RUS at email: amy.mcwilliams@usda.gov.

FOR FURTHER INFORMATION CONTACT: Amy McWilliams, Branch Chief, Policy and Outreach Branch, Office of Customer Service and Technical Assistance, Electric Program, RUS email: amy.mcwilliams@usda.gov; phone: (202) 205-8663.

SUPPLEMENTARY INFORMATION: The full text of the Notice of Funding Opportunity (NOFO) is available on the Agency website at: <https://www.rd.usda.gov/programs-services/electric-programs>.

(Authority The 313A Program is authorized by Section 313A of the Rural Electrification Act of 1936, as amended (7 U.S.C. 940c-1), and is implemented by regulations located at 7 CFR part 1720. The Administrator of RUS (the Administrator) has been delegated responsibility for administering the 313A Program.)

Karl Elmshaeuser,

Administrator, Rural Utilities Service.

[FR Doc. 2026-10247 Filed 5-21-26; 8:45 am]

BILLING CODE 3410-15-P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Utah Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of public meetings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Utah Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold public meetings via Zoom at 2:00 p.m. MT on Thursday, June 25, and 3:00 p.m. MT on Monday, July 20, 2026. The purpose of the meeting is to discuss outreach to their recent report on education access for students with disabilities.

DATES:

Thursday, June 25, 2026, from 2:00 p.m.–3:00 p.m. Mountain Time.

Monday, July 20, 2026, from 3:00 p.m.–4:00 p.m. Mountain Time.

ADDRESSES: The meetings will be held via Zoom Webinar.

Thursday, June 25th

Registration Link (Audio/Visual):
<https://www.zoomgov.com/j/1656541349>.

Join by Phone (Audio Only): (833) 435-1820 USA Toll-Free; Meeting ID: 165 654 1349.

Monday, July 20th

Registration Link (Audio/Visual):
<https://www.zoomgov.com/j/1659553733>.

Join by Phone (Audio Only): (833) 435-1820 USA Toll-Free; Meeting ID: 165 955 3733.

Agenda:

June 25: <https://usccr.app.box.com/folder/382868541355>.

July 20: <https://usccr.app.box.com/folder/382868823682>.

(Note: a final meeting agenda will be available prior to the meeting date).

FOR FURTHER INFORMATION CONTACT:

Brooke Peery, Designated Federal Officer, at bpeery@usccr.gov or (202) 701-1376.

SUPPLEMENTARY INFORMATION: This committee meeting is available to the public through the registration link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any charges incurred. Callers will incur no charge for calls when they initiate over land-line connections to the toll-free telephone number. Closed captioning will be available for individuals who are deaf, hard of hearing, or who have certain cognitive or learning impairments. To request additional accommodations, please email Angelica Trevino, Support Services Specialist, at atrevino@usccr.gov at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received within 30 days following the meeting. Written comments may be emailed to Brooke Peery at bpeery@usccr.gov. Persons who desire additional information may contact the Regional Programs Coordination Unit at (202) 701-1376.

Records generated from this meeting may be inspected and reproduced at the

Regional Programs Coordination Unit, as they become available, both before and after the meeting. Records of the meeting will be available via the file sharing website: <https://usccr.app.box.com/folder/251365093949?s=pcbmlqas1jmoeyvibx7fqfxlj0i7w2il> as well as at: www.facadatabase.gov under the Commission on Civil Rights, selecting the Advisory Committee of interest. Persons interested in the work of this Committee are directed to the Commission's website, www.usccr.gov, or may contact the Regional Programs Coordination Unit at the above phone number.

Dated: May 19, 2026.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2026-10250 Filed 5-21-26; 8:45 am]

BILLING CODE 6335-01-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B-49-2026]

Foreign-Trade Zone (FTZ) 75, Notification of Proposed Production Activity; Essai, Inc.; (Semiconductor Test Equipment); Chandler, Arizona

Essai, Inc. submitted a notification of proposed production activity to the FTZ Board (the Board) for its facility in Chandler, Arizona within FTZ 75. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on May 15, 2026.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/ component(s) and specific finished product(s) 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 wafer test sockets and thermal heat sinks (duty-free).

The proposed foreign-status materials/components include spring loaded pogo pins, thermal control units, and thermal heat sinks (duty free).

The request indicates that certain materials/components are subject to duties under section 122 of the Trade Act of 1974 (Section 122) and a pending section 301 investigation of the Trade Act of 1974 (section 301), depending on the country of origin. The applicable

section 122 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 July 1, 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 Brian Warnes at brian.warnes@trade.gov.

Dated: May 20, 2026.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2026–10340 Filed 5–21–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–944]

Chromium Trioxide From India: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that chromium trioxide from India is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is July 1, 2024, through June 30, 2025. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable May 22, 2026.

FOR FURTHER INFORMATION CONTACT: Katerina Katsiadas or Henry Wolfe, 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) 482–4929 or (202) 482–0574, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on January 5, 2026.¹ For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum.² A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Investigation

The product covered by this investigation is chromium trioxide from India. For a complete description of the scope of this investigation, see Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,³ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁴ No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice*. Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice*. See the scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Pursuant to section

776(a) and (b) of the Act, Commerce has preliminarily relied upon facts otherwise available, with adverse inferences for Vishnu Chemicals Limited (Vishnu Chemicals), the sole mandatory respondent in this investigation, because it failed to submit the necessary information to calculate an antidumping margin in this investigation. For a full description of the methodology underlying the preliminary determination, see the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that, in the preliminary determination, Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce preliminarily assigned a rate based entirely on adverse facts available (AFA) under section 776 of the Act to the mandatory respondent. Consequently, pursuant to section 735(c)(5)(B) of the Act, Commerce's normal practice under these circumstances has been to calculate the all-others rate as a simple average of the alleged dumping margin(s) from the petition.⁵ However, in the Petition, the petitioner alleged a single dumping margin; therefore, consistent with our practice, we preliminarily assigned the dumping margin alleged in the Petition, which is 14.44 percent, as the all-others rate.⁶ For a full description of the methodology underlying Commerce's analysis, see the Preliminary Decision Memorandum.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

¹ See *Chromium Trioxide from India and the Republic of Türkiye: Initiation of Less-Than-Fair-Value Investigations*, 91 FR 234 (January 5, 2026) (*Initiation Notice*).

² See Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Chromium Trioxide from India" dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

³ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁴ See *Initiation Notice*, 91 FR at 234.

⁵ See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 21909, 21912 (April 23, 2008), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 38986, 38987 (July 8, 2008), and accompanying Issues and Decision Memorandum at Comment 2; see also *Notice of Final Determination of Sales at Less Than Fair Value: Raw Flexible Magnets from Taiwan*, 73 FR 39673, 39674 (July 10, 2008); *Steel Threaded Rod from Thailand: Preliminary Determination of Sales at Less Than*

Fair Value and Affirmative Preliminary Determination of Critical Circumstances, 78 FR 79670, 79671 (December 31, 2013), unchanged in *Steel Threaded Rod from Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances*, 79 FR 14476, 14477 (March 14, 2014).

⁶ See *Initiation Notice*; see also Checklist, "Antidumping Duty Investigation Initiation Checklist," dated December 29, 2025 (Initiation Checklist).

Exporter/producer	Weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offset (percent)) ⁷
Vishnu Chemicals	* 14.44	12.00
All Others	14.44	12.00

* Rate based on facts available with adverse inferences.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondent listed above will be equal to the company-specific estimated weighted-average dumping margin determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding, when CVD provisional measures are in effect. Accordingly, where Commerce preliminarily made an affirmative determination for countervailable export subsidies, Commerce has offset the estimated weighted-average dumping margin by the appropriate CVD rate. Any such adjusted cash deposit rate may be found in the "Preliminary Determination" section above.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin

collecting estimated antidumping duty cash deposits unadjusted for countervailed export subsidies at the time that the provisional CVD measures expire. These suspension-of-liquidation instructions will remain in effect until further notice.

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of preliminary determination in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied AFA to Vishnu Chemicals, in accordance with section 776 of the Act, and the applied AFA rate is based solely on the petition, there are no calculations to disclose.

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

Verification

Because the individually-examined respondent in this investigation did not act to the best of its ability to provide information requested by Commerce, and Commerce preliminarily determines the examined respondent is uncooperative, we will not conduct verification.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 14 days after the date of publication of the preliminary determination. Rebuttal briefs, limited to issues raised in the

case briefs, may be filed not later than five days after the date for filing case briefs.⁸ Interested parties who submit case or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.⁹

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.¹⁰ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹¹

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

⁸ 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*).

⁹ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁰ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹¹ See *APO and Service Procedures*.

⁷ See *Chromium Trioxide from India: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination*, 91 FR 27244 (May 14, 2026), and accompanying Preliminary Decision Memorandum (*CVD Preliminary Determination*).

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Pursuant to 19 CFR 351.210(e)(2), Commerce requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On April 29, 2026, pursuant to 19 CFR 351.210(e), Vishnu Chemicals requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.¹² In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its preliminary determination of sales at LTFV. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of chromium trioxide from India are materially injuring, or threaten material injury to, the U.S. industry.

¹² See Vishnu Chemical's Letter, "Request for Postponement of Final Determination and Extension of Provisional Anti-Dumping Measures," dated April 29, 2026.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: May 18, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise subject to this investigation is chromium trioxide (Chemical Abstracts Services (CAS) registry number 1333-82-0), regardless of form (dry or solution). Chromium trioxide is an inorganic compound with the molecular formula CrO_3 in dry form and H_2CrO_4 in solution form. All relevant formulas refer to same product with one unit of Chromium (as Cr+6) and three units of Oxygen, such as Cr_2O_{12} ; and $\text{Cr}_{0.25}\text{O}_{0.75}$.

The product in dry form is generally referred to as chromium trioxide, which is the acidic anhydride of chromic acid. Chromium trioxide in solution form may be referred to as chromic acid. However, the dry form may also be marketed under the name chromic acid.

A non-exhaustive list of other names used for the subject merchandise includes: chromic anhydride, chromic trioxide, chromium (VI) oxide, monochromium trioxide, chromia, chromium (VI) trioxide, trioxochromium, and chromtrioxid. A non-exhaustive list of trade names for the subject merchandise includes: 11910080KROMSAV-ANHIDRID IP, Aktivkohle, imprägniert, Typ PLWK, Chromsaure, and Chroomzuur.

All chromium trioxide is covered by the scope of this investigation irrespective of purity, particle size, or physical form. Chromium trioxide is generally imported in dry form, including in the form of pellets, flakes, powders, or beads, but the scope includes chromium trioxide in solution form.

Chromium trioxide that has been blended with another product or products other than water is included in the scope if the resulting mix contains 90 percent or more of chromium trioxide by total formula weight, such as chromium trioxide mixed with a catalyst to make the product ready for use in metal finishing applications. If chromium trioxide is imported blended with another product, only the chromium trioxide content of the blend is included within the scope.

Subject merchandise also includes chromium trioxide that has been processed in a third country into a product that otherwise would be within the scope of this investigation, i.e., if any such further processing would not otherwise remove the merchandise from the scope of the investigation it is included in the scope of the investigation, including blending, flaking, mixing with water, or packaging. For example, the dry form of the subject merchandise may be imported into a third country and then processed into solution

before shipment to the United States. Such a solution would be subject to the scope.

The subject merchandise is provided for in subheading 2819.10.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). In addition to 1333-82-0, import documentation may also reflect CAS registry numbers 12324-05-9, 12324-08-2, and 1362947-20-3. Although the HTSUS subheading and CAS registry numbers are provided for convenience and customs purposes, the written description of the scope is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Application Of Facts Available With Adverse Inferences
- V. Adjustments to Cash Deposit Rates for Export Subsidies in the Companion Countervailing Duty Investigation
- VI. Recommendation

[FR Doc. 2026-10248 Filed 5-21-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-914]

Certain Superabsorbent Polymers From the Republic of Korea: 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) is conducting an administrative review of the antidumping duty (AD) order on certain superabsorbent polymers (SAP) from the Republic of Korea (Korea). The period of review (POR) is December 1, 2023, through November 30, 2024. Commerce preliminarily determines that LG Chem, Ltd. (LGC) did not make sales of subject merchandise at less than normal value (NV) during the POR. We invite interested parties to comment on these preliminary results.

DATES: Applicable May 22, 2026.

FOR FURTHER INFORMATION CONTACT: Charles DeFilippo, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3797.

SUPPLEMENTARY INFORMATION:

Background

On December 3, 2024, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the AD order on SAP from Korea.¹ On January 27, 2025, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the *Order*.²

On December 9, 2024, Commerce tolled the deadline to issue the preliminary results in this administrative review by 90 days.³ Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁴ 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.⁵ On February 9, 2026, Commerce extended the deadline for issuing the preliminary results of this review by 101 days.⁶ The deadline for the preliminary results of this review is now May 19, 2026.

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.⁷ 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 merchandise subject to the *Order* is SAP from Korea. For a complete description of the scope of the *Order*, *see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act). Constructed export prices have been calculated in accordance with section 772(b) of the Act. Normal value is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. A list of the topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following estimated weighted-average dumping margin exists for the period December 1, 2023, through November 30, 2024:

Exporter/producer	Weighted-average dumping margin (percent)
LG Chem, Ltd	0.00

Disclosure

Commerce intends to disclose the calculations performed for these preliminary results to interested parties within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Public Comment

Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs to Commerce no later than 21 days after the date of the publication of this notice. 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.⁸ 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.⁹ 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.¹⁰ 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).¹¹

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. 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. Issues raised in the hearing will be limited to those raised in the respective case briefs. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise covered by this review.¹² If the weighted-average dumping margin for an individually examined respondent is not zero or *de minimis* (i.e., less than 0.50 percent) in the final results of this review, we will calculate importer-specific ad valorem assessment

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 89 FR 95737 (December 3, 2024).

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 8187 (January 27, 2025) (*Initiation Notice*); *see also* *Certain Superabsorbent Polymers from the Republic of Korea: Notice of Court Decision Not in Harmony with the Final Determination of Antidumping Duty Investigation; Notice of Amended Final Determination; Notice of Amended Antidumping Duty Order*, 90 FR 302 (January 3, 2025) (*Order*).

³ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings," dated December 9, 2024.

⁴ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

⁵ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁶ See Memorandum, "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated February 9, 2026.

⁷ See Memorandum, "Decision Memorandum for the Preliminary Results of the 2023–2024 Antidumping Duty Administrative Review on Certain Superabsorbent Polymers from the Republic of Korea," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁸ 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*).

⁹ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁰ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹¹ See *APO and Service Final Rule*.

¹² See 19 CFR 351.212(b)(1).

rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of such sales in accordance with 19 CFR 351.212(b)(1).¹³ For any individually examined respondent whose weighted-average dumping margin is zero or *de minimis* in the final results of review, or if an importer-specific assessment rate is zero or *de minimis*, Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.

Commerce's "automatic assessment" practice will apply to entries of subject merchandise during the POR produced by LGC for which it did not know that the merchandise it sold to an intermediary (e.g., a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate those entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.¹⁴

In accordance with section 751(a)(2)(C) of the Act, the final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable. 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 deposit requirements will be effective upon publication in the **Federal Register** of final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for LGC will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR

351.106(c)(1), in which case the cash deposit rate will be zero; (2) for 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, or the less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers and/or exporters will continue to be 26.05 percent, the all-others rate established in the LTFV investigation.¹⁵ These deposit requirements, when imposed, shall remain in effect until further notice.

Final Results of Review

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, no later than 120 days after the date of publication of this notice in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the 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 results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213 and 351.221(b)(4).

Dated: May 19, 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

¹⁵ See *Order*.

- III. Scope of the *Order*
- IV. Discussion of the Methodology
- V. Currency Conversion
- VI. Recommendation

[FR Doc. 2026–10344 Filed 5–21–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–856]

Chromium Trioxide From the Republic of Türkiye: Preliminary Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that chromium trioxide from the Republic of Türkiye (Türkiye) is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is July 1, 2024, through June 30, 2025. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable May 22, 2026.

FOR FURTHER INFORMATION CONTACT: Monica Gillis, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6384.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on January 5, 2026.¹ For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum.² A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's

¹³ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101, 8103 (February 14, 2012).

¹⁴ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

¹ See *Chromium Trioxide from India and the Republic of Türkiye: Initiation of Less-Than-Fair-Value Investigations*, 91 FR 234 (January 5, 2026) (*Initiation Notice*).

² See Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Chromium Trioxide from the Republic of Türkiye," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Investigation

The product covered by this investigation is chromium trioxide from Türkiye. For a complete description of the scope of this investigation, see Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,³ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁴ No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice*. Therefore, Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice*.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Pursuant to section 776(a), Commerce has preliminarily relied upon facts otherwise available for Türkiye Şişe ve Cam Fabrikaları A.Ş. (Şişecam), the mandatory respondent in this investigation, because it failed to submit the necessary information to calculate an antidumping margin in this investigation. Furthermore, pursuant to sections 776(a) and (b) of the Act, Commerce has preliminarily relied upon facts otherwise available, with adverse inferences, for Şişecam. For a full description of the methodology underlying the preliminary determination, see the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any margins that are zero, *de minimis*, or determined entirely under section 776 of the Act.

Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis*, or determined based entirely on facts otherwise available, Commerce may use any reasonable method to establish the estimated weighted-average dumping margin for all other producers or exporters. Commerce has preliminarily determined the estimated weighted-average dumping margin for the sole individually examined respondent under section 776 of the Act. Consequently, pursuant to section 735(c)(5)(B) of the Act, Commerce's normal practice under these circumstances has been to calculate the all-others rate as a simple average of the dumping margins from the petition.⁵ Here, because the petition contains only a single dumping margin, we have preliminarily assigned this rate as the all-others rate.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Estimated weighted-average dumping margin (percent)
Türkiye Şişe ve Cam Fabrikaları A.Ş.	* 40.88
All Others	40.88

* This rate is based on adverse facts available (AFA).

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after

the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondent listed above will be equal to the company-specific estimated weighted-average dumping margin determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of preliminary determination in the **Federal Register** in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied AFA to the individually examined company Şişecam in this investigation, in accordance with section 776 of the Act, and the applied AFA rate is based solely on the petition, there are no calculations to disclose.

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

Verification

Because the examined respondent in this investigation did not provide information requested by Commerce, and Commerce preliminarily determines the examined respondent to have been

³ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁴ See *Initiation Notice*.

⁵ See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 21909, 21912 (April 23, 2008), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 38986, 38987 (July 8, 2008), and accompanying Issues and Decision Memorandum at Comment 2; see also *Notice of Final Determination of Sales at Less Than Fair Value: Raw Flexible Magnets from Taiwan*, 73 FR 39673, 39674 (July 10, 2008); and *Steel Threaded Rod from Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances*, 78 FR 79670, 79671 (December 31, 2013), unchanged in *Steel Threaded Rod from Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances*, 79 FR 14476, 14477 (March 14, 2014).

uncooperative, we will not conduct verification.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 14 days after the date of publication of the preliminary determination. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.⁶ Interested parties who submit case or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.⁷

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.⁸ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).⁹

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance within 30 days after the date of publication of this notice. Requests should contain (1) the party's name, address, and telephone number; (2) the number of participants, and whether any participant is a foreign national; and (3) a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

⁶ 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*).

⁷ See 19 CFR 351.309(c)(2) and (d)(2).

⁸ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

⁹ See *APO and Service Procedures*.

All submissions, including case and rebuttal briefs, as well as hearing requests, should be filed via ACCESS.¹⁰ An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline.

Final Determination

Section 735(a)(1) of the Act and 19 CFR 351.210(b)(1) provide that Commerce will issue the final determination within 75 days after the date of its preliminary determination. Accordingly, Commerce will make its final determination no later than 75 days after the signature date of this preliminary determination.

U.S. International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, Commerce will notify the ITC of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: May 18, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise subject to these investigations is chromium trioxide (Chemical Abstracts Services (CAS) registry number 1333–82–0), regardless of form (dry or solution). Chromium trioxide is an inorganic compound with the molecular formula CrO_3 in dry form and H_2CrO_4 in solution form. All relevant formulas refer to same product with one unit of Chromium (as Cr+6) and three units of Oxygen, such as Cr_4O_{12} ; and $\text{Cr}_{0.25}\text{O}_{0.75}$.

The product in dry form is generally referred to as chromium trioxide, which is the acidic anhydride of chromic acid. Chromium trioxide in solution form may be referred to as chromic acid. However, the dry form may also be marketed under the name chromic acid.

A non-exhaustive list of other names used for the subject merchandise includes: chromic anhydride, chromic trioxide, chromium (VI) oxide, monochromium

trioxide, chromia, chromium (VI) trioxide, trioxochromium, and chromtrioxid. A non-exhaustive list of trade names for the subject merchandise includes: 11910080KROMSAV–ANHIDRID IP, Aktivkohle, imprägniert, Typ PLWK, Chromsaure, and Chroomzuur.

All chromium trioxide is covered by the scope of these investigations irrespective of purity, particle size, or physical form. Chromium trioxide is generally imported in dry form, including in the form of pellets, flakes, powders, or beads, but the scope includes chromium trioxide in solution form.

Chromium trioxide that has been blended with another product or products other than water is included in the scope if the resulting mix contains 90 percent or more of chromium trioxide by total formula weight, such as chromium trioxide mixed with a catalyst to make the product ready for use in metal finishing applications. If chromium trioxide is imported blended with another product, only the chromium trioxide content of the blend is included within the scope.

Subject merchandise also includes chromium trioxide that has been processed in a third country into a product that otherwise would be within the scope of these investigations, *i.e.*, if any such further processing would not otherwise remove the merchandise from the scope of the investigation it is included in the scope of the investigation, including blending, flaking, mixing with water, or packaging. For example, the dry form of the subject merchandise may be imported into a third country and then processed into solution before shipment to the United States. Such a solution would be subject to the scope.

The subject merchandise is provided for in subheading 2819.10.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). In addition to 1333–82–0, import documentation may also reflect CAS registry numbers 12324–05–9, 12324–08–2, and 1362947–20–3. Although the HTSUS subheading and CAS registry numbers are provided for convenience and customs purposes, the written description of the scope is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Application of Facts Available with Adverse Inferences
- V. Recommendation

[FR Doc. 2026–10249 Filed 5–21–26; 8:45 am]

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¹⁰ See 19 CFR 351.303.

DEPARTMENT OF COMMERCE**International Trade Administration****[C–821–841]****Unwrought Palladium from the Russian Federation: Final Affirmative Countervailing Duty Determination**

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of unwrought palladium (palladium) from the Russian Federation (Russia). The period of investigation is January 1, 2024, through December 31, 2024.

DATES: Applicable May 22, 2026.

FOR FURTHER INFORMATION CONTACT: Kelsie Hohenberger, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2517.

SUPPLEMENTARY INFORMATION:**Background**

On March 11, 2026, Commerce published the *Preliminary Determination* in the **Federal Register** and invited interested parties to comment.¹ On April 10, 2026, and April 15, 2026, we received a case brief and a rebuttal brief, respectively, from the Government of Russia (GOR) and the petitioners.²

A summary of the events that occurred since the *Preliminary Determination*, as well as a full discussion of the issues raised by interested parties for this final determination, may be found in the Issues and Decision Memorandum.³ The Issues and Decision Memorandum is a public document and is on file

¹ See *Unwrought Palladium from the Russian Federation: Preliminary Affirmative Countervailing Duty Determination*, 91 FR 11949 (March 11, 2026) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

² See GOR's Letter, "Case Brief of the Ministry of Economic Development of the Russian Federation," dated April 10, 2026; see also Petitioners' Letter, "Rebuttal Brief," dated April 15, 2026. The petitioners are Stillwater Mining Company d/b/a Sibanye-Stillwater and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC.

³ See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Countervailing Duty Investigation of Unwrought Palladium from the Russian Federation," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Investigation

The product covered by this investigation is palladium from Russia. For a complete description of the scope of this investigation, see Appendix I.

Scope Comments

No interested party commented on the scope of the investigation as it appeared in the *Preliminary Determination*. Therefore, no changes were made to the scope of the investigation.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs submitted by interested parties in this investigation, are discussed in the Issues and Decision Memorandum. For a list of the issues raised by parties, which we addressed in the Issues and Decision Memorandum, see Appendix II to this notice.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found to be countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an "authority" that gives rise to a benefit to the recipient, and that the subsidy is specific.⁴ For a full description of the methodology underlying our final determination, see the Issues and Decision Memorandum.

In making this final determination, Commerce relied, in part, on facts otherwise available, including with an adverse inference, pursuant to sections 776(a) and (b) of the Act. For a full discussion of our application of adverse facts available, see the *Preliminary Determination*⁵ and the Issues and Decision Memorandum at the section entitled "Use of Facts Otherwise Available and Application of Adverse Inferences."

⁴ 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.

⁵ See *Preliminary Determination* PDM at 3–13.

Verification

Because the mandatory company respondents in this investigation did not provide information requested by Commerce, and Commerce determined that these respondents were uncooperative, no verification was conducted.

All-Others Rate

Section 705(c)(5)(A) of the Act provides that Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

Pursuant to section 705(c)(5)(A)(ii) of the Act, if the individual estimated countervailable subsidy rates established for all exporters and producers individually examined are zero, *de minimis*, or determined based entirely on facts otherwise available, Commerce may use "any reasonable method" to establish the estimated subsidy rate for all other producers and/or exporters. In this investigation, the estimated subsidy rate for the individually examined respondents is based entirely on facts available, pursuant to section 776 of the Act. The rate based on total facts available, therefore, is the only rate available in this proceeding for deriving the all-others rate. Consequently, the subsidy rate assigned to the mandatory respondents is also assigned as the subsidy rate for all other producers and/or exporters.

Final Determination

Commerce determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent <i>ad valorem</i>)
JSC Urals Innovative Technologies	* 109.10
Prioksky Plant of Non Ferrous Metals	* 109.10
All Others	109.10

* Rate based on facts available with adverse inferences.

Disclosure

Because we made no changes to the calculations of the rates assigned in the *Preliminary Determination*, there are no new calculations to disclose in accordance with 19 CFR 351.224(b) for this final determination.

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination*, and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, Commerce instructed U.S. Customs and Border Protection (CBP) to collect cash deposits and suspend liquidation of entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after March 11, 2026, the date of publication of the *Preliminary Determination* in the **Federal Register**.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order and require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above, in accordance with section 706(a) of the Act. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our final affirmative determination that countervailable subsidies are being provided to producers and exporters of palladium from Russia. Because Commerce's final determination is affirmative, in accordance with section 705(b) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of palladium from Russia. In addition, we are making available to the ITC all non-privileged and non-proprietary information in our files, provided that the ITC confirms that it will not disclose such information, either publicly or under administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Administrative Protective Order

In the event that the ITC issues a final negative injury determination, this notice will serve as the only 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/destruction of APO materials or conversion to judicial protective order is

hereby requested. Failure to comply with the regulations and the terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: May 19, 2026.

Christopher Abbott,

Deputy Assistant Secretary, for Policy and Negotiations, performing the non-exclusive functions and duties, of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The scope of this investigation is unwrought palladium. Unwrought palladium includes palladium, whether or not refined, in the form of ingots, blocks, lumps, billets, cakes, slabs, pigs, cathodes, anodes, briquettes, cubes, sticks, grains, sponge, pellets, shot, powder, and similar primary forms.

Unwrought palladium is covered by the scope regardless of production method. The scope includes unwrought palladium produced through ore extraction, unwrought palladium produced by recycling palladium-containing scrap, unwrought palladium produced by any other method, and blends of unwrought palladium produced by different methods.

The scope includes unwrought palladium that is commingled with unwrought palladium from sources not subject to this investigation or commingled with other metals. Only the subject unwrought palladium component of such commingled products is covered by the scope of this investigation.

Subject merchandise includes merchandise matching the above description that has been finished, packaged, or otherwise processed in a third country, including by refining, grinding, commingling, adding or removing additives (such as other metals), or performing any other finishing, packaging, or processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the subject country.

The covered merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 7110.21.0000. Unwrought palladium meeting the scope description may also enter under HTSUS subheading 7110.29.0000. Although the HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Use of Facts Otherwise Available and Application of Adverse Inferences

IV. Analysis of Programs

V. Discussion of the Issues

Comment 1: Whether Commerce Should Apply Adverse Facts Available (AFA) to the GOR

Comment 2: Whether Commerce Should Countervail via AFA Certain Income Tax Programs

Comment 3: Whether the AFA Rate Selected for the Certain Less Than Adequate Remuneration Programs is Appropriate

Comment 4: Whether Commerce Should Modify its Treatment of the Chinese Loans to Secure Natural Resources Program

VI. Recommendation

[FR Doc. 2026–10342 Filed 5–21–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–455–806]

Certain Preserved Mushrooms From Poland: Final Results of Antidumping Duty Administrative Review; 2022–2024

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that Okechamp S. A. (Okechamp), the sole producer or exporter subject to this administrative review, made sales of certain preserved mushrooms (mushrooms) from Poland in the United States at prices below normal value (NV) during the period of review. The period of review (POR) is November 3, 2022, through April 30, 2024.

DATES: Applicable May 22, 2026.

FOR FURTHER INFORMATION CONTACT: Monica Gillis, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6384.

SUPPLEMENTARY INFORMATION:

Background

On September 11, 2025, Commerce published in the **Federal Register** the *Preliminary Results* of this administrative review.¹ This review covers one respondent, Okechamp.

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative

¹ See *Certain Preserved Mushrooms from Poland: Preliminary Results of Antidumping Duty Administrative Review; 2022–2024*, 90 FR 44039 (September 11, 2025) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

proceedings by 47 days.² Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.³

On February 19, 2026, Commerce extended the deadline for the final results by 51 days⁴ and, on May 7, 2026, Commerce extended the deadline by an additional nine days.⁵ Accordingly, the deadline for these final results is now May 18, 2026.

For a complete description of the events that occurred since Commerce published the *Preliminary Results*, see the Issues and Decision Memorandum.⁶ The Issues and Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Commerce conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order⁷

The merchandise subject to the *Order* is mushrooms from Poland. For a full description of the scope, see the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are listed in the appendix to this notice and addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice as an appendix.

² See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

³ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁴ See Memorandum, "Extension of Deadline for Final Results of Antidumping Duty Administrative Review," dated February 19, 2026.

⁵ See Memorandum, "Extension of Deadline for Final Results of Antidumping Duty Administrative Review," dated May 7, 2026.

⁶ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Certain Preserved Mushrooms from Poland; 2022–2024," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁷ See *Certain Preserved Mushrooms from the Netherlands, Poland, and Spain: Antidumping Duty Orders*, 88 FR 33096 (May 23, 2023) (*Order*).

Changes Since the Preliminary Results

Based on our review of the record, Commerce made certain revisions to the margin calculations for Okechamp. For a detailed discussion of the changes since the *Preliminary Results*, see the Issues and Decision Memorandum.

Final Results of Review

As a result of this review, we determine the following weighted-average dumping margin for the period November 3, 2022, through April 30, 2024:

Exporter/producer	Weighted average dumping margin (percent)
Okechamp S.A	2.55

Disclosure

Commerce intends to disclose the calculations performed for the final results of this review to parties in this proceeding within five days after public announcement of the final results or, if there is no public announcement, within five days of the date of publication of this notice in the *Final Register*, in accordance with 19 CFR 351.224(b).⁸

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 Okechamp's weighted-average dumping margin is not zero or *de minimis* (i.e., less than 0.5 percent) in the final results of this review, we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1). Where an importer-specific assessment rate is zero or *de minimis* (i.e., less than 0.5 percent), the entries by that importer will be liquidated without regard to antidumping duties.

Commerce's "automatic assessment" practice will apply to entries of subject merchandise during the POR produced by Okechamp 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 if there is no rate for the intermediate company(ies) involved in the transaction.⁹

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of 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 the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results as provided by section 751(a)(2) of the Act: (1) the cash deposit rate for subject merchandise exported by Okechamp will be equal to the weighted-average dumping margin established in these final results of this administrative review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior completed 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 or a completed prior segment of this proceeding but the producer is, then the cash deposit rate will be the cash deposit rate established for the most recently completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers and exporters will continue to be 34.32 percent,¹⁰ the all-others rate established in the less-than-fair-value investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the POR. Failure to comply with

⁹ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

¹⁰ See *Order*.

⁸ See 19 CFR 351.224(b).

this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order (APO)

This notice serves as the only reminder to parties subject to an APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). 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 the 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 18, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Changes Since the Preliminary Results
- V. Discussion of the Issues
- Comment 1: Whether to Apply Total Adverse Facts Available (AFA) to Okechamp
- VI. Recommendation

[FR Doc. 2026-10343 Filed 5-21-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF779]

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 Committee via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council

for formal consideration and action, if appropriate.

DATES: This webinar will be held on Friday, June 12, 2026, at 9 a.m. Webinar registration URL information: <https://nefmc-org.zoom.us/j/6487777777>.

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 Committee will meet to 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 Committee 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. The Committee will also receive an Ocean Planning update. 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 20, 2026.

Key Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026-10319 Filed 5-21-26; 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; Regional Coastal Observing Systems (RCOS)

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite 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. Public comments were previously requested via the **Federal Register** on September 10, 2025 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration, Commerce.

Title: Regional Coastal Observing Systems (RCOS).

OMB Control Number: 0648-0672.

Form Number(s): None.

Type of Request: Regular submission [reinstatement with minor administrative change to update name of the program and reduce burden hours].

Affected Public: Business or other for-profit organizations; Not-for-profit institutions; State, Local, or Tribal government; Federal government.

Number of Respondents: 11.

Average Hours per Response: 75 hours.

Total Annual Burden Hours: 300.

Needs and Uses: This is a request for reinstatement of a previously approved information collection. The specific information collected has not changed since the original collection. The National Oceanic and Atmospheric Administration's (NOAA's) U.S. Integrated Ocean Observing System (IOOS) is a national-regional partnership working to provide new tools and forecasts to improve safety, enhance the economy, and protect our environment. The Integrated Coastal and Ocean Observation System Act of 2009 (Pub. L. 111–11) (ICOOS Act), as amended by the Coordinated Ocean Observations and Research Act of 2020 (COORA) (Pub. L. 116–271, Title I) (33 U.S.C. 3601–3610), directed the President, acting through the National Ocean Research Leadership Council, to establish a National Integrated Coastal and Ocean Observation System (System). 33 U.S.C. 3603(a). The ICOOS Act directs NOAA, as the lead Federal agency for implementing and administering the System, to “promulgate program guidelines—to certify and integrate regional associations into the System.” 33 U.S.C. 3603(c)(3)(C).

In response to the ICOOS Act's mandate, NOAA promulgated final regulations identifying program guidelines for the compliance procedures and requirements for certifying Regional Information Coordination Entities (RICES), now known as Regional Coastal Observing Systems (RCOS). 15 CFR 997.1–997.26. The program guidelines identify the process and requirements for certifying the RCOSs. Submission of an application by an organization for certification as a RCOS is voluntary, and there is no deadline for an entity to submit an application to be certified. The organization's application is used to collect information required by IOOS's regulations in order for IOOS to certify the organization as an RCOS and integrate it into the System. When certified, RCOSs are integrated into the System through a memorandum of agreement with NOAA and for the purposes of determining that liability arising from the dissemination and use of observation data shall be considered part of NOAA, and, with respect to tort liability, designated employees of the

RCOS will be deemed to be an employee of the Federal government.

RCOSs operate regional observing networks throughout the United States, including the Pacific Islands and the Caribbean, and have implemented specific practices in regard to data collection, governance, and management. They must submit rigorous documentation of these practices to the IOOS offices for review and verification. This vetting process is thorough and requires a collaborative relationship between the organization and the IOOS Program staff.

Affected Public: Business or other for-profit organizations; Not-for-profit institutions; State, Local, or Tribal government; Federal government.

Frequency: Once every five years.

Respondent's Obligation: Voluntary.

Legal Authority: 33 U.S.C. 3601–3610; 15 CFR 997.1–997.26.

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function and entering either the title of the collection or the OMB Control Number 0648–0672.

Sheleen Dumas,

Departmental PRA Compliance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2026–10260 Filed 5–21–26; 8:45 am]

BILLING CODE 3510–NE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF776]

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 Joint Herring Committee and Advisory Panel to consider actions affecting New

England fisheries in the exclusive economic zone (EEZ).

Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Monday, June 8, 2026 at 9:30 a.m. EDT Webinar registration URL information: <https://nefmc-org.zoom.us/j/9yBBJTRPRJasBEy6q0wzRQ>.

ADDRESSES: This meeting will be held at the Courtyard by Marriott, 1000 Market Street, Portsmouth, NH 03801; Phone (603) 436–2121.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Cate O'Keefe, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Herring Committee and Advisory Panel will meet to discuss a 2026 action to include Atlantic herring specifications for 2027–2031, river herring and shad management measures, and other measures. They will also make recommendations to the Committee or Council as appropriate. Other business will be discussed as necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Cate O'Keefe, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: May 20, 2026.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026–10318 Filed 5–21–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648–XF800]

Caribbean Fishery Management Council's Outreach and Education Advisory Panel; Public Hybrid Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Caribbean Fishery Management Council's (CFMC) Outreach and Education Advisory Panel (OEAP) will hold a public hybrid meeting to address the items contained in the tentative agenda included in the **SUPPLEMENTARY INFORMATION.**

DATES: The OEAP public hybrid meeting will be held on June 24, 2026, from 9:30 a.m. to 4:30 p.m., EST.

ADDRESSES: The meeting will be held at the Caribbean Fishery Management Council's office, at 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico, 00918.

You may join the OEAP public hybrid meeting from a computer, tablet or smartphone by visiting the following addresses:

Topic: OEAP Meeting June 2026.

Time: Jun 24, 2026 09:30 a.m., EST (Puerto Rico).

Join Zoom Meeting: <https://us02web.zoom.us/j/84737237065?pwd=7yNUkfiZKald2gJSrV08No8D56wkUQ.1>.

Meeting chat link: <https://us02web.zoom.us/jc/84737237065>.

Meeting ID: 847 3723 7065.

Passcode: 071548.

OEAP Meeting

June 24, 2026, 9:30 a.m. EST (Puerto Rico)

In case there are problems and we cannot reconnect via zoom, the meeting will continue using GoToMeeting.

You can join the meeting from your computer, tablet or smartphone. <https://meet.goto.com/169353053>.

You can also dial in using your phone.

Access Code: 169–353–053.

United States: +1 (646) 749–3122.

Get the app now and be ready when the meeting starts: <https://meet.goto.com/install>.

FOR FURTHER INFORMATION CONTACT:

Miguel Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401,

San Juan, Puerto Rico 00918–1903, telephone: (787) 398–3717.

SUPPLEMENTARY INFORMATION: The following items included in the tentative agenda will be discussed:

June 24, 2026

9:30 a.m.–9:45 a.m.

—Call to Order

—Adoption of Agenda

9:45 a.m.–10 a.m.

—Chair Report—Jannette Ramos

10 a.m.–10:30 a.m.

—AP Members Share (15 mins. each)

—South Atlantic Fishery Management

Council—Nick Smiley

—Gulf of Mexico Fishery

Management Council—Emily

Muehlstein

10:30 a.m.–10:45 a.m.

—Break

10:45 a.m.–11:15 a.m.

—Liaison Reports (15 mins. each)

—Puerto Rico Liaison Officer—

Wilson Santiago Soler

—St. Croix, U.S.V.I. Liaison Officer—

Olivia Walton

11:15 a.m.–11:30 a.m.

—Social Media Report—Cristina Olan

11:30 a.m.–12 p.m.

—Review of Outreach Material
Proposals and Updates

12 p.m.–1:30 p.m.

—Lunch Break

1:30 p.m.–2:30 p.m.

—Continue Review of Outreach Material
Proposals and Updates

2:30 p.m.–3 p.m.

—Outreach Events and Community
Participation

—Educational and Outreach Materials
for Schools

—Future Educational Initiatives

3:00 p.m.–4:30 p.m.

—OEAP Members Comments and
Recommendations

—Public Comment Period

—Other Business

—Adjourn

The order of business may be adjusted as necessary to accommodate the completion of agenda items. The meeting will begin on June 24, 2026, at 9:30 a.m. EST, and will end on June 24, 2026 at 4:30 p.m. EST. Other than the start time, interested parties should be aware that discussions may start earlier or later than indicated, at the discretion of the chair.

Special Accommodations

For any additional information on this public virtual meeting, please contact Diana Martino, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico, 00918–1903, telephone: (787) 226–8849.

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

Dated: May 20, 2026.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026–10320 Filed 5–21–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648–XF786]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an Exempted Fishing Permit (EFP) application contains all of the required information and warrants further consideration. The EFP would allow federally permitted fishing vessels to fish outside fishery regulations in support of exempted fishing activities proposed by Coonamessett Farm Foundation (CFF). Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments must be received on or before June 8, 2026.

ADDRESSES: You may submit written comments by email: nmfs.gar.efp@noaa.gov. Include in the subject line “Great South Channel Habitat Management Area Surfclam Compensation Fishing EFP.” All comments received are a part of the public record and may be posted for public viewing without change. All personal identifying information (*e.g.*, name, address), confidential business information, or otherwise sensitive information submitted voluntarily by

the sender will be publicly accessible. NMFS will accept anonymous comments (enter “anonymous” as the signature if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Christine Ford, Fisheries Management Specialist, christine.ford@noaa.gov, 978–281–9185.

SUPPLEMENTARY INFORMATION: The applicant submitted a complete

application for an EFP to conduct commercial fishing activities that the regulations would otherwise restrict. This EFP would exempt the participating vessels from the following Federal regulations:

TABLE 1—REQUESTED EXEMPTIONS

CFR citation	Regulation	Need for exemption
50 CFR 648.370(h) ..	Habitat Management Areas prohibition on using bottom-tending mobile gear.	To conduct compensation fishing with hydraulic clam dredges.

TABLE 2—PROJECT SUMMARY

Project title	Compensation Fishing in Support of Great South Channel Habitat Management Area Study Phase II: An Acoustic Mapping Survey of Davis Bank East.
Project start	07/15/2026.
Project end	09/30/2026.
Project objectives	Compensation surfclam fishing to fund a habitat mapping project using multibeam sonar and drop cameras.
Project location	Great South Channel Habitat Management Area (GSC HMA): Davis Bank East (DBE), and Rose and Crown (RC).
Number of vessels	4.
Number of trips	Up to 64.
Trip duration (days)	1–2.
Total number of days	Up to 128.
Gear type(s)	Hydraulic clam dredge.
Number of tows or sets	30 per trip.
Duration of tows or sets	5–20 minutes.

Project Narrative

The original EFP in support of this project was issued May 24, 2024, authorizing 260 compensation fishing trips to harvest surfclams from the DBE for the purpose of generating funds for acoustic and visual DBE habitat surveys (Letter of Acknowledgement #24028 issued May 7, 2025). This was later expanded to include compensation fishing in the RC, and the EFP was extended through March 31, 2026, due to poor DBE harvest. On March 3, 2026, the applicant requested an additional 90 compensation fishing trips and another extension. The applicant stated that additional trips and time were needed to generate the funds needed to conduct the final acoustic survey (Letter of Acknowledgement #26040 issued April 17, 2026). On April 24, 2026, a minor EFP extension and expansion was issued, adding 26 trips (a 10-percent increase of the original 260 permitted trips) to the EFP, and extending the EFP out to July 15, 2026.

This EFP would authorize the harvest of surfclams from two areas closed to hydraulic clam dredges for the purpose of generating funds for the above-mentioned habitat survey and final project report. Four commercial surfclam vessels would take up to 64 total trips into either the eastern portion of DBE or into the RC, defined by these coordinates:

DBE

Latitude	Longitude
41.325° N	69.558° W
41.238° N	69.539° W
41.238° N	69.508° W
41.3° N	69.508° W
41.325° N	69.531° W

RC

Latitude	Longitude
41.19996° N	69.70669° W
41.22955° N	69.6906° W
41.27988° N	69.71163° W
41.27766° N	69.62776° W
41.23004° N	69.60022° W
41.21001° N	69.58873° W
41.19856° N	69.59788° W
41.19996° N	69.70669° W

The vessels would use 48-inch-wide hydraulic surfclam dredges that would be towed between 2 to 3 knots for 5–20 minutes per tow with a trip limit of 14 cages. Approximately 30 tows would be conducted per trip. A CFF scientist would be onboard 20 percent of trips to collect surfclam catch per unit effort and catch composition data. The vessel owners have committed 15 percent of the value of each trip to cover the full cost of the research trips and data analysis. At an estimated \$30 per bushel ex-vessel value, this will just cover the total research budget of roughly \$505,000. The participating vessel

owners have agreed to make up the difference if the price falls below \$30 per bushel.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: May 20, 2026.

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

[FR Doc. 2026–10322 Filed 5–21–26; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (“PRA”), this notice announces that the

Information Collection Request (“ICR”) abstracted below has been forwarded to the Office of Information and Regulatory Affairs (“OIRA”), of the Office of Management and Budget (“OMB”), for review and comment. The ICR describes the nature of the information collection and its expected costs and burden. A **Federal Register** Notice with a 60-day comment period soliciting comments on the ICR was published on March 5, 2026.

DATES: Comments must be submitted on or before June 22, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be submitted within 30 days of this notice’s publication to OIRA, at <https://www.reginfo.gov/public/do/PRAMain>. Please find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the website’s search function. Comments can be entered electronically by clicking on the “comment” button next to the information collection on the “OIRA Information Collections Under Review” page, or the “View ICR—Agency Submission” page. A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting <https://www.reginfo.gov/public/do/PRAMain>.

In addition to the submission of comments to <https://Reginfo.gov> as indicated above, a copy of all comments submitted to OIRA may also be submitted to the Commodity Futures Trading Commission (the “Commission” or “CFTC”) by any of the following methods:

- **Regulations.gov:** Go to <https://www.regulations.gov> and press the “Search” button, then proceed as follows:

1. Under Refine Documents Results—check the box to “Only show documents open for comment”;

2. Under Agency—select “See More” and check the box for “Commodity Futures Trading Commission,” then press the Apply button;

3. Identify this notice in the list of CFTC documents open for comment, press the “Comment” button to open the submission form, and follow the instructions on the form.

Alternatively, if you are viewing this notice on www.federalregister.gov, click the “Submit A Public Comment” button at the top of the page to open the comment form. Follow the instructions on the form to submit your comment to [Regulations.gov](https://www.regulations.gov).

- **Mail:** Send to—Christopher Kirkpatrick, Secretary of the

Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

- **Hand Delivery/Courier:** Address to—CFTC Comment Submission, Attn: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

Please submit your comments using only one of these methods. To avoid possible delays with mail or in-person deliveries, submissions through [Regulations.gov](https://www.regulations.gov) are encouraged.

All comments must be submitted in English or, if not, accompanied by an English translation. Do not include in your comment text or attachments any personal identifying information or business information that you do not want published online. Comments (regardless of submission method) will be published without review for, and without removal of, any personal identifying information or information your business may consider confidential.

If you wish to submit confidential information for the Commission’s consideration, please contact the CFTC personnel listed in this Notice under **FOR FURTHER INFORMATION CONTACT** before making any submission. Please also carefully review the Commission’s procedures in 17 CFR 145.9 for requesting confidential treatment under the Freedom of Information Act (FOIA) of information submitted to the Commission.

The CFTC reserves the right, but shall have no obligation, to review, pre-screen, filter, or redact all or any part of your comment submission. The CFTC also reserves the right, without further notification, to refuse to publish or to remove from public view all or any part of your submission to the extent it contains content inappropriate for publication in a comment file, such as—without limitation—obscene language, threats of violence, solicitations for commercial sales or illegal activity, or obvious spam. If a submission that is refused for or withdrawn from publication because of inappropriate content also contains comments on the merits of this notice, such submission will be retained in the record for the matter and will be considered as required under the Administrative Procedure Act, the Paperwork Reduction Act, and other applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT:
Michelle Ghim, Office of the General

Counsel, Commodity Futures Trading Commission, 202–418–5000. Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581; email: faca@cftc.gov.

SUPPLEMENTARY INFORMATION:

Title: Qualification Information for Candidates to Advisory Committees and Subcommittees. This is a request for an extension of a currently approved information collection.

Abstract: The CFTC’s advisory committees were created to provide input and make recommendations to the Commission on a variety of regulatory and market issues that affect the integrity and competitiveness of U.S. derivatives markets. The committees facilitate communication between the Commission and U.S. derivatives markets, trading firms, market participants, and end users. The CFTC currently has four advisory committees. The Energy and Environmental Markets Advisory Committee was established by the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, and subsequently codified in the Commodity Exchange Act, 7 U.S.C. 1 *et seq.*, at 7 U.S.C. 2(a)(15), and is not subject to the Federal Advisory Committee Act (FACA), 5 U.S.C. 1001 *et seq.* The Agricultural Advisory Committee, Global Markets Advisory Committee, and the Innovation Advisory Committee are discretionary committees under the FACA. The Commission also establishes subcommittees that report to advisory committees as needed. Advisory committee and subcommittee members are generally representatives, but depending on the issues to be addressed, the Commission will appoint special government employees and officials from other federal agencies from time to time. Representatives provide the viewpoints of entities or recognizable groups, and they are expected to represent a particular and known bias. On the other hand, special government employees are expected to provide their own independent judgment in committee deliberations and are expected to discuss and deliberate in a manner that is free from conflicts of interest.¹ Advisory committee and subcommittee members generally serve 2, 3 or 4-year terms, and appointments are made following the establishment of a new subcommittee or as committee or subcommittee vacancies arise.

The CFTC identifies candidates for advisory committee and subcommittee membership through a variety of

¹ 18 U.S.C. 202(a).

methods, including public requests for nominations; recommendations from existing advisory committee members; consultations with knowledgeable persons outside the CFTC (industry, consumer groups, other state or federal government agencies, academia, etc.); requests to be represented received from individuals and organizations; and Commissioners' and CFTC staff's professional knowledge of those experienced in the derivatives and underlying commodities markets. Following the identification process, the CFTC develops a list of proposed members with the relevant points of view needed to ensure membership balance. The Commission then votes to appoint individuals, or specified organizations, to serve.

The collection of information is necessary to support the CFTC Advisory Committee Program which includes committees, most of which are governed by the FACA, and subcommittees that report directly to the advisory committees, as noted above. Pursuant to the FACA, an agency must ensure that a committee is balanced with respect to the viewpoints represented and the functions to be performed by that committee. Consistent with this, in order to select individuals for potential membership on an advisory committee, the CFTC must determine that potential members are qualified to serve on an advisory committee and that the viewpoints are properly balanced on the committee. The CFTC is also required to ensure that committee members are properly designated as special government employees or representatives.² While CFTC subcommittees are not subject to the FACA, the selection process for subcommittee members who are not already serving on the parent committee is similar to that of new committee members. Additionally, the agency follows similar member selection procedures for the agency's non-FACA committee.

CFTC staff would use the information collected to determine the experience and expertise of potential advisory committee and subcommittee members, ensure that the membership on a committee or subcommittee is balanced, and ensure that committee and subcommittee members are properly designated as representatives or special government employees.

The CFTC seeks to collect the following information: Information that supports an individual's experience and expertise to serve on an advisory

committee or subcommittee, including letters of interest, recommendation letters, nomination letters (including self-nominations), resumes, curriculum vitae or other similar biographical information document. Additionally, information that ensures membership balance (e.g., represented viewpoint category) and appropriate designation of an individual as either a representative or special government employee.

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.³ On March 5, 2026, the Commission published in the **Federal Register** a notice of a proposed information collection and provided 60 days for public comment on the proposed extension, 91 FR 10799 ("60-Day Notice").⁴ The Commission did not receive any relevant comments on the 60-Day Notice.

Burden Statement: The respondent burden for this collection is estimated to be as follows:

Estimated Number of Respondents: 320.

Estimated Average Burden Hours per Respondent: 1.

Estimated Total Annual Burden Hours: 320.

Frequency of Collection: As needed.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: May 20, 2026.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2026–10290 Filed 5–21–26; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF EDUCATION

[Docket ID ED–2025–OS–0745]

Final Priority and Definitions—Secretary's Supplemental Priority and Definitions on Promoting Patriotic Education

AGENCY: U.S. Department of Education.

ACTION: Final priority and definitions.

³ 44 U.S.C. 3512, 5 CFR 1320.5(b)(2)(i) and 1320.8(b)(3)(vi).

⁴ In its 60-Day Notice, the Commission estimated that the annual burden associated with this collection totaled 400 annual burden hours. This estimate was based on an estimate of 400 annual respondents serving on five Commission advisory committees. Since the publication of the 60-Day Notice, the total number of Commission advisory committees has decreased from 5 to 4. As a result of this reduction and the associated reduction in total respondents, the Commission is adjusting its burden estimate to 320 hours annually.

SUMMARY: The Department of Education (Department) announces a final priority and definitions for use in currently authorized discretionary grant programs or programs that may be authorized in the future. The Secretary may choose to use the entire priority for a grant program or a particular competition or use one or more of the priority's component parts. The final priority and definitions augment the initial set of three Secretary's Supplemental Priorities on Evidence-Based Literacy, Educational Choice, and Returning Education to the States published as final priorities on September 9, 2025 (90 FR 43514); the Secretary's Supplemental Priority on Meaningful Learning Opportunities, published as a final priority on February 12, 2026 (91 FR 6625); the Secretary's Supplemental Priority on Advancing Artificial Intelligence in Education, published as a final priority on April 13, 2026 (91 FR 18774); and the Secretary's Supplemental Priority and Definitions on Career Pathways and Workforce Readiness, published as a final priority on April 13, 2026 (91 FR 18780).

DATES: The final priority and definitions are effective June 22, 2026.

FOR FURTHER INFORMATION CONTACT:

Zachary Rogers, U.S. Department of Education, 400 Maryland Avenue SW, Room 7W213, Washington, DC 20202–6450. Telephone: (202) 260–1144. Email: SSP@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 September 17, 2025, the Department published a notice of a proposed supplemental priority and definitions (NPP) in the **Federal Register** (90 FR 44788) on Promoting Patriotic Education. This notice of final priority and definitions (NFP) finalizes the priority and definitions on Promoting Patriotic Education for use across the Department's discretionary grant programs.

Summary of the Major Provisions of This Regulatory Action: Through this regulatory action, we establish one supplemental priority and associated definitions. Each major provision is discussed in the *Public Comment* section of this document.

The NPP contains background information and our reasons for proposing the priority and definitions. The Department describes the differences between the proposed priority and definitions and those established as final in this NFP in the

² See, OGE DO–04X9, DO–04–022, and DO–05–012.

Analysis of Comments and Changes section in this document.

Program Authority: 20 U.S.C. 1221e–3, 3474.

Public Comment: In response to our invitation in the NPP, the Department received comments from more than 5,000 commenters on the proposed priority and definitions.

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 priority or definitions.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the final priority and definitions since publication of the NPP follows.

General Comments

Comments: Some commenters had comments regarding specific language in the background to the NPP, such as the reference to “free-market economy.” Some comments appreciated the inclusion of “free-market economy” and its impacts on this country’s history, but other commenters expressed concern, claiming that a “free-market economy” is not necessarily good for individuals and instead benefits large businesses.

Discussion: The Department appreciates the comments around language in the background, including comments on “free-market economy.” The NPP’s background section referenced “free-market economy,” in recognition of the role free markets have played in U.S. history and the growth and economic development of the nation. Because we do not include a background section in the NPP, nor is the background section considered part of the final priority and definitions, we do not think any changes are necessary.

Changes: None.

Priority

Comments: Many commenters expressed support for strengthening civics education, emphasizing the importance of helping students learn from the nation’s past and developing a sense of national pride. Commenters highlighted the Administration’s current investments in civics education, as well as the opportunities presented by the America 250 commemoration and the partnerships that have been formed to support that effort.

Commenters who supported the proposed priority and definitions also raised concerns about the teaching of history in classrooms in recent decades. Some argued that instructional content

has become overly critical of the United States, which they believe contributes to mistrust of the education system. A few commenters shared personal experiences in higher education, expressing concern that students are sometimes told what to think rather than encouraged to consider multiple perspectives or express differing views.

Other commenters expressed concern about the rise of divisive ideologies in education and supported the priority’s consideration of Western civilization and Judeo-Christian traditions, classical education, and the nation’s founding principles. They also supported the use of primary sources and the importance of teaching history honestly, recognizing that honest instruction includes both the triumphs and the tragedies of American history.

Discussion: The Department appreciates the recognition that civics education has not sufficiently emphasized the use of primary sources in the classroom and the influence of Western civilization on the American heritage. The Department also appreciates recognition for the Trump Administration’s efforts to commemorate the Semiquincentennial of this nation.

The Department wholeheartedly agrees that American citizens and students can—and should—take pride in the nation’s progress toward fulfilling the founders’ promises of equal rights under equal laws, limited government, and the protection of life, liberty, and property.

Expanding the use of primary sources will allow students to study the American founding era directly and draw their own conclusions. It will also help focus instruction on what the founders actually thought, said, and did.

Changes: None.

Comments: Some commenters, in their support of the priority and definitions, recommended additional language to include in the priority. One commenter recommended the inclusion of character education in the priority, including appropriate teacher supports. Another commenter proposed additions to the priority to include jazz music and physical fitness.

Discussion: The Department appreciates the comments about additional inclusions to the priority text. Applicants may propose activities that make sense in the context of the program in which the priority is used and are allowable within the program authorization where the priority is used. Therefore, we decline to make changes at this time.

Changes: None.

Comments: While there was a sentiment of support for civics education, as mentioned above, many commenters expressed overall opposition to the priority and definitions, asking the Department not to finalize the priority and definitions, expressing concern about the long-term impacts of these changes and concerns with their children learning content under the priority. Specific reasons for their opposition are discussed below in further comment summaries.

Discussion: The Department appreciates the strong support for civics education and recognizes commenters want students to receive a full and accurate account of American history and the first principles of the American founding. The patriotic education priority clearly states the study of U.S. history and politics should be accurate and honest by being grounded in the text of the primary sources. The use of primary sources in the classroom ensures students engage with what our forefathers thought, said, and did and helps students develop the skills of analysis, discussion, and debate that will prepare them for their civic duties. The Department used specific definitions, such as the American political tradition, to support projects that study the American founding, principles of a constitutional republic and republicanism, and American political development.

Changes: None.

Comments: Many commenters said that instead of the priority, the Department should prioritize fundamental improvements to the public education system, such as focusing on other subjects and content areas, core competencies and basic skills, increasing funding for school safety and teacher compensation, special education, and a baseline of literacy expectations.

Discussion: The Department appreciates the commenter’s support for the public education system, additional core subjects and basic skills, school safety, special education, and literacy. The Department has finalized other priorities that focus on Promoting Evidence-based Literacy, Expanding Education Choice, Returning Education to the States, Meaningful Learning Opportunities, Advancing Artificial Intelligence in Education, and Career Pathways and Workforce Readiness to help address other critical needs in education. The scope of this NPP focuses only on Promoting Patriotic Education; therefore, the Department is not making changes to expand the scope.

Changes: None.

Comments: Some commenters had concerns about the source of funds to support the priority; requesting information regarding total available funding; projected award numbers; how grants will be selected, including eligibility requirements; and transparency about projects funded under the priority.

Discussion: While the Department appreciates commenters' concerns, there are no funds specifically associated with this NFP. Grant applications will continue to be evaluated in accordance with Department regulations and statutory requirements that apply to a particular program and competition, which may include the use of the Secretary's Supplemental Priorities as absolute, competitive preference, or invitational priorities. Any eligibility requirements under a particular competition will continue to align with that program's authorizing statute. As it relates to transparency, funded grants are posted on program websites once they have been selected to receive funds.

Changes: None.

Comments: Some commenters flagged legal concerns with the priority and definitions, including statements that the issuance of the priority violated the Administrative Procedure Act. One commenter stated that the priority and definitions are a major rule and therefore should go through the entire process of rulemaking. A few commenters expressed concerns about the priority and definitions being a major rule due to the associated costs with updating curriculum to align with the priority as well as being "arbitrary and capricious" for not providing evidence that the priority will improve civics outcomes.

Discussion: The Regulatory Impact Analysis section of the NFP explains that the priority is not economically significant: "We believe, based on the Department's administrative experience, that entities preparing an application would not need to expend more resources than they otherwise would have in the absence of this proposed priority." Additionally, as discussed below, nothing in the priority would require the updating or change of curriculum.

Changes: None.

Comments: Some commenters said that the Department is violating the General Education Provisions Act and the Elementary and Secondary Education Act of 1965, as amended, because the priority would mandate curriculum. Additionally, many commenters expressed legal concerns about Federal overreach and a

"government approved" version of history. This concern included the perceived setting of history standards by the Department, as well as the violation of States' rights by the limitation of State control of content because of the priority. Commenters did not want the Department to dictate how and what history should be taught, arguing that by establishing a priority and definitions and tying funding to that priority, it dictates history curriculum. They further argued that it is contrary to the mission of closing the Department of Education by the Department incentivizing a way of teaching history, which they claim conflicted with the Department's promotion of returning education to the States. Multiple commenters drew comparisons to other countries and times in history where a country restricted teaching only a particular history curriculum and viewpoint.

Regarding the violation of States' rights, many commenters argued States, local districts, Bureau of Indian Affairs and reservation schools, teachers, and parents are best positioned to determine what should be taught in schools, including content that meets the needs of students in their areas. As a result, some commenters requested that parents have an "opt out" option.

Discussion: The Department agrees it does not have the authority to mandate, direct, supervise, or control curriculum, and the priority does not do so. Nothing in the priority requires or directs States, local educational agencies, or schools to adopt any particular curriculum, program of instruction, instructional materials, academic standards, or academic assessments. Consistent with applicable statutory limitations, the priority does not dictate State or local history standards and preserves the authority of States, school districts, and parents to determine educational content and academic standards.

Because the priority does not mandate curriculum or prescribe specific instructional content, the Department has determined that an opt-out provision is not necessary and that, regardless, such parental notification and opt-out policies regarding particular instructional content would be better exercised at the State and local level. The Department thinks that several of the remaining comments of opposition described above are outside the scope of this proposed priority.

The Department also supports national efforts to commemorate the 250th anniversary of the United States and re-emphasizes that the priority will help recognize the educational value of using primary sources in the study of

U.S. history and government. Using primary sources in the study of U.S. history and government necessarily involves gaining understanding of the documented influence of Western Civilization on the American founding, as well as the significant—often difficult and costly—efforts to realize the principles articulated at the nation's founding. In order to clarify this intent, we have revised the text of the proposed definition as follows.

Changes: To emphasize that the Department's intent is to prioritize the study of the American founding and history through an analysis of primary sources, the Department is changing the definition of "patriotic education" as follows: "*Patriotic education* means an accurate and honest presentation of the history of America grounded in an analysis of the primary sources of America's founding, the principles that shaped America's founding, and how those ideals continue to influence the nation's aspirations today."

Comments: Many commenters had concerns that the priority and definitions violate First Amendment rights to free speech and serve as censorship. Commenters argued that the priority and definitions limit what can be taught, thus inhibiting the teaching of certain topics and limiting what can be said and discussed regarding the country's history.

Discussion: The Department appreciates commenters' strong support for the First Amendment. The priority does not infringe upon First Amendment rights, as it neither mandates a specific curriculum nor prescribes a government-approved interpretation of history. Instead, the priority and its definitions promote an accurate and honest understanding of U.S. history and government through the use of primary sources. This approach should alleviate concerns about censorship or a narrow presentation of American history, as primary sources enable students to engage directly with both the nation's achievements and its shortcomings, as well as with differing perspectives, such as those of the Federalists and Anti-Federalists.

Changes: To emphasize that the Department's intent is to prioritize the study of the American Founding and history through an analysis of primary sources, the Department is changing the definition of "patriotic education" as discussed above.

Comments: Commenters said teachers and historians would be inhibited from teaching topics not considered "patriotic." Commenters expressed concerns about the impacts on teachers

as they try to teach history that aligns with the priority as well as cover controversial topics.

Discussion: The Department appreciates commenters' desire to teach the full history of the United States. The priority will encourage the full and honest teaching of U.S. history through the use of primary sources and the study of the American founding, in recognition of the Semiquincentennial, and promote citizen competency through the study of, as described in the background of the NPP, "our political, economic, intellectual, and cultural history." Nothing in the priority prohibits educators from teaching controversial topics in American history but ensures such study is accurate and honest and includes the use of primary sources.

Changes: To emphasize that the Department's intent is to prioritize the study of the American founding and history through an analysis of primary sources, the Department is changing the definition of "patriotic education" as discussed above.

Comments: Many commenters argued that the priority assumes U.S. history, civics, and patriotism are not already being taught, and the commenters argued that patriotism cannot be dictated or forced by the government but instead must be learned over time through personal experiences. These commenters expressed concern that the proposed priority is teaching nationalism instead of patriotism and a single narrative of the country's history that will result in a mistrust of government. The many commenters who raised concerns about nationalism cited concerns about the priority being like "national socialism" and "Christian nationalism." Specifically, many commenters categorized the priority as "propaganda" or "indoctrination," arguing that the priority requires an idealized version of history that ignores certain parts of the country's past and forces a specific narrative, instead of honest history. Many of these commenters gave the examples of changes being made to museums and websites and book bans as reasons for their concern about the "scrubbing" of history and removal or deemphasis on certain parts, stating the need for history to include all aspects of the nation's past, both the good and the bad, including examples of topics they wanted to ensure are covered. Commenters argued that the only way to move forward as a country and prevent the repetition of past mistakes is to learn from them, and they were concerned about the definition of "patriotic education" (see below for further

discussion of the definition of "patriotic education"). Multiple commenters pointed to how Germany teaches about the Holocaust as an example of how to cover difficult topics in a country's history.

Discussion: The Department appreciates commenters' concerns. Our intention with the priority is to encourage a comprehensive exploration of American history and civics rooted in study of primary sources and their influences. By promoting the use of primary sources, we aim to help students gain a deeper understanding of the nation's development, including its founding principles, progress, and the complexities of its past. This approach emphasizes accuracy and integrity in the study of history, allowing for a balanced perspective that includes both achievements and challenges. Rather than mandating specific content or a single narrative, the priority seeks to foster critical thinking and reflection on the many experiences and events that have shaped the United States. Students are encouraged to engage with a wide range of historical documents and perspectives, supporting a fuller and more nuanced understanding of the American story. Our goal is to ensure that history education remains open, honest, and reflects the complexity of the nation's past and present. References to other countries or the actions of agencies and institutions fall outside the scope of the priority, as our focus remains on promoting integrity and accuracy in the study of U.S. history.

Changes: To emphasize that the Department's intent is to prioritize the study of the American founding and history through an analysis of primary sources, the Department is changing the definition of "patriotic education" as discussed above.

Comments: One commenter recommended the use of "civics education" instead of "patriotic education," and another requested that the priority be retitled to "Civic Literacy and Historical Inquiry."

Discussion: The Department appreciates commenters' suggestions regarding a possible retitling of the priority. The term "patriotic education" is an intentional choice that highlights the emphasis on exploring national history, founding principles, and civic responsibilities from the perspective of understanding what binds citizens together. "Patriotic" as a title signals that the educational focus is not simply about civic knowledge, but also about engaging with the shared narratives and values that have influenced the nation's development. For these reasons, we

think "patriotic education" best represents the aims of the priority; therefore, we decline to make changes to the title.

Changes: None.

Comments: Many commenters raised concerns about the priority and definitions narrowly defining what and who are included in "patriotic education." Specifically, these many commenters called out the need for a broader and more inclusive U.S. history that is not limited to "Western Civilization" influences (as referenced in the definition of "American political tradition"), citing indigenous and enslaved populations in the country, and a history that is representative of the students who will be studying it, including biographies of this broad, inclusive group. The comments emphasized the need for multiple perspectives, with commenters arguing that through the multiple perspectives, students will see themselves in the history of their country, which will help embolden their patriotism, encourage them to get involved in their communities, and help in the development of empathy for others. Some commenters stated that there is not a single, linear history of this country or a shared understanding of the past; therefore, this broader, inclusive history would allow for different points of view. Many commenters stated that the Founding Fathers did not have a shared understanding about the founding and formation of the country; thus, the priority should not force a shared understanding. Some commenters also argued that the United States does not exist in a vacuum and that the country's history should be studied within a global context, considering influences beyond Western Civilization that have shaped the country. Commenters also raised concerns about biased history. Specifically, commenters were concerned that the priority and definitions would promote a one-sided, partisan interpretation of history, and favored particular organizations.

Discussion: The Department appreciates commenters' concerns. The priority and definitions are focused on the use of founding documents and other primary sources to support a full and accurate civics education. While the priority and definition include the reference to "Western Civilization," the teaching of multiple perspectives or the inclusion of diverse experiences, including those of Indigenous peoples, enslaved populations, and other groups whose histories are essential to understanding the development of the

United States, are allowable under the priority.

Through engagement with primary sources, such as debates surrounding the ratification of the U.S. Constitution, educators and students may explore a range of viewpoints, including those of the Federalists and Anti-Federalists, as well as other voices relevant to the historical context. While the founders held differing perspectives, the study of founding documents provides an opportunity for students to examine key ideas and debates that are documented to have shaped the nation as well as what the founders held in common: a shared understanding of the purpose of government, the nature of man, and the first principles of liberty.

The priority proposes topics intimately related to the development and creation of the founding documents. The priority, where adopted in a particular competition, would not limit instruction to a single narrative or perspective about those topics, nor would it exclude consideration of broader historical and global contexts. Rather, it emphasizes primary sources as a nonpartisan and neutral foundation for civic learning, while allowing educators the flexibility to incorporate additional perspectives and materials that support a comprehensive understanding of the nation's history. This NFP also does not establish eligible entities for any of the Department's competitive grant competitions, and the eligible recipients of those grants are generally set out by Congress and outlined in statute.

Changes: To emphasize that the Department's intent is to allow educators the flexibility to incorporate additional perspectives and materials that support a comprehensive understanding of the nation's history, the Department is changing the definition of "American political tradition" to the following: "*American political tradition* includes the founding documents, essential principles of republican government, and historical development of America's government; key works of history, literature, humanities, and art; the influence of Western Civilization, such as ancient Greece, Rome, and Judeo-Christianity, on the founders' values; the history of Western Europe linked to the history and development of the United States; the influence of the founders' religious beliefs on their conceptions of liberty and government; and the founding documents and primary sources of the American founding (ideas, traditions, institutions, and texts essential to American constitutional government) with a focus on the first principles of

the founding (natural law and natural rights), their inclusion in the Constitution and the Bill of Rights, and their development over time that has shaped America's culture."

To emphasize that the Department's intent is to prioritize the study of the American founding and history through an analysis of primary sources, the Department is changing the definition of "patriotic education" as discussed above.

Comments: Multiple commenters thought the priority and definitions focused too much on the American founding and foundational principles. Rather, these commenters stated that a lot of history occurred after 1800 that warranted inclusion, arguing that it is important for students to study multiple periods, and from multiple perspectives.

Discussion: The Department appreciates commenters' views regarding the importance of studying U.S. history beyond 1800. The Department agrees that a comprehensive understanding of the nation's history spans multiple periods and perspectives.

The priority and definitions emphasize the American founding because it provides a key framework for civic understanding. However, nothing in the priority precludes the inclusion of historical events, developments, or perspectives from periods after 1800. The priority does not dictate the scope of instruction but rather ensures a strong foundation for civic learning.

Changes: None.

Comments: Many commenters were concerned that the priority and definitions would limit critical thinking, arguing that the priority and definitions dictate what must be taught and how students must feel about the content (see below for further discussion of the definition of "patriotic education"). Thus, commenters stated students would not have the opportunity to review content, weigh multiple perspectives, and come to their own conclusion. Some commenters highlighted the importance of critical thinking and how it informs debate and civil discourse, and how dissent and criticism have helped to positively shape the country. Another commenter highlighted that critical thinking, debate, analysis of resources, and classroom inquiry are all parts of evidence-based practices around history and civics education.

Discussion: The Department appreciates commenters' perspectives and agrees that critical thinking, debate, and analysis are essential components of high-quality civics and history education. However, the Department

does not agree that the priority and definitions limit these practices. To the contrary, the priority's emphasis on the use of primary sources directly supports and strengthens critical thinking.

Analysis of primary documents—such as historical texts, speeches, and other original materials—is itself a foundational exercise in critical thinking. It requires students to evaluate evidence, consider context, assess differing viewpoints, and draw their own conclusions. By engaging directly with these sources, students are not directed toward a single interpretation; rather, they are given the opportunity to examine competing ideas, weigh perspectives, and participate in informed debate and civil discourse.

The priority does not dictate what students must think or how they should feel about the content. Instead, it focuses on ensuring that students have access to the kinds of materials and experiences that make independent analysis possible. Nothing in the priority precludes discussion, dissent, or the exploration of multiple perspectives. Rather, by grounding learning in primary sources, the priority supports the development of the very critical thinking skills commenters describe, including inquiry, evidence-based reasoning, and reasoned debate.

Changes: To emphasize that the Department's intent is to prioritize the study of the American founding and history through an analysis of primary sources, the Department is changing the definition of "patriotic education" as discussed above.

Definitions

Comments: Many commenters had concerns specific to the definitions. Specifically, commenters thought the definitions included vague terms and were concerned about how and who would determine if a definition and then the priority were met, for the purposes of funding determinations. These commenters were concerned that it would be hard for applicants to successfully address the priority and definitions given the perceived lack of clarity in the definitions and that "accuracy," in the definition of "patriotic education" would be used to push a particular ideology instead of examining history through multiple perspectives.

In the definition of "patriotic education," multiple commenters had concerns about the adjectives used to describe the characterization of the American founding, requesting clarification on the meaning of those terms, as well as raising issue with the terms being contradictory. Some

commenters thought that using these terms elicited feelings over facts by requiring a focus on “ennobling” history, which corresponds with the earlier discussion of the concern that the priority and definitions would result in the teaching of history that excludes parts, especially parts not considered ennobling. These commenters argued that the country’s history is not always ennobling, but an “honest” history would include all parts, even those that are less than ennobling. Likewise, commenters claimed that “accurate” and “honest” might not always mean “unifying,” “inspiring” and “ennobling.” Some commenters recommended deleting these adjectives from the definition of “patriotic education,” and other commenters recommended revising the definition to ensure a balance of perspectives and inclusion of all groups beyond “Western Civilization” so that all students see themselves in the history being taught.

Discussion: The Department appreciates commenters’ concerns regarding the clarity of the definitions and how they will be applied in the context of funding determinations. The Department does not agree that the definitions are impermissibly vague or that they will be applied in a manner that promotes a particular viewpoint. The terms included in the priority provide a clear framework while allowing sufficient flexibility for applicants to design projects that meet program requirements. As with all Department programs, applications will be evaluated in accordance with established regulations, statutory requirements, and the criteria set forth in the competition notice.

The Department also does not agree that the definition of “patriotic education” limits the scope of historical inquiry or prioritizes feeling over fact. To the contrary, the priority emphasizes engagement with primary sources, which inherently requires students to analyze evidence, consider multiple perspectives, and draw their own conclusions. This approach supports an honest and accurate understanding of history, including both the nation’s highest ideals and the challenges encountered in striving to realize them.

There is no inconsistency between a full and honest study of the nation’s history and one that recognizes the significance of its founding principles and their development over time. The priority and definitions do not exclude or diminish the study of any group or perspective. Nothing in the definitions precludes including different experiences or examining complex and difficult aspects of the nation’s past.

Rather, by grounding learning in primary sources, the priority and definitions support a comprehensive approach that allows for the consideration of multiple viewpoints and a deeper understanding of the American experience.

Changes: To emphasize that the Department’s intent is to prioritize the study of the American founding and history through an analysis of primary sources and that the priority and definitions do not exclude or diminish the study of any group or perspective, the Department is changing the definition of “patriotic education” as discussed above.

Comments: Many commenters included remarks regarding the inclusion of “Judeo-Christianity” in the definition of “American political tradition.” Some commenters supported its inclusion, but others had concerns. Many commenters concerned with the religious reference cited issues with separation of church and state under the First Amendment, the secularity of public schools, the exclusion of other religions, and “religious indoctrination.” Some commenters cited issues in how history is taught when it has a religious focus, with those commenters talking about their personal experiences from their education and what they felt they were not taught. Therefore, many commenters requested that “Judeo-Christianity” be excluded and that any history being taught be secular in its focus and that religious organizations be excluded from partnering under the final priority and definitions, or to amend the definition of “American political tradition” to reference diverse religious and non-religious beliefs. Other commenters argued that the country wasn’t founded under one religion, saying that the Founding Fathers were not in agreement on religion and were specific in their interest in a separation of church and state. Some commenters also stated that keeping religion out of the definition would better support the efforts of unity and patriotism.

Discussion: The Department appreciates commenters’ concerns. The priority and definitions are focused on an accurate and honest study of American history and government grounded in the text of primary sources, particularly at the time of the American founding. Religion, such as Judaism and Christianity, was an influential aspect of Western Civilization at the time of the American Revolution, Constitutional Convention, and the early republic. For example, as noted in the Federalist Papers, written at the time of the founding, “Providence has been pleased

to give this one connected country to one united people—a people descended from the same ancestors, speaking the same language, professing the same religion, attached to the same principles of government, very similar in their manners and customs, and who, by their joint counsels, arms, and efforts, fighting side by side throughout a long and bloody war, have nobly established general liberty and independence.”¹ Therefore, in order to understand the American founding, it is essential that students possess a modicum of familiarity with the influence of religions such as Judeo-Christianity in American history, as well as the principles of government the founders held in common. This broad inclusion does not violate the separation of church and state, violate the secular nature of public schools, or constitute religious indoctrination because it is merely a topic of study related to the American founding. In addition, 34 CFR 75.532 and 76.532 prohibit any grantee from using its grant to pay for religious instruction, religious worship, or proselytization. Finally, in response to the request that religious organizations be excluded from partnering under the final priority and definitions, the Supreme Court has made clear that “denying a generally available benefit solely on account of religious identity imposes a penalty on the free exercise of religion that can be justified only by a state interest of the highest order.” *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S. Ct at 2019 (2017).

Changes: To further emphasize that the final priority and definitions do not exclude or diminish the study of any group or perspective, the Department is changing the definition of “American political tradition” as discussed above.

Comments: Some commenters had recommendations for additions to the definitions. Regarding the definition of “patriotic education,” one commenter recommended including “American exceptionalism” in the definition. Regarding the definition of “American political tradition,” some commenters were concerned with the use of “republic government” and instead recommended inclusion of “democracy” or “democratic republic.” Another commenter requested the inclusion of “natural law” in the definition. Some commenters encouraged a focus on the separation of powers within the definition.

¹ See Federalist No. 2, 1787, available at <https://guides.loc.gov/federalist-papers/text-1-10#s-lg-box-wrapper-25493265>.

Discussion: The Department appreciates commenters' recommended additions to the definitions. The definition of American political tradition covers the essential components of the American heritage worthy of study and essential to competent citizenship, including concepts such as American exceptionalism. Regarding the use of republic versus democratic, republic reflects the founders' understanding of the regime of limited government based on consent of the governed for the purpose of protecting property and liberty they were creating. The separation of powers will naturally be covered in the study of the U.S. Constitution; therefore, it does not need to be specified in the definition. Finally, the Department concurs that an understanding of natural law was common at the time of the founding and was referenced in the Declaration of Independence.

Changes: The Department agrees that natural rights and natural law were essential parts of the American founding and therefore is incorporating natural law into the "American political tradition" definition.

Final Priority

The Department establishes the following priority for use in any Department discretionary grant program.

Priority:

Projects that are designed to provide an introduction to and understanding of the founding documents and primary sources of the American political tradition, in a manner consistent with the principles of a patriotic education. Projects may address one or more of the following topics:

- (a) United States Constitution, government, and civics.
- (b) United States history and geography.
- (c) United States military and diplomatic history.
- (d) United States literature and rhetoric.
- (e) United States art (architecture, painting, music, photography, theater, cinema, and sculpture, etc.).
- (f) The founding documents and primary sources of Western Civilization and the American founding and their influence on the American political tradition.
- (g) The influence of Western Europe upon the American political tradition.

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 a competition notice. 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 Definitions

The Secretary establishes the following definitions for use in any Department discretionary grant program in which the final priority is used.

Note: Nothing in these definitions should be construed as implicating a particular curriculum, program of instruction, or specific academic content.

American political tradition includes the founding documents, essential principles of republican government, and historical development of America's government; key works of history, literature, humanities, and art; the influence of Western Civilization, such as ancient Greece, Rome, and Judeo-Christianity, on the founders' values; the history of Western Europe linked to the history and development of the United States; the influence of the founders' religious beliefs on their conceptions of liberty and government; and the founding documents and primary sources of the American founding (ideas, traditions, institutions, and texts essential to American constitutional government) with a focus on the first principles of the founding (natural law and natural rights), their inclusion in the Constitution and the Bill of Rights, and their development over time that has shaped America's culture.

Patriotic education means an accurate and honest presentation of the history of America grounded in an analysis of the primary sources of America's founding, the principles that shaped America's founding, and how those ideals continue to influence the nation's aspirations today.

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. This regulatory action is not considered an "Executive Order 14192 regulatory action." We have also reviewed this regulatory action under Executive Order 13563. We are issuing the final priority 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.

Discussion of Costs and Benefits: The final priority and definitions would impose no or minimal costs on entities that receive discretionary grant award funds from the Department. Additionally, the benefits of implementing the final priority and definitions outweigh any associated costs, to the extent these de minimis costs even exist. Application submission and participation in competitive grant programs that might use the final priority and definitions is voluntary. We believe, based on the Department's administrative experience, that entities preparing an application would not need to expend more resources than they otherwise would have in the absence of the priority and definitions. Because the costs of carrying out activities would be paid for with program funds, the costs of implementation would not be a burden for any eligible applicants that earn a grant award, including small entities.

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 substantial 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.

Paperwork Reduction Act: The final priority and definitions do not contain information collection requirements or affect currently approved data collections.

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.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at www.govinfo.gov. You may also access documents of the Department published in the **Federal Register** by using the article search feature at www.federalregister.gov.

Linda McMahon,

Secretary of Education.

[FR Doc. 2026-10347 Filed 5-21-26; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP26-848-000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Formula Based Negotiated Rate Agreement—6/19/2026 to be effective 6/19/2026.

Filed Date: 5/19/26.

Accession Number: 20260519-5019.

Comment Date: 5 p.m. ET 6/1/26.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercensearch.asp>) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502-6595 or OPP@ferc.gov.

Dated: May 19, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026-10282 Filed 5-21-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC26-96-000.
Applicants: Strategic PPAV B, LLC, Birdsboro Power LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Strategic PPAV B, LLC, et al.

Filed Date: 5/15/26.

Accession Number: 20260515-5364.

Comment Date: 5 p.m. ET 6/5/26.

Docket Numbers: EC26-97-000.

Applicants: RE Papago LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act of RE Papago LLC.

Filed Date: 5/18/26.

Accession Number: 20260518-5218.

Comment Date: 5 p.m. ET 6/8/26.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER24-2046-003.

Applicants: Midcontinent

Independent System Operator, Inc.

Description: Compliance filing: 2026-05-18 Compliance Filing for Order Nos. 2023 and 2023-A to be effective 7/28/2025.

Filed Date: 5/18/26.

Accession Number: 20260518-5151.

Comment Date: 5 p.m. ET 6/8/26.

Docket Numbers: ER26-1946-001.

Applicants: Midcontinent

Independent System Operator, Inc.

Description: Tariff Amendment: 2026-05-19 Amendment to Att X—Generating Facility Replacement Process to be effective 5/27/2026.

Filed Date: 5/19/26.

Accession Number: 20260519-5131.

Comment Date: 5 p.m. ET 6/9/26.

Docket Numbers: ER26-2244-000.

Applicants: Hillsboro Solar, LLC.

Description: Second Supplement to 04/17/2026, Hillsboro Solar, LLC tariff filing.

Filed Date: 5/13/26.

Accession Number: 20260513-5200.

Comment Date: 5 p.m. ET 5/27/26.

Docket Numbers: ER26-2561-000;

TS26-4-000.

Applicants: Hollis Creek PV I, LLC, Hollis Creek PV I, LLC.

Description: Request for Temporary Waiver, et al. of Hollis Creek PV I, LLC.

Filed Date: 5/18/26.

Accession Number: 20260518-5097.

Comment Date: 5 p.m. ET 6/8/26.

Docket Numbers: ER26-2570-000.

Applicants: Ohio Power Company.

Description: § 205(d) Rate Filing: AEPSC submits a Facilities Agreement—SA No. 1336 to be effective 8/1/2026.

Filed Date: 5/19/26.

Accession Number: 20260519-5018.

Comment Date: 5 p.m. ET 6/9/26.

Docket Numbers: ER26-2571-000.

Applicants: Wisconsin Public Service Corporation.

Description: § 205(d) Rate Filing: Amended and Restated Rate Schedule No. 87 to be effective 7/19/2026.

Filed Date: 5/19/26.

Accession Number: 20260519-5034.

Comment Date: 5 p.m. ET 6/9/26.

Docket Numbers: ER26-2572-000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA, Service Agreement No. 6779; Queue No. AF1-028 to be effective 7/19/2026.

Filed Date: 5/19/26.

Accession Number: 20260519-5040.

Comment Date: 5 p.m. ET 6/9/26.

Docket Numbers: ER26-2573-000.

Applicants: Ringer Hill Wind, LLC.

Description: Compliance filing: Notice of Change in Category Seller Status and Revised Market-Based Rate Tariff to be effective 5/20/2026.

Filed Date: 5/19/26.

Accession Number: 20260519–5069.

Comment Date: 5 p.m. ET 6/9/26.

Docket Numbers: ER26–2574–000.

Applicants: Midcontinent

Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2026–05–19 SA 3482 ATC-Wisconsin Electric Power 5th Rev GIA (J878 J1316) to be effective 5/12/2026.

Filed Date: 5/19/26.

Accession Number: 20260519–5099.

Comment Date: 5 p.m. ET 6/9/26.

Docket Numbers: ER26–2575–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA, Service Agreement No. 7041; Queue No. AE2–092 to be effective 7/19/2026.

Filed Date: 5/19/26.

Accession Number: 20260519–5113.

Comment Date: 5 p.m. ET 6/9/26.

Docket Numbers: ER26–2576–000.

Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.

Description: § 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii): AL Solar G (Walker Springs I) LGIA Filing to be effective 5/6/2026.

Filed Date: 5/19/26.

Accession Number: 20260519–5115.

Comment Date: 5 p.m. ET 6/9/26.

Docket Numbers: ER26–2577–000.

Applicants: New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: NYISO 205: Proposed Revisions re: Deliverability Test Methodology to be effective 7/21/2026.

Filed Date: 5/19/26.

Accession Number: 20260519–5116.

Comment Date: 5 p.m. ET 6/9/26.

Docket Numbers: ER26–2578–000.

Applicants: Birdsboro Power LLC.

Description: Request for Limited Waiver of the 90-day prior notice requirement set forth in Schedule 2 to the PJM Tariff of Birdsboro Power LLC.

Filed Date: 5/15/26.

Accession Number: 20260515–5361.

Comment Date: 5 p.m. ET 6/5/26.

Docket Numbers: ER26–2579–000.

Applicants: Santa Teresa Solar, LLC.
Description: Initial rate filing: Filing of Shared Facilities Agreement and Request for Waivers to be effective 5/20/2026.

Filed Date: 5/19/26.

Accession Number: 20260519–5132.

Comment Date: 5 p.m. ET 6/9/26.

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 19, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–10281 Filed 5–21–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF24–6–001]

Western Area Power Administration; Notice of Filing

Take notice that on May 14, 2026, Western Area Power Administration submitted a tariff filing: administrative correction to its eTariff records for a rate schedule to be effective April 1, 2026.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the “eFiling” link at <http://www.ferc.gov>. Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 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 June 4, 2026.

Dated: May 19, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026–10314 Filed 5–21–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF25–3–001]

Notice of Filing; Western Area Power Administration

Take notice that on May 14, 2026, Western Area Power Administration submitted a tariff filing: administrative correction to its eTariff records for a rate schedule to be effective April 1, 2026.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the “eFiling” link at <http://www.ferc.gov>. Persons unable to file electronically may mail similar pleadings to the Federal Energy

Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 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 June 4, 2026.

Dated: May 19, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-10312 Filed 5-21-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC26-17-000]

Commission Information Collection Activity (FERC-549); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(a)(1)(D), the Federal Energy Regulatory Commission (Commission or FERC) is submitting its information collection FERC-549: NGPA Section 311 Transactions and NGA Blanket Certificate Transactions. There are no proposed changes to the collection requirements. FERC received no comments from the 60-day notice.

DATES: Comments on the collection of information are due June 22, 2026.

ADDRESSES: Send written comments on FERC-549 to OMB through https://www.reginfo.gov/public/do/PRA/icrPublicCommentRequest?ref_nbr=202604-1902-001. You can also visit <https://www.reginfo.gov/public/do/PRAMain> and use the drop-down under "Currently under Review" to select the "Federal Energy Regulatory Commission" where you can see the open opportunities to provide comments. Comments should be sent within 30 days of publication of this notice.

Please submit a copy of your comments to the Commission via email to DataClearance@FERC.gov. You must

specify the Docket No. (IC26-17-000) and the FERC Information Collection number (FERC-549) in your email. If you are unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:

- *Mail via U.S. Postal Service only:*

Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

- *All other delivery methods:* Federal Energy Regulatory Commission, Secretary of the Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Docket: To view comments and issuances in this docket, please visit <https://elibrary.ferc.gov/eLibrary/search>.

FOR FURTHER INFORMATION CONTACT:

Kayla Williams may be reached by email at DataClearance@FERC.gov, or by telephone at (202)502-6468.

SUPPLEMENTARY INFORMATION:

Title: NGPA Section 311 Transactions and NGA Blanket Certificate Transactions.

OMB Control No.: 1902-0086.

Type of Request: Three-year extension of the FERC-549 information collection requirements with no proposed changes to the collection.

Abstract: FERC-549 implements portions of the following statutory provisions: (1) Section 311 of the Natural Gas Policy Act (NGPA) (15 U.S.C. 3371); (2) Section 4(f) of the Natural Gas Act (NGA) (15 U.S.C. 717c(f)); and (3) Section 7 of the NGA (15 U.S.C. 717f). The reporting requirements for implementing these provisions are contained in 18 CFR part 284. FERC received no comments on the 60-day notice.

Transportation by Interstate Pipelines for Intrastate Pipelines and Local Distribution Companies

Under section 311(a)(1) of the NGPA and 18 CFR 284.101 to .102, any interstate pipeline may transport natural gas without prior Commission approval "on behalf of" an intrastate pipeline or a local distribution company (LDC). The regulation at 18 CFR 284.102(d) provides that the transportation is not "on behalf of" an intrastate pipeline or an LDC unless one of three conditions is met:

- (1) The intrastate pipeline or LDC has physical custody of and transports the natural gas at some point; or
- (2) The intrastate pipeline or LDC holds title to the natural gas at some point, which may occur prior to, during, or after the time that the gas is being transported by the interstate pipeline, for a purpose related to its status and functions as an LDC; or
- (3) The gas is delivered at some point to a customer that either is located in an

LDC's service area or is physically able to receive direct deliveries of gas from an intrastate pipeline, and the LDC or intrastate pipeline certifies that it is on its behalf that the interstate pipeline is providing transportation service.

Before commencing service as described in 18 CFR 284.102(d)(3), the interstate pipeline that is providing the transportation must receive certification from the pertinent LDC or intrastate pipeline consisting of a letter from the intrastate pipeline or LDC authorizing the interstate pipeline to ship gas on its behalf, and sufficient information to verify that the service qualifies under 18 CFR 284.102.

Transportation by Intrastate Pipelines for Interstate Pipelines or LDCs Served by an Interstate Pipeline

Under section 311(a)(2) of the NGPA and 18 CFR 284.122 to .123, any intrastate pipeline may, without prior Commission approval, transport natural gas on behalf of any interstate pipeline or any LDC served by an interstate pipeline. No rate charged for such transportation may exceed a fair and equitable rate.

The regulation at 18 CFR 284.123(b) provides that intrastate gas pipeline companies must file for Commission approval of rates for services performed in the interstate transportation of gas. An intrastate gas pipeline company may elect to use rates contained in one of its then effective transportation rate schedules on file with an appropriate state regulatory agency for intrastate service comparable to the interstate service or file proposed rates and supporting information showing the rates are cost based and are fair and equitable. It is Commission policy that each pipeline must file at least every 5 years to ensure its rates are fair and equitable. Depending on the business process used, either 60 or 150 days after the application is filed, the rate is deemed to be fair and equitable unless the Commission either extends the time for action, institutes a proceeding or issues an order providing for rates it deems to be fair and equitable.

The regulation at 18 CFR 284.123(e) requires that within 30 days of commencement of new service any intrastate pipeline engaging in the transportation of gas in interstate commerce must file a statement that includes the interstate rates and a description of how the pipeline will engage in the transportation services, including operating conditions. If an intrastate gas pipeline company changes its operations or rates it must amend the statement on file with the Commission. Such amendment is to be filed not later

than 30 days after commencement of the change in operations or change in rate election.

Initial Approval of Market-Based Rates for Storage

Section 4(f) of the NGA authorizes the Commission to permit natural gas storage service providers to charge market-based rates for storage, subject to conditions and requirements set forth in the statute. The Commission implements this authority under 18 CFR 284.501 to .505. An applicant may apply for market-based rates by filing a request for a market-power determination that complies with the following:

(a) The applicant must set forth its specific request and adequately demonstrate that it lacks market power in the market to be served, and must include an executive summary of its statement of position and a statement of material facts in addition to its complete statement of position. The statement of material facts must include citation to the supporting statements, exhibits, affidavits, and prepared testimony.

The regulation at 18 CFR 284.503 requires that an application to charge market-based rate for storage services must include the following information:

(1) *Statement A—geographic market.* This statement must describe the geographic markets for storage services in which the applicant seeks to establish that it lacks significant market power. It must include the market related to the service for which it proposes to charge market-based rates. The statement must explain why the applicant's method for selecting the geographic markets is appropriate.

(2) *Statement B—product market.* This statement must identify the product market or markets for which the applicant seeks to establish that it lacks significant market power. The statement must explain why the particular product definition is appropriate.

(3) *Statement C—the applicant's facilities and services.* This statement must describe the applicant's own facilities and services, and those of all parent, subsidiary, or affiliated companies, in the relevant markets identified in Statements A and B in paragraphs (b) (1) and (2) of this section. The statement must include all pertinent data about the storage facilities and services.

(4) *Statement D—competitive alternatives.* This statement must describe available alternatives in competition with the applicant in the relevant markets and other competition constraining the applicant's rates in those markets. Such proposed alternatives may include an appropriate

combination of other storage, local gas supply, LNG, financial instruments and pipeline capacity. These alternatives must be shown to be reasonably available as a substitute in the area to be served soon enough, at a price low enough, and with a quality high enough to be a reasonable alternative to the applicant's services. Capacity (transportation, storage, LNG, or production) owned or controlled by the applicant and affiliates of the applicant in the relevant market shall be clearly and fully identified and may not be considered as alternatives competing with the applicant. Rather, the capacity of an applicant's affiliates is to be included in the market share calculated for the applicant. To the extent available, the statement must include all pertinent data about storage or other alternatives and other constraining competition.

(5) *Statement E—potential competition.* This statement must describe potential competition in the relevant markets. To the extent available, the statement must include data about the potential competitors, including their costs, and their distance in miles from the applicant's facilities and major consuming markets. This statement must also describe any relevant barriers to entry and the applicant's assessment of whether ease of entry is an effective counter to attempts to exercise market power in the relevant markets.

(6) *Statement F—maps.* This statement must consist of maps showing the applicant's principal facilities, pipelines to which the applicant intends to interconnect and other pipelines within the area to be served, the direction of flow of each line, the location of the alternatives to the applicant's service offerings, including their distance in miles from the applicant's facility. The statement must include a general system map and maps by geographic markets. The information required by this statement may be on separate pages.

(7) *Statement G—market-power measures.* This statement must set forth the calculation of the market concentration of the relevant markets using the Herfindahl-Hirschman Index. The statement must also set forth the applicant's market share, inclusive of affiliated service offerings, in the markets to be served. The statement must also set forth the calculation of other market-power measures relied on by the applicant. The statement must include complete particulars about the applicant's calculations.

(8) *Statement H—other factors.* This statement must describe any other

factors that bear on the issue of whether the applicant lacks significant market power in the relevant markets. The description must explain why those other factors are pertinent.

(9) *Statement I—prepared testimony.* This statement must include the proposed testimony in support of the application and will serve as the applicant's case-in-chief, if the Commission sets the application for hearing. The proposed witness must subscribe to the testimony and swear that all statements of fact contained in the proposed testimony are true and correct to the best of his or her knowledge, information, and belief.

The regulation at 18 CFR 284.505(a), requires: (1) a demonstration that market-based rates are in the public interest and necessary to encourage the construction of storage capacity in an area needing storage services, and (2) an explanation of what means the storage service provider will use to protect customers from the potential exercise of market power.

Market Based-Rates—Notice of Change in Circumstances

The Commission's regulations at 18 CFR 284.504(b) provide that a storage service provider granted the authority to charge market-based rates is required to notify the Commission within 10 days of acquiring knowledge of significant change occurring in its market power status. The notification should include a detailed description of the new facilities/services and their relationship to the storage service provider. Significant changes include: (1) The storage provider expanding its storage capacity beyond the amount authorized; (2) The storage provider acquiring transportation facilities or additional storage capacity; (3) An affiliate providing storage or transportation services in the same market area; and (4) The storage provider or an affiliate acquiring an interest in or is acquired by an interstate pipeline.

Code of Conduct Record Retention

The Commission's regulations at 18 CFR 284.288(b) and 18 CFR 284.403(b), respectively, impose a record retention requirement contained in a Code of Conduct applicable to: (1) interstate pipelines that provide unbundled natural gas sales service,¹ and (2) persons who are not interstate pipelines and whose sales of natural gas are authorized by the "automatic" blanket marketing certificate granted by

¹ As defined at 18 CFR 284.282(c), unbundled sales service is gas sales service that is sold separately from transportation service.

operation of 18 CFR 284.402.² Any entity fitting one of those descriptions must retain, for a period of five years, all data and information upon which it billed the prices it charged for natural gas it sold pursuant to its market based sales certificate or the prices it reported for use in price indices.

FERC uses these records to monitor the jurisdictional transportation activities and unbundled sales activities of interstate natural gas pipelines and blanket marketing certificate holders.

The record retention period of 5 years is necessary due to the importance of records related to any investigation of

possible wrongdoing and related to assuring compliance with the codes of conduct and the integrity of the market. The requirement is necessary to ensure consistency with 18 CFR 1c.1 (Prohibition of Natural Gas Market Manipulation) and the generally applicable five-year statute of limitations where the Commission seeks civil penalties for violations of the anti-manipulation rules or other rules, regulations, or orders to which the price data may be relevant.

Failure to have this information available would mean the Commission would have difficulty performing its

regulatory functions to monitor and evaluate transactions and operations of interstate pipelines and blanket marketing certificate holders. The Code of Conduct Record Retention burden³ associated with the FERC-549 includes labor costs.

Type of Respondents: Jurisdictional interstate and intrastate natural gas pipelines.

*Estimate of Annual Burden:*⁴ The Commission estimates the annual burden and labor costs for the information collection as follows:

	Number of respondents	Number of responses per respondent	Total number of responses	Average burden hours & average cost ⁵ per response (\$)	Total annual burden hours & total annual cost (\$)	Cost per respondent (\$)
	(1)	(2)	(1) × (2) = (3)	(4)	(3) × (4) = (5)	(5) ÷ (1) = (6)
Transportation by Interstate Pipelines and Rates and Charges for Intra-state Pipelines ⁶ .	61	2	122	50 hrs.; \$5,100	6,100 hrs.; \$622,200	\$10,200
MBR—Initial Approval ⁷	4	1	4	350 hrs.; \$35,700	1,400 hrs.; \$142,800	35,700
MBR—Change in Circumstances ⁸	4	1	4	75 hrs.; \$7,650	300 hrs.; \$30,600	7,650
Record Retention	176	1	176	1 hr.; \$29.36	176 hrs.; \$5,167	29.36
Totals	245	.....	306	.....	7,976 hrs.; \$800,767 .....	.....

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: May 19, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-10313 Filed 5-21-26; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OPRM-FAD-223]

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 May 11, 2026 10 a.m. EST Through May 18, 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. 20260058, Final Supplement, BLM, CA, Bakersfield Field Office Oil and Gas Leasing and Development,

Review Period Ends: 06/22/2026,
Contact: John Hodge 661-391-6145.

EIS No. 20260059, Final Supplement, BLM, CA, Central Coast Field Office Oil and Gas Leasing and Development, Review Period Ends: 06/22/2026, *Contact:* Zachary Ormsby 661-391-6145.

EIS No. 20260060, Final Supplement, NNSA, CA, Enhanced Plutonium Facility Utilization at Lawrence Livermore National Laboratory, Review Period Ends: 06/22/2026, *Contact:* Alan Chen 833-778-0508.

EIS No. 20260061, Final Supplement, USACE, OR, Willamette Valley System Operations and Maintenance, Review Period Ends: 06/22/2026, *Contact:* Liz Oliver 503-808-4712.

Dated: May 18, 2026.

Nancy Abrams,

Deputy Director, Federal Activities Division.

[FR Doc. 2026-10291 Filed 5-21-26; 8:45 am]

BILLING CODE 6560-50-P

² The regulation at 18 CFR 284.402(a) provides that any person who is not an interstate pipeline is granted a blanket certificate of public convenience and necessity, pursuant to section 7 of the NGA, that authorizes the certificate holder to make sales for resale of natural gas at negotiated rates in interstate commerce. Section 2(1) of the NGA (15 U.S.C. 717a(1)) defines a "person" to include an individual or corporation.

³ 18 CFR 284.288(b) and 18 CFR 284.403(b).

⁴ Burden is defined as the total time, effort, or financial resources expended by persons to

generate, maintain, retain, or disclose or provide information to or for a federal agency. For further explanation of what is included in the information collection burden, refer to 5 CFR 1320.3.

⁵ FERC estimates that industry costs for salary plus benefits are similar to Commission costs. The cost figure is the FY2026 FERC average annual salary plus benefits (\$213,003 year or \$102/hour). The exception is for the Record Retention line of \$29.36 hourly, which comes from the average cost (wages plus benefits) of a file clerk (Occupation Code 43-4071) as posted on the BLS website (http://www.bls.gov/oes/current/naics2_22.htm).

⁶ The entities affected by 18 CFR 284.123(b) and (e) are intrastate pipelines. Interstate and intrastate pipelines are affected by 18 CFR 284.102(e). Since 2016, the Commission has not received any filings under 18 CFR 284.102(e).

⁷ 18 CFR 284.501 to .505.

⁸ 18 CFR 284.501 to .505. This new row was added to account for the differences between initial MBR filings and MBR filings pertaining to a change in circumstances.

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1312; FR ID 347444]

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 how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

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.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before June 22, 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 Nicole Ongele, FCC, via email to PRA@fcc.gov and to Nicole.Ongele@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 Nicole Ongele at (202) 418–2991. 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: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission’s burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

OMB Control Number: 3060–1312.

Title: Section 90.1207(e) and (f)

Amendment of Part 90 of the Commission’s Rules.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: State, Local or Tribal Government.

Number of Respondents and Responses: 190 respondents, 190 responses.

Estimated Time per Response: 16 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Statutory authority for this collection is contained in 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7), and 1401–1473 of the Communications Act of 1934.

Total Annual Burden: 3,040 hours.

Total Annual Cost: \$152,000.

Needs and Uses: This collection will be submitted as a revision of currently

approved collection after this 60-day comment period to the Office of Management and Budget (OMB) in order to obtain the full three-year clearance. The purpose of requiring incumbent public safety licensees and public safety applicants in the 4.9 GHz band to submit granular technical data into ULS is to enable the Band Manager at 4.9 GHz to use the granular technical data on public safety deployments to perform its frequency coordination duties and facilitate non-public safety access to the band.¹

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–10299 Filed 5–21–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1170; FR ID 347334]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority**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), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. 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 comments should be submitted on or before July 21, 2026. If you anticipate that you will be

¹ Section 90.1207(f) was a one-time collection what was completed on July 9, 2025 and there are no additional burdens associated with this requirement.

submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email PRA@fcc.gov and to Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: The FCC 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, and as required by the PRA of 1995 (44 U.S.C. 3501–3520), the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. 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.

OMB Control Number: 3060–1170.

Title: Improving Spectrum Efficiency Through Flexible Channel Spacing and Bandwidth Utilization for Economic Area-based 800 MHz Specialized Mobile Radio Licensees—Notice Requirement § 90.209.

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: 26 respondents; 26 responses.

Estimated Time per Response: 0.5–4 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 information collection is 47 U.S.C. 151, 152, 154, 301, 302(a), 303, 307, and 308 unless otherwise noted.

Total Annual Burden: 21 hours.

Total Annual Cost: \$50,000.

Needs and Uses: The information collection requirements contained in 47 CFR 90.209(b)(7) require EA-based 800 MHz SMR licensees authorized to exceed the standard channel spacing and authorized bandwidth under § 90.209(b)(5) to provide at least 30 days written notice prior to initiating service in the 813.5–824/858.5–869 MHz band to every 800 MHz public safety licensee with a base station in the affected National Public Safety Planning Advisory Committee (NPSPAC) region, and every 800 MHz public safety licensee within 113 kilometers (70 miles) of the affected region.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–10296 Filed 5–21–26; 8:45 am]

BILLING CODE 6712–01–P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0157; Docket No. 2026–0168; Sequence No. 1]

Information Collection; Architect-Engineer Qualifications (SF–330)

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management and Budget (OMB); Department of Defense (DOD); General Services Administration (GSA); and National Aeronautics and Space Administration (NASA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and OMB regulations, OFPP, DoD, GSA, and NASA invite the public to comment on an extension concerning architect-engineer qualifications (Standard Form (SF) 330). OFPP, DoD, GSA, and NASA invite comments on: whether the proposed collection of information is

necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through January 31, 2027. OFPP, DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: OFPP, DoD, GSA, and NASA will consider all comments received by July 21, 2026.

ADDRESSES: OFPP, DoD, GSA, and NASA invite interested persons to submit comments on this collection through <https://www.regulations.gov> and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202–501–4755 or GSARegSec@gsa.gov.

Instructions: All items submitted must cite OMB Control No. 9000–0157, Architect-Engineer Qualifications (SF–330). Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: FARPolicy@gsa.gov or call 202–969–4075.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and any Associated Form(s)

9000–0157, Architect-Engineer Qualifications, SF–330.

B. Need and Uses

This clearance covers the information that offerors must submit to comply with the following Federal Acquisition Regulation (FAR) requirement:

Standard Form (SF) 330, Architect-Engineer Qualifications. As specified in FAR 36.702(b), an architect-engineer firm must provide information about its qualifications for a specific contract when the contract amount is expected to

exceed the simplified acquisition threshold (SAT).

Part I—Contract-Specific Qualifications. The information on the form is reviewed by a selection panel composed of professionals and assists the panel in selecting the most qualified architect-engineer firm to perform the specific project. The form is designed to provide a uniform method for architect-engineer firms to submit information on experience, personnel, and capabilities of the architect-engineer firm to perform along with information on the consultants they expect to collaborate with on the specific project. Part I of the SF 330 may be used when the contract amount is expected to be at or below the SAT, if the contracting officer determines that its use is appropriate.

Part II—General Qualifications. The information obtained on this form is used to determine if a firm should be solicited for architect-engineer projects. Architect-engineer firms are encouraged to update the form annually. Part II of the SF 330 is used to obtain information from an architect-engineer firm about its general professional qualifications.

The SF 330 accomplishes the following:

- Expands essential information about qualifications and experience data including:
 - ♦ An organizational chart of all participating firms and key personnel.
 - ♦ For all key personnel, a description of their experience in 5 relevant projects.
 - ♦ A description of each example project performed by the project team (or some elements of the project team) and its relevance to the agency's proposed contract.
 - ♦ A matrix of key personnel who participated in the example projects. This matrix graphically illustrates the degree to which the proposed key personnel have worked together before on similar projects.
- Reflects current architect-engineer disciplines, experience types and technology.
- Permits limited submission length thereby reducing costs for both the architect-engineer industry and the Government. Lengthy submissions do not necessarily lead to a better decision on the best-qualified firm. The proposed SF 330 indicates that agencies may limit the length of a firm's submissions, either certain sections or the entire package. The Government's right to impose such limitations was established in case law (*Coffman Specialties, Inc.*, B–284546. N–284546/2, 2000 U.S.

Comp. Gen. LEXIS 58, May 10, 2000).

The contracting officer uses the information provided on the SF 330 to evaluate firms to select an architect-engineer firm for a contract.

C. Annual Burden

Respondents: 402.

Total Annual Responses: 1,608.

Total Burden Hours: 46,632.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division, by calling 202–501–4755 or emailing GSARegSec@gsa.gov. Please cite OMB Control No. 9000–0157, Architect-Engineer Qualifications (SF–330).

Janet Fry,

*Director, Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy, Office of
Governmentwide Policy.*

[FR Doc. 2026–10288 Filed 5–21–26; 8:45 am]

BILLING CODE 6820–EP–P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0182; Docket No. 2026–0167; Sequence No. 1]

Information Collection; Privacy Training

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management and Budget (OMB); Department of Defense (DOD); General Services Administration (GSA); and National Aeronautics and Space Administration (NASA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and OMB regulations, OFPP, DoD, GSA, and NASA invite the public to comment on an extension concerning privacy training. OFPP, DoD, GSA, and NASA invite comments on: whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the

burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through October 31, 2026. OFPP, DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: OFPP, DoD, GSA, and NASA will consider all comments received by July 21, 2026.

ADDRESSES: OFPP, DoD, GSA, and NASA invite interested persons to submit comments on this collection through <https://www.regulations.gov> and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202–501–4755 or GSARegSec@gsa.gov.

Instructions: All items submitted must cite OMB Control No. 9000–0182, Privacy Training. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: FARPolicy@gsa.gov or call 202–969–4075.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and any Associated Form(s)

9000–0182, Privacy Training.

B. Need and Uses

This clearance covers the information that contractors must submit to comply with the following Federal Acquisition Regulation (FAR) requirements:

- 52.224–3(d). This clause requires contractors to:
 - (1) Maintain a record of initial and annual privacy training, for the contractor's employees that: (a) have access to a system of records; (b) create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information on behalf of an agency; or (c) design, develop, maintain, or operate a system of records; and

(2) Provide documentation of completion of such privacy training to the contracting officer if requested.

The contracting officer will use the information in contract administration and to establish that all applicable contractor and subcontractor employees comply with the privacy training requirements.

C. Annual Burden

Respondents/Recordkeepers: 4,282.

Total Annual Responses: 25,799.

Total Burden Hours: 12,873. (27 reporting hours + 12,846 recordkeeping hours)

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202-501-4755 or emailing GSARegSec@gsa.gov. Please cite OMB Control No. 9000-0182, Privacy Training.

Janet Fry,

Director, Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy, Office of
Governmentwide Policy.

[FR Doc. 2026-10289 Filed 5-21-26; 8:45 am]

BILLING CODE 6820-EP-P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0001; Docket No. 2026-0166; Sequence No. 1]

Information Collection; Certain Federal Acquisition Regulation Part 28 Requirements

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management and Budget (OMB); Department of Defense (DOD); General Services Administration (GSA); and National Aeronautics and Space Administration (NASA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and OMB regulations, OFPP, DoD, GSA, and NASA invite the public to comment on an extension concerning certain Federal Acquisition Regulation (FAR) part 28 requirements. OFPP, DoD, GSA, and

NASA invite comments on: whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through January 31, 2027. OFPP, DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: OFPP, DoD, GSA, and NASA will consider all comments received by July 21, 2026.

ADDRESSES: OFPP, DoD, GSA, and NASA invite interested persons to submit comments on this collection through <https://www.regulations.gov> and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202-501-4755 or GSARegSec@gsa.gov.

Instructions: All items submitted must cite OMB Control No. 9000-0001, Certain Federal Acquisition Regulation Part 28 Requirements. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: FARPolicy@gsa.gov or call 202-969-4075.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

OMB Control No. 9000-0001, Certain Federal Acquisition Regulation Part 28 Requirements, Standard Forms (SF) 24, 25, 25-A, 25-B, 28, 34, 35, 273, 274, 275, 1414, 1415, 1416, and 1418.

B. Need and Uses

This clearance covers the information that offerors or contractors must submit to comply with the following FAR requirements:

- FAR 52.228-1, Bid Guarantee. This provision (or clause) requires offerors or contractors to furnish a bid guarantee in the proper form and amount when a performance bond or a performance and payment bond is also required. (SF 24, Bid Bond; SF 34, Annual Bid Bond).

- FAR 52.228-2, Additional Bond Security. This clause requires contractors to furnish additional bond security under certain circumstances. This clause is used both for construction and other than construction contracts. (SF 1414 Consent of Surety and SF 1415, Consent of Surety and Increase of Penalty).

- FAR 52.228-13, Alternative Payment Protections. This clause requires contractors to submit one of the payment protections listed in the clause by the contracting officer, in construction contracts greater than \$35,000 but not exceeding \$150,000.

- FAR 52.228-14, Irrevocable Letter of Credit. This clause requires offerors or contractors to provide certain information when they intend to use an irrevocable letter of credit (ILC) in lieu of a required bid bond, or to secure other types of required bonds such as performance and payment bonds. This clause is required in solicitations and contracts when a bid guarantee, or performance bond, or performance and payment bonds are required.

- FAR 52.228-15, Performance and Payment Bonds-Construction. This clause requires contractors to provide performance and payment bonds in construction contracts exceeding \$150,000 (SF 25, Performance Bond; SF 25-A, Payment Bond; SF 25-B, Continuation Sheet (for SF's 24, 25, and 25-A); SF 273, Reinsurance Agreement for a Bonds Statute Performance Bond; SF 274, Reinsurance Agreement for a Bonds Statute Payment Bond).

- FAR 52.228-16, Performance and Payment Bonds-Other Than Construction. This clause requires contractors to furnish performance and payment bonds for other than construction contracts exceeding the simplified acquisition threshold only in certain circumstances. (SF 35, Annual Performance Bond; SF 275, Reinsurance Agreement in Favor of the United States; SF 1416, Payment Bond for Other Than Construction Contracts; SF 1418, Performance Bond for Other Than Construction Contracts).

- Standard Form (SF) 28, Affidavit of Individual Surety. This form is used by all executive agencies, including DoD, to obtain information from individuals wishing to serve as sureties to Government bonds. Offerors and contractors may use an individual surety as security for bonds required

under a solicitation or contract for supplies or services (including construction). It is an elective decision on the part of the offeror or contractor to use individual sureties instead of other available sources of surety or sureties for Government bonds.

The Government retains the bid guarantees, bonds, or alternative payment protections until the contractor's obligation is fulfilled. The contracting officer uses the information on the SF 28 to determine the acceptability of individuals proposed as sureties.

C. Annual Burden

Respondents: 22,916.

Total Annual Responses: 22,926.

Total Burden Hours: 22,912.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division, by calling 202-501-4755 or emailing GSARegSec@gsa.gov. Please cite OMB Control No. 9000-0001, Certain Federal Acquisition Regulation Part 28 Requirements.

Janet Fry,

*Director, Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy, Office of
Governmentwide Policy.*

[FR Doc. 2026-10287 Filed 5-21-26; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2007-D-0369]

Product-Specific Guidances; Draft and Revised Draft Guidances for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of additional draft and revised draft product-specific guidances. The draft guidances provide product-specific recommendations on, among other things, the design of bioequivalence (BE) studies to support abbreviated new drug applications (ANDAs). In the **Federal Register** of June 11, 2010, FDA announced the availability of a guidance for industry entitled "Bioequivalence Recommendations for Specific Products" that explained the process that would be used to make product-

specific guidances available to the public on FDA's website. The draft guidances identified in this notice were developed using the process described in that guidance.

DATES: Submit either electronic or written comments on these draft guidances by July 21, 2026 to ensure that the Agency considers your comment on these draft guidances before it begins work on the final version of these guidances.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA-2007-D-0369 for "Product-Specific Guidances; Draft and Revised Draft Guidances for Industry." Received comments will be placed in the docket

and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

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

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT:

Joseph Kotsybar, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 4714, Silver Spring, MD 20993-0002, PSG-Questions@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

In the **Federal Register** of June 11, 2010 (75 FR 33311), FDA announced the availability of a guidance for industry entitled “Bioequivalence Recommendations for Specific Products” that explained the process that would be used to make product-specific guidances available to the public on FDA’s website at <https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs>.

As described in that guidance, FDA adopted this process to develop and disseminate product-specific guidances and provide a meaningful opportunity for the public to consider and comment on those guidances. Under that process, draft guidances are posted on FDA’s website and announced periodically in the **Federal Register**. The public is encouraged to submit comments on those recommendations within 60 days of their announcement in the **Federal Register**. FDA considers any comments received and either publishes final guidances or publishes revised draft guidances for comment. Guidances were last announced in the **Federal Register** on February 27, 2026 (91 FR 9862). This notice announces draft product-specific guidances, either new or revised, that are posted on FDA’s website.

II. Drug Products for Which New Draft Product-Specific Guidances Are Available

FDA is announcing the availability of new draft product-specific guidances for industry for drug products containing the following active ingredients:

TABLE 1—NEW DRAFT PRODUCT-SPECIFIC GUIDANCES FOR DRUG PRODUCTS

Active ingredient(s)
Amlodipine besylate; Indapamide; Telmisartan.
Apremilast.
Articaine hydrochloride.
Atrasentan hydrochloride.
Avutometinib potassium; Defactinib hydrochloride.
Carboplatin.
Cysteamine bitartrate.
Dexamethasone (multiple reference listed drugs).
Dordaviprone hydrochloride.

TABLE 1—NEW DRAFT PRODUCT-SPECIFIC GUIDANCES FOR DRUG PRODUCTS—Continued

Active ingredient(s)
Fitusiran sodium.
Imetelstat sodium.
Lenacapavir sodium.
Metoprolol tartrate.
Mirdametinib (multiple reference listed drugs).
Palopegteriparatide.
Patiromer sorbitex calcium.
Pentamidine isethionate.
Protamine sulfate.
Rocuronium bromide.
Selumetinib sulfate.
Warfarin sodium.
Zanubrutinib.

III. Drug Products for Which Revised Draft Product-Specific Guidances Are Available

FDA is announcing the availability of revised draft product-specific guidances for industry for drug products containing the following active ingredients:

TABLE 2—REVISED DRAFT PRODUCT-SPECIFIC GUIDANCES FOR DRUG PRODUCTS

Active ingredient(s)
Albuterol sulfate.
Albuterol sulfate; Budesonide.
Aripiprazole.
Beclomethasone dipropionate (multiple reference listed drugs).
Budesonide; Formoterol fumarate dihydrate (multiple reference listed drugs).
Budesonide; Formoterol fumarate; Glycopyrrolate.
Buprenorphine.
Cabotegravir.
Cabotegravir; Rilpivirine.
Cephalexin.
Ciclesonide.
Clindamycin phosphate.
Cysteamine bitartrate (multiple reference listed drugs).
Diclofenac sodium.
Doxepin hydrochloride.
Entrectinib.
Epinephrine.
Esomeprazole magnesium.
Fenfluramine hydrochloride.
Finerenone.
Flunisolide.
Fluticasone propionate.
Fluticasone propionate; Salmeterol xinafoate.
Formoterol fumarate; Mometasone furoate.
Formoterol fumarate; Glycopyrrolate.
Ipratropium bromide.
Levalbuterol tartrate.
Lidocaine hydrochloride.
Magnesium hydroxide; Omeprazole; Sodium bicarbonate.
Metoprolol succinate.
Metoprolol tartrate.
Mometasone furoate.

TABLE 2—REVISED DRAFT PRODUCT-SPECIFIC GUIDANCES FOR DRUG PRODUCTS—Continued

Active ingredient(s)
Osilodrostat phosphate.
Potassium chloride.
Ropinirole hydrochloride (multiple reference listed drugs).
Tacrolimus (multiple reference listed drugs).
Tiotropium bromide.
Tofacitinib citrate.
Ursodiol.
Warfarin sodium.

For a complete history of previously published **Federal Register** notices related to product-specific guidances, go to <https://www.regulations.gov> and enter Docket No. FDA-2007-D-0369.

These draft guidances are being issued consistent with FDA’s good guidance practices regulation (21 CFR 10.115). These draft guidances, when finalized, will represent the current thinking of FDA on, among other things, the product-specific design of BE studies to support ANDAs. They do not establish any rights for any person and are not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

As we develop final guidance on this topic, FDA will consider comments on costs or cost savings the guidance may generate, relevant for Executive Order 14192.

IV. Paperwork Reduction Act of 1995

While these guidances contain no collection of information, they do refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in 21 CFR part 312 for investigational new drugs have been approved under OMB control number 0910-0014. The collections of information in 21 CFR part 314 for applications for FDA approval to market a new drug and in 21 CFR part 320 for bioavailability and bioequivalence requirements have been approved under OMB control number 0910-0001.

V. Electronic Access

Persons with access to the internet may obtain the draft guidance at <https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs>, <https://www.fda.gov/regulatory-information/search-fda>

guidance-documents, or <https://www.regulations.gov>.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–10277 Filed 5–21–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–N–4162]

Vaccines and Related Biological Products Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments—Safety and Effectiveness of MFLUSIVA (Influenza Vaccine, mRNA) Manufactured by Moderna TX Inc.

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Vaccines and Related Biological Products Advisory Committee (the Committee). The general function of the Committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on June 18, 2026, from 8:30 a.m. to 4:00 p.m. Eastern Time.

ADDRESSES: All meeting participants will be heard, viewed, captioned, and recorded for this advisory committee meeting via an online teleconferencing and/or video conferencing platform. Answers to commonly asked questions about FDA advisory committee meetings may be accessed at: <https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm>.

The online web conference meeting will be available at the following link on the day of the meeting at: <https://youtube.com/live/9W18lwG7vD8>.

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2026–N–4162. The docket will close on June 17, 2026. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 17, 2026. Comments received by

mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Comments received on or before June 12, 2026, will be provided to the Committee. Comments received after that date will be taken into consideration by FDA. In the event that the meeting is cancelled, FDA will continue to evaluate any relevant applications or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2026–N–4162 for “Vaccines and Related Biological Products Advisory Committee; Notice of Meeting; Establishment of a Public Docket;

Request for Comments—Safety and Effectiveness of MFLUSIVA (Influenza Vaccine, mRNA) manufactured by Moderna TX Inc.”. Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

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

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Cicely Reese; Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 3215, Silver Spring, MD 20993–0002, 301–796–9025, email: CBERVRBPAC@fda.hhs.gov, or FDA Advisory Committee Information Line, 1–800–

741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last-minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check FDA's website at <https://www.fda.gov/AdvisoryCommittees/default.htm> and scroll down to the appropriate advisory committee meeting link or call the advisory committee information line to learn about possible modifications before the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The meeting presentations will be heard, viewed, captioned, and recorded through an online teleconferencing and/or video conferencing platform. On June 18, 2026, the Committee will meet in open session to discuss and make recommendations on the safety and effectiveness of MFLUSIVA (Influenza Vaccine, mRNA), manufactured by Moderna TX Inc., with a requested indication in Biologics License Application STN 125869/0 for the prevention of influenza disease caused by influenza virus subtypes A and type B represented in the vaccine, in persons 50 years of age and older.

FDA intends to make background material available to the public no later than two (2) business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available on FDA's website at the time of the advisory committee meeting. Background material and the link to the online teleconference and/or video conference meeting will be available at <https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm>. Scroll down to the appropriate advisory committee meeting link.

The meeting will include slide presentations with audio and video components to allow the presentation of materials in a manner that most closely resembles an in-person advisory committee meeting.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. All electronic and written submissions to the Docket (see **ADDRESSES**) on or before June 12, 2026, will be provided to the Committee. Oral presentations from the public will be scheduled between approximately 1:00 p.m. and 2:00 p.m. Eastern Time. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief

statement of the general nature of the evidence or arguments they wish to present, along with the names, email addresses, and direct contact phone numbers of proposed participants, and an indication of the approximate time requested to make their presentation on or before 12 p.m. Eastern Time on June 8, 2026. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by 6 p.m. Eastern Time on June 10, 2026.

For press inquiries, please contact the HHS Press Room at www.hhs.gov/press-room/index.html or 202–690–6343. FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Cicely Reese at CBERVERBPAC@fda.hhs.gov (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at <https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm> for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. 1001 *et seq.*). This meeting notice also serves as notice that, pursuant to 21 CFR 10.19, the requirements in 21 CFR 14.22(b), (f), and (g) relating to the location of advisory committee meetings are hereby waived to allow for this meeting to take place using an online meeting platform. This waiver is in the interest of allowing greater transparency and opportunities for public participation, in addition to convenience for advisory committee members, speakers, and guest speakers. The conditions for issuance of a waiver under 21 CFR 10.19 are met.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–10321 Filed 5–21–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–D–3054]

M11 Clinical Electronic Structured Harmonised Protocol (CeSHarP); International Council for Harmonisation; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled “M11 Clinical Electronic Structured Harmonised Protocol (CeSHarP).” The guidance was prepared under the auspices of the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use (ICH). The guidance includes three documents: a guidance, a template, and a technical specification document. The guidance provides the rationale and recommendations for implementing a harmonized digital clinical trial protocol. The template features standardized content structure and formatting, including headers and common text elements. The technical specification document contains harmonized terminologies and standardized data fields to enable electronic exchange of clinical protocol information. The intent of the guidance is to create an internationally harmonized standard for the content and exchange of clinical trial protocol information, facilitating the review and assessment by regulators, sponsors, ethical oversight bodies, investigators, and other stakeholders. This guidance finalizes the draft guidances “M11 Clinical Electronic Structured Harmonised Protocol (CeSHarP)” issued on December 22, 2022 (87 FR 78696), and “M11 Technical Specification: Clinical Electronic Structured Harmonised Protocol” issued on June 6, 2025 (90 FR 24146).

DATES: The announcement of the guidance is published in the **Federal Register** on May 22, 2026.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the

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

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

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2022-D-3054 for "M11 Clinical Electronic Structured Harmonised Protocol (CeSHarP)." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- *Confidential Submissions—*To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the

claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance: Y. Veronica Pei, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6462, Silver Spring, MD 20993-0002, 240-402-7091, YangVeronica.Pei@fda.hhs.gov; or Phillip Kurs, Center for Biologics Evaluation and Research, Food and Drug Administration, 240-402-7911.

Regarding the ICH: Brooke Dal Santo, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6304, Silver Spring, MD 20993-0002, 301-348-1967, Brooke.DalSanto@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled "M11 Clinical Electronic Structured Harmonised Protocol (CeSHarP)." The guidance was prepared under the auspices of ICH. ICH seeks to achieve greater regulatory harmonization worldwide to ensure that safe, effective, high-quality medicines are developed, registered, and maintained in the most resource-efficient manner.

By harmonizing the regulatory requirements in regions around the world, ICH guidelines enhance global drug development, improve manufacturing standards, and increase the availability of medications. For example, ICH guidelines have substantially reduced duplicative clinical studies, prevented unnecessary animal studies, standardized the reporting of important safety information, and standardized marketing application submissions.

The six Founding Members of the ICH are the FDA; the Pharmaceutical Research and Manufacturers of America; the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; and the Japanese Pharmaceutical Manufacturers Association. The Standing Members of the ICH Association include Health Canada and Swissmedic. ICH membership continues to expand to include other regulatory authorities and industry associations from around the world (refer to <https://www.ich.org/>).

ICH works by engaging global regulatory and industry experts in a detailed, science-based, and consensus-driven process that results in the development of ICH guidelines. The regulators around the world are committed to consistently adopting these consensus-based guidelines, realizing the benefits for patients and for industry.

As a Founding Regulatory Member of ICH, FDA plays a major role in the development of each of the ICH guidelines, which FDA then adopts and issues as guidance for industry. FDA's guidance documents do not establish legally enforceable responsibilities. Instead, they describe the Agency's current thinking on a topic and should be viewed only as recommendations, unless specific regulatory or statutory requirements are cited.

In the **Federal Register** of December 22, 2022 (87 FR 78696), FDA published a notice announcing the availability of a draft guidance entitled "M11 Clinical Electronic Structured Harmonised

Protocol (CeSHarP).” The notice gave interested persons an opportunity to submit comments by February 21, 2023.

In the **Federal Register** of June 6, 2025 (90 FR 24146), FDA published a notice announcing the availability of a revised draft guidance entitled “M11 Technical Specification: Clinical Electronic Structured Harmonised Protocol.” The notice gave interested persons an opportunity to submit comments by July 7, 2025.

After consideration of the comments received and revisions to the guideline, a final draft of the guideline was submitted to the ICH Assembly and endorsed by the regulatory agencies in November 2025.

This guidance finalizes the draft guidances issued on December 22, 2022, and June 6, 2025. The guidance provides harmonized and comprehensive technical recommendations for clinical trial protocol through three key documents: the guidance, which provides the rationale and recommendations for implementing a harmonized digital clinical trial protocol; a standardized protocol template featuring standardized content structure and formatting, including headers and common text elements; and a technical specification document containing harmonized terminologies and standardized data fields to enable electronic exchange of clinical protocol information. Revisions were made to all documents addressing public comments and providing greater clarity to key terms and scope.

This guidance is being issued consistent with FDA’s good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on “M11 Clinical Electronic Structured Harmonised Protocol (CeSHarP).” It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The collections of information in 21 CFR part 312 pertaining to clinical trial design and protocols have been approved under OMB control number 0910–0014.

III. Electronic Access

Persons with access to the internet may obtain the guidance at <https://www.regulations.gov>, <https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs>, <https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances>, or <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–10295 Filed 5–21–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–N–0567]

Notice of Decision Not To Designate Hepatitis Delta Virus Diseases as an Addition to the Current List of Tropical Diseases in the Federal Food, Drug, and Cosmetic Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: In response to a suggestion by Gilead Sciences, Inc. (Gilead) that was submitted to the public docket FDA–2008–N–0567 on February 14, 2022, the Food and Drug Administration (FDA or Agency) has analyzed whether hepatitis delta virus (HDV) infection meets the statutory criteria for designation as a “tropical disease” under Section 524 of the Federal Food, Drug, and Cosmetic Act (FD&C Act). Specifically, the Agency has analyzed whether there is “no significant market in developed nations” for drugs for HDV infections and whether HDV “disproportionately affects poor and marginalized populations,” both of which are statutory criteria for designation as a “tropical disease.” At this time, the Agency cannot conclude that HDV infection meets the statutory criteria for addition to the list of tropical diseases under the FD&C Act; therefore, FDA declines to add it to the list of tropical diseases.

DATES: May 22, 2026.

ADDRESSES: Submit electronic comments on additional diseases suggested for designation to <https://www.regulations.gov>. Submit written comments on additional diseases suggested for designation to the Dockets Management Staff (HFA–305), Food and

Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

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I. Background: Priority Review Voucher Program

Section 524 of the FD&C Act (21 U.S.C. 360n), which was added by section 1102 of the Food and Drug Administration Amendments Act of 2007 (Pub. L. 110–85), uses a priority review voucher (PRV) incentive to encourage the development of new drugs, including biological products, for prevention and treatment of certain diseases that, in the aggregate, affect millions of people throughout the world. To be eligible to receive a tropical disease PRV, a sponsor must submit a human drug application that is for prevention or treatment of a “tropical disease” as listed under section 524(a)(3) of the FD&C Act. This list can be expanded by the Agency under section 524(a)(3)(S) of the FD&C Act, which authorizes FDA to designate by order “[a]ny other infectious disease for which there is no significant market in developed nations and that disproportionately affects poor and marginalized populations” as a “tropical disease.” Further information about the tropical disease PRV program can be found in the guidance for industry “Tropical Disease Priority Review Vouchers,” issued on October 6, 2016 (81 FR 69537), and available at <https://www.fda.gov/media/72569/download>. Additions to the statutory list of tropical diseases by an FDA final order published in the **Federal Register**

can be accessed at <https://www.fda.gov/about-fda/center-drug-evaluation-and-research-cder/tropical-disease-priority-review-voucher-program>.

On August 20, 2015, FDA published a final order (80 FR 50559) (August 2015 final order) designating Chagas disease and neurocysticercosis as additions to the list of tropical diseases under section 524 of the FD&C Act. The August 2015 final order also set forth FDA's interpretation of the statutory criteria for designation as a tropical disease under section 524(a)(3)(R) of the FD&C Act (redesignated as section 524(a)(3)(S) of the FD&C Act).

As explained in the August 2015 final order, FDA uses the World Bank's list of "high-income economies" as evidence that a country should be considered a "developed nation" for purposes of tropical disease designation (Ref. 1). In the August 2015 final order, FDA stated that it interprets the statutory criterion "no significant market" (within the phrase "no significant market in developed nations" under section 524(a)(3)(S) of the FD&C Act) to refer to the market for drugs for the treatment or prevention of infectious diseases. The August 2015 final order states, "[b]ecause the statute offers vouchers for applications for drugs for either the treatment or prevention of infectious diseases, it is reasonable to assume that 'no significant market' can refer to drugs for the treatment or prevention of infectious diseases." 80 FR at 50560.

In the August 2015 final order, FDA explained that it agrees with the use of an overall flexible approach to tropical disease designation and notes that "[t]he purpose of section 524 of the FD&C Act is to provide an incentive for innovation where there otherwise would be an insufficient financial or market incentive to invest in developing drugs for tropical diseases". *Id.* To determine whether a "significant market" exists in developed nations, FDA considers both the direct and the indirect market for drugs for the treatment or prevention of a particular infectious disease. As noted in the August 2015 final order, the direct market reflects "situations in which individuals (often reimbursed by their insurers) purchase the products for use by a specific patient," and "the direct market for a drug in a developed country can often be estimated by assessing the occurrence of a particular disease in that country." 80 FR at 50560–61. Further, as described in the August 2015 final order, FDA uses a disease prevalence rate of 0.1 percent of the population in developed countries for aiding in the determination of whether a significant market may exist for treatment of a disease. In addition to

disease prevalence, other factors have been considered by FDA, including, for example, the incidence of the disease. Incidence measures new cases that are diagnosed in a population in a given time period. FDA also considers whether there is a sizable indirect market for a drug for the treatment or prevention of an infectious disease, which could be comprised of government entities or nongovernmental organizations that wish to purchase and distribute a drug.

As discussed below, the Agency has determined that it cannot conclude at this time that HDV meets the statutory criteria for designation as a "tropical disease" under section 524 of the FD&C Act; thus, FDA will not add it to the list of tropical diseases for which a human drug application may be eligible for a PRV.

II. Decision Not To Designate Hepatitis Delta Virus Infection

Based on an assessment of currently available information, FDA has determined that HDV will not be designated as a "tropical disease" under section 524 of the FD&C Act.

A. Background

HDV infection, also known as "delta hepatitis," is a liver infection caused by HDV, a defective RNA virus that requires hepatitis B virus (HBV) surface antigen (HBsAg) for replication and transmission (Ref. 2, Ref. 3, Ref. 4). Thus, HDV infection only occurs in individuals also infected with HBV and can be acute or chronic. Chronic HDV/HBV infection is the most severe form of chronic viral hepatitis, with more rapid progression to cirrhosis, hepatocellular carcinoma, and death (Ref. 5). Cohort studies show the risk of adverse liver-related outcomes may be 9 times higher in patients with chronic HDV/HBV infection than in those with HBV monoinfection (Ref. 6), with greater likelihood of liver transplantation (Ref. 7). On average, HDV/HBV infection progresses to cirrhosis within 5 years and to hepatocellular carcinoma within 10 years (Ref. 8).

An estimated 1.59 million persons (range 1.25–2.49 million) live with chronic HBV infection in the United States (Ref. 9) and 254 million (range 224.0–286.6 million) globally (Ref. 10). These people are at potential risk of HDV infection. Estimated HDV prevalence rates reported in the literature vary widely, in part because of different methodologies used but also because of historically low levels of HDV testing. The presence of anti-HDV antibodies identifies HBsAg-positive

individuals who have been exposed to HDV (either in the past or due to ongoing infection); however, detection of HDV RNA is needed to confirm active HDV infection. Chronic HDV (CHD) infection is defined by detectable HDV RNA in the blood for at least six months.

As noted above, HDV prevalence estimates vary widely. Some reports suggest HDV infection may affect 12.0 million people worldwide (95% CI, 8.7–18.7) (Ref. 11, Ref. 12, Ref. 13). A meta-analysis estimated a 4.5% (95% CI, 3.6–5.7) anti-HDV (*i.e.*, total or IgG anti-HDV antibodies) prevalence rate among HBsAg-positive persons and 16.4% (95% CI, 14.6–18.6) among those attending hepatology clinics (Ref. 13). Other meta-analyses estimated 13.0% (95% CI, 12.0–14.1) HDV infection prevalence among HBV carriers and 0.80% (95% CI, 0.6–1.0) in the general population, corresponding to 48–60 million HDV infections globally (Ref. 8).

Higher HDV rates are observed in low- and middle-income countries, with highest rates reported in Mongolia, Brazil, the Republic of Moldova, and countries in Western and Middle Africa (Ref. 14, Ref. 13). Higher rates are also reported in people who inject drugs (PWID), hemodialysis recipients, men who have sex with men, commercial sex workers, and those living with hepatitis C virus (HCV) or human immunodeficiency virus (HIV) (Ref. 15, Ref. 13, Ref. 16). In high-income countries, a substantial proportion of HDV infections are found in immigrant populations (Ref. 17, Ref. 18). For example, foreign-born persons were reported to contribute more than 50% of the HDV infection burden in both Greece and Germany (Ref. 17). An Italian study reported that while the rate of anti-HDV antibody positivity in Italy had declined among native-born Italians, there was a 6-fold increase among people born abroad (Ref. 19). Meanwhile, in a study of chronic viral hepatitis infections among people of Mongolian descent in Southern California, all but three of whom were foreign-born, the anti-HDV antibody prevalence rate was 39.6% and HDV RNA positivity was 34.0% among those with chronic HBV infection, rates that are as high as those reported in Mongolia (Ref. 20).

Given the dependence of HDV on HBV for its propagation, the most effective means of HDV prevention is HBV vaccination. Hepatitis B immunization, however, does not protect against HDV in those already chronically infected with HBV. By 2024, global coverage of three infant doses of the hepatitis B vaccine reached 84%

(Ref. 21, Ref. 22). In the United States, adult HBV vaccination coverage was reported as 30–33% (Ref. 23 (discussing the standard recommended 3-dose vaccine coverage), Ref. 24 (discussing having received at least one vaccine dose)).¹ In response, in 2022, the Advisory Committee on Immunization Practices (ACIP) recommended universal hepatitis B vaccination for all U.S. adults aged 19 through 59 years (Ref. 25), in contrast to previous recommendations that were risk-factor based. As of March 2026, the Centers for Disease Control and Prevention (CDC) continues to recommend universal HBV vaccination for all adults aged 19 through 59 years, with shared clinical decision-making for adults aged 60 years or older (Ref. 26).

Therapeutic options for CHD are limited. Nucleos(t)ide analogues, such as tenofovir disoproxil fumarate, entecavir, and tenofovir alafenamide, are first-line HBV treatments but ineffective against HDV, either alone or in combination with pegylated interferon- α (Peg-IFN α) (Ref. 27, Ref. 28, Ref. 29).

In the United States, there is no FDA-approved treatment for CHD. Pegylated interferon- α has been endorsed by some treatment guidelines (Ref. 27, Ref. 30), but many HDV patients are ineligible due to advanced liver disease or contraindications. In addition, Peg-IFN α therapy causes adverse side effects, such as flu-like symptoms, anemia, neutropenia, and thrombocytopenia, resulting in poor tolerability and high discontinuation rates (Ref. 31). Moreover, response rates are variable, ranging from 17% to 35%, and relapses are common (Ref. 32, Ref. 33, Ref. 5). Outside the United States, bulevirtide

(Hepcludex® in the European Economic Area [EEA], United Kingdom [UK], Switzerland, and Australia; Myrcludex B® in Russia) is approved for CHD treatment in adults with compensated liver disease. To date, FDA has not approved bulevirtide for treatment of CHD.

B. No Significant Market in Developed Nations

It cannot be concluded that there is no significant market in developed nations for drugs to treat or prevent HDV infection.

As noted above, FDA is authorized to designate certain diseases as tropical diseases if certain criteria are met. The first criterion is that “there is no significant market in developed nations.” As stated in the August 2015 final order, FDA intends to use a country’s presence on the World Bank list of “high income economies” as evidence that the country should be considered a “developed nation” for “tropical disease” determination purposes (80 FR at 50560).

In the August 2015 final order, FDA further explains that it agrees with the use of an overall flexible approach to tropical disease designation and notes that “[t]he purpose of section 524 of the FD&C Act is to provide an incentive for innovation where there otherwise would be an insufficient financial or market incentive to invest in developing drugs for tropical diseases”. Id. FDA explains that it “will analyze the market for drugs for both the treatment and prevention of infectious diseases.” Id. FDA further identifies factors to consider in determining whether a “significant market” exists in developed countries. First, FDA explains that there

are “direct” markets—that is, markets in which patients purchase drugs for their own use. Id. In discussing the direct market, FDA identifies one relevant factor, disease prevalence, explaining that “if the prevalence of a disease in developed countries is less than 0.1 percent of the population of those countries, it is unlikely that ordinary market forces will offer a sufficient incentive to drive the development of new preventions or treatments.” Id. at 50561. Other factors have been considered by FDA, including, for example, the incidence of the disease. See 85 FR 42860 (July 15, 2020) (designating brucellosis); 85 FR 42871 (July 15, 2020) (declining to designate coccidioidomycosis); 80 FR 50559 (Aug. 20, 2015) (designating neurocysticercosis); and 83 FR 42904 (Aug. 24, 2018) (designating rabies). Second, FDA states in the August 2015 final order that “some drugs may have a sizeable ‘indirect market’ composed of, for example, government entities or nongovernmental organizations that wish to purchase and distribute a drug for the treatment or prevention of an infectious disease, which could be relevant to the analysis, as well. Id.

The literature suggests that HDV infection prevalence is higher among low- and lower-middle-income countries compared to high-income countries, and disproportionately affects countries in regions such as Africa, Central and South Asia, and Oceania that are included in the World Bank list of low-income economies (Ref. 15, Ref. 13). Gilead provided Table 1 below to show prevalence rates of HDV infection among 8 countries included on the World Bank list of high-income economies (Ref. 52).

TABLE 1—SUMMARY OF PERCENT HDV INFECTION PREVALENCE IN THE GENERAL POPULATION IN HIGH INCOME ECONOMIES

High-income economies	(%) Prevalence in general population *	(95% CI)
Australia	0.01	(0.0, 0.02).
France	0.01	(0.004, 0.01).
Germany	0.02	(0.01, 0.03).
Italy	0.02	(0, 0.1).
Japan	0.70	(0.5, 0.9).
Saudi Arabia	0.10	(0.01, 0.2).
United Kingdom	0.02	(0.001, 0.1).
United States	0.02	(0.01, 0.03).

Source: Gilead’s Tropical Disease Designation Request (Ref. 52, based on Ref. 13).

* Prevalence represents the country-level anti-HDV prevalence in the total population.

Of note, Gilead purports that the higher HDV infection prevalence rate in

Japan (0.70%) is likely an over-estimation given that the limited data

obtained from two small studies in a remote region of Japan are likely not

¹ The U.S. Census Bureau reports the total population in the United States per the 2020 Decennial Census is 331,449, 281 (see Ref. 49), and

estimates the total population in the United States as of July 1, 2025 to be 341,784,857 (see Ref. 50). Additionally, the U.S. Census Bureau estimates that

21.5% of the U.S. population is under 18 years of age, and that 14.1% of the U.S. population between 2020–2024 are foreign-born persons (see Ref. 50).

representative of the overall population. The basis for this assertion, however, is unclear.

It is notable that there are additional countries on the World Bank list of high-income economies not included in the above table (many of which do not have published HDV prevalence rates). For instance, Romania is a high-income country and has an HDV prevalence in the general population of 0.4% (95% CI, 0.1–1.5) (Ref. 13).

Published literature also indicates that the estimated prevalence of HDV infection in the United States is possibly higher than reported by Gilead in Table 1. Determining U.S. HDV prevalence is challenging for several reasons. First, HDV screening is not routine and testing rates among chronic HBV patients are suboptimal. For example, a Veterans Affairs study found that less than 8% of HBsAg-positive patients had been tested for HDV (Ref. 34). Second, HDV infection is not a nationally notifiable condition, so the actual number of U.S. cases is unknown according to the CDC (Ref. 35). A 2019 review found anti-HDV antibody positivity among U.S. HBsAg-positive carriers ranged from 2% to 50%, depending on the population sampled (Ref. 36). Reference 13, which is relied on by Gilead in Table 1, above, acknowledges limited North America data and variable U.S. HDV prevalence estimates.

A National Health and Nutrition Examination Survey (NHANES) study, using data from 2011 through 2016, reported anti-HDV antibody prevalence of 0.11% (95% CI, 0.08–0.17) in the overall U.S. population aged ≥ 6 years and 0.15% (95% CI 0.10–0.23) among adults aged ≥ 18 years (Ref. 37). These rates are markedly higher than those noted by Gilead in Table 1 (Ref. 13). It is also worth noting that NHANES data may underrepresent foreign-born persons (Ref. 38), who drive HDV prevalence in developed nations including the United States, suggesting that actual U.S. prevalence may be higher.

More recent publications continue to report varying HDV prevalence in the United States and other high-income countries, though these too may underestimate true prevalence due to limited clinical recognition of HDV and testing. A study using an All-Payer Claims Database estimated 4.6% HDV prevalence among HBV patients in the United States from 2015 to 2019 (Ref. 39). A retrospective study of three U.S. urban safety-net health systems from 2010 to 2022 found that 15.7% of tested chronic HBV patients were anti-HDV antibody positive, though only 6.1% of chronic HBV patients were tested for

HDV, and among those tested, only two patients (1.6%) received follow-up HDV RNA testing (Ref. 40).

A literature review and meta-analysis using 2022 U.S. Census Bureau data estimated a weighted average HDV prevalence of 4.2% among foreign-born persons with chronic HBV infection (64,938 persons [95% CI 33,055–97,392]), and a total of 1.97 million (95% CI 1.547–2.508) persons living with chronic HBV and 75,005 (95% CI 42,187–108,393) persons living with HDV in the United States in 2022 (Ref. 41). In Canada, a similar analysis using 2021 Statistics Canada data estimated the weighted average HDV prevalence among foreign-born persons with chronic HBV infection at 5.19% (17,848 persons [95% CI 9,611–26,052]), with an estimated 0.55 million (95% CI 0.488–0.615) persons living with chronic HBV and 35,059 (95% CI 18,744–52,083) persons living with HDV in 2021 (Ref. 42).² In Italy, a 2024 study estimated HDV prevalence at 7.7% among adults with chronic HBV infection and 0.019% in the general population (Ref. 43).

The available HDV prevalence data have significant limitations, chief among them is the undertesting of chronic HBV patients for HDV. In addition, methodological differences across published studies, the use of estimated rates with wide variability, and reliance on anti-HDV antibody data with a lack of HDV RNA data can all potentially result in over- or under-estimation of true HDV prevalence. Given the data discussed above, these limitations, and the reported variability, in several high-income economies, it cannot be concluded that HDV prevalence is less than 0.1%.

Beyond prevalence data, evidence exists for a direct market for HDV drugs. Notably, bulevirtide is approved as Hepcludex® in the EEA, UK, Switzerland, and Australia, and as Myrcludex B® in Russia, for the treatment of CHD in adults with compensated liver disease. Bulevirtide received conditional Marketing Authorization (MA) from the European Commission in July 2020 and converted to full MA in July 2023. The UK conditional MA converted to full MA in August 2023, and Switzerland granted full MA in February 2024 (Ref. 44).

Available bulevirtide sales data are limited. Early reports from Gilead noted bulevirtide contributed \$7 million in Q2 2021 following initial European approval in July 2020 (Ref. 45). According to Gilead's Fourth Quarter

and Full Year 2025 Financial Results, "The Liver Disease portfolio sales increased 6% to \$3.2 billion in the full year 2025 compared to 2024, primarily driven by higher demand for Livdelzi and products for chronic hepatitis B virus ("HBV") and chronic hepatitis delta virus ("HDV"), partially offset by lower average realized price in products for chronic hepatitis C virus ("HCV")" (Ref. 46). Hepcludex® (bulevirtide) sales are not reported separately, making it difficult to determine its specific contribution.

Additionally, according to *clinicaltrials.gov*, there are several investigational agents for the treatment of chronic HDV that have ongoing or completed Phase 3 trials, including pegylated interferon lambda-1a, lonafarnib/ritonavir, tobevibart plus elebsiran, brelovitug, and hepalatide.

A preventive product developed specifically for HDV infection would likely find a direct market given the estimated 1.59 million persons (range 1.25–2.49 million) living with chronic HBV infection in the United States (Ref. 9) and 254 million (range 224.0–286.6 million) globally (Ref. 10). Patel et al. estimated HBsAg prevalence of 0.36% (95% CI 0.29–0.46) among U.S. adults aged ≥ 18 years, indicating a sizeable patient population with chronic HBV infection that could benefit from measures to prevent HDV superinfection (when a person with chronic HBV infection becomes newly infected with HDV) (Ref. 37).

Regarding an indirect market, HDV is not on the CDC list of potential bioterrorism agents. Gilead states they are unaware of any significant U.S. government funding for HDV drug development. Consistent with this, the Viral Hepatitis National Strategic Plan 2021–2025 focuses only on hepatitis A, B, and C (Ref. 47). Thus, no apparent "indirect" market exists for HDV treatment or prevention within the United States.

In summary, literature evidence suggests HDV prevalence exceeds 0.1% in several high-income countries, including Japan, Romania, Saudi Arabia, and possibly the United States, though variability exists in reported rates, likely due to inconsistent and suboptimal HDV testing. Other evidence for a direct treatment market includes bulevirtide's approval in several developed nations and Phase 3 clinical trials of investigational agents listed on *clinicaltrials.gov*. Evidence for a direct prevention market includes consistently reported chronic HBV infection rates well above 0.1% in the United States. Although hepatitis B vaccination prevents both HBV and HDV infection,

² The Government of Canada reports the total population of Canada per the 2021 census data to be 36,991,981 (see Ref. 51).

HBV vaccine coverage remains underutilized in the United States. Because patients with chronic HBV infection are at risk for HDV superinfection, a preventative product for this patient population would find a sizeable market if developed. Although no apparent indirect market exists for HDV treatments or preventions within the United States, this does not outweigh the direct market evidence. Therefore, it cannot be concluded that no significant market exists in developed nations for treatment or prevention of HDV infection.

C. Disproportionately Affects Poor and Marginalized Populations

The relative burden of HDV infection has been reported to be greatest amongst impoverished and marginalized populations. In a systematic review and meta-analysis, Chen et al. summarized the association between sociodemographic development index (SDI), a composite indicator of development status correlated with health outcome, and HDV prevalence from 61 countries and found that immigrant populations from countries with low SDI were associated with higher HDV prevalence (Ref. 17). Further, disproportionately higher rates of HDV persist in other marginalized populations, such as in PWID, people living with HIV or HCV, and people with high-risk sexual behaviors (Ref. 15, Ref. 13, Ref. 16).

While HDV infection has not been designated by the WHO as a neglected tropical disease, a panel of scientists and public health experts from academia and the WHO published a study in the *Journal of Hepatology* in 2020 (Ref. 13, Ref. 48) highlighting the need to improve the response to HDV. When discussing this study, one of the co-authors stated that “HDV has long been neglected, because for decades the prevalence of infection remained uncertain and effective treatment was lacking.” (Ref. 48).

D. FDA’s Determination

In conclusion, based on the totality of available data, HDV infection does not currently meet the statutory criteria to be designated by order as a tropical disease under section 524 of the FD&C Act. While HDV infection “disproportionately affects poor and marginalized populations,” it cannot be concluded that “there is no significant market in developed nations” for treatment and prevention of HDV infection.

III. Process for Requesting Additional Diseases To Be Added to the List

FDA’s current determination regarding HDV infection does not preclude interested persons from requesting its consideration in the future as additional new data become available. To facilitate the consideration of future additions to the list, FDA established a public docket (see <https://www.regulations.gov>, Docket No. FDA–2008–N–0567) through which interested persons may submit requests for additional diseases to be added to the list. Such requests should be accompanied by information to document that the disease meets the criteria set forth in section 524(a)(3)(S) of the FD&C Act. FDA will periodically review these requests, and, when appropriate, expand the list. For further information, see FDA’s Tropical Disease Priority Review Voucher Program web page at <https://www.fda.gov/about-fda/center-drug-evaluation-and-research-cder/tropical-disease-priority-review-voucher-program>.

IV. Paperwork Reduction Act

This notice reiterates the “open” status of the previously established public docket through which interested persons may submit requests for additional diseases to be added to the list of tropical diseases that FDA has found to meet the criteria in section 524(a)(3)(S) of the FD&C Act. Such a request for information is exempt from Office of Management and Budget review under 5 CFR 1320.3(h)(4) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). Specifically, “[f]acts or opinions submitted in response to general solicitations of comments from the public, published in the **Federal Register** or other publications, regardless of the form or format thereof” are exempt, “provided that no person is required to supply specific information pertaining to the commenter, other than that necessary for self-identification, as a condition of the full consideration of the comment.”

V. References

The following references marked with an asterisk (*) are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they also are available electronically at <https://www.regulations.gov>. References without asterisks are not on public display at <https://www.regulations.gov> because they have copyright restriction. Some may be available at the website

address, if listed. References without asterisks are available for viewing only at the Dockets Management Staff. FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

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2026).

Grace R. Graham,

Deputy Commissioner for Policy, Legislation,
and International Affairs.

[FR Doc. 2026–10268 Filed 5–21–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–D–2424]

Protein Efficiency Ratio Rat Bioassay Studies To Demonstrate That a New Infant Formula Supports the Quality Factor of Sufficient Biological Quality of Protein; Guidance for Industry; Availability

AGENCY: Food and Drug Administration,
HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the availability of a guidance entitled “Protein Efficiency Ratio (PER) Rat Bioassay Studies to Demonstrate That a New Infant Formula Supports the Quality Factor of Sufficient Biological Quality of Protein.” The guidance provides information for manufacturers and contract laboratories that perform PER studies to assist in designing, conducting, evaluating, and reporting PER studies. The guidance explains “appropriate modifications” of AOAC Official Method 960.48 (the AOAC Method) with the aim of supporting industry in successfully conducting PER studies that demonstrate that a new infant formula meets the quality factor of sufficient biological quality of protein when fed as the sole source of nutrition. The guidance finalizes the approach presented in the draft guidance issued in 2023.

DATES: The announcement of the guidance is published in the **Federal Register** on May 22, 2026.

ADDRESSES: You may submit either electronic or written comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are

solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2022–D–2424 for “Protein Efficiency Ratio (PER) Rat Bioassay Studies to Demonstrate That a New Infant Formula Supports the Quality Factor of Sufficient Biological Quality of Protein.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” We will review this copy, including the claimed confidential information, in our consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on [https://](https://www.regulations.gov)

www.regulations.gov. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to Office of Critical Foods, Human Foods Program, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740. Send one self-addressed adhesive label to assist that office in processing your request or include a Fax number to which the guidance may be sent. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT:

With regard to the guidance: Ariel Bourne, Office of Critical Foods, Human Foods Program, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1450, email: Ariel.Bourne@fda.hhs.gov; or Barbara Little, Office of Policy and International Engagement, Human Foods Program, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–8808.

With regard to the proposed collection of information: Michael Ellison, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 240–402–2093, PRASStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry titled “Protein

Efficiency Ratio (PER) Rat Bioassay Studies to Demonstrate That a New Infant Formula Supports the Quality Factor of Sufficient Biological Quality of Protein.” Our regulations, at § 106.96 (21 CFR 106.96), establish requirements for quality factors for infant formulas, including the quality factor of sufficient biological quality of protein. Subject to a limited exception (see § 106.96(g)), each manufacturer of an infant formula that is not an eligible infant formula must demonstrate that the formula meets the quality factor of sufficient biological quality of protein by establishing the biological quality of the protein in the infant formula when fed as the sole source of nutrition using an appropriate modification of the AOAC Official Method 960.48 (the AOAC Method) Protein Efficiency Ratio (PER) Rat Bioassay (§ 106.96(f)).

The AOAC Method provides a procedure by which the quality of a protein in food can be evaluated and compared with those of other proteins. Protein “quality” can be defined as the ability of a protein to meet the essential amino acid needs of an animal. The AOAC Method is a standardized bioassay with published collaborative study data. The AOAC Method permits the calculation of a PER as the ratio of the average animal body weight gain per gram of protein consumed of a test protein versus casein after a 28-day feeding period. Typically, the protein concentration of both the test and casein reference diet is set at about 10 percent, a level that is below the estimated requirement for growth of rats of 15 percent, to improve the sensitivity of the method. While growth is slower at 10 percent protein than at 15 percent protein, the lower protein level ensures that available protein is efficiently utilized.

In the PER study described in the AOAC Method, a protein ingredient was assayed at 10 percent and other potential variables were standardized so that their numbers and potential effects were minimized. Vitamin composition, moisture, ash, carbohydrates, fat, and fiber were adjusted between the casein reference diet and the test diet. Use of a test diet that contains an infant formula in its entirety introduces matrices of high fat content and additional vitamins, minerals, and other ingredients, as well as the low protein source. A major challenge in analyzing infant formulas by the AOAC Method is matching the casein reference diet and test diet to achieve dietary groups with as few confounding variables as possible.

Since we promulgated § 106.96, we have found that industry is experiencing

difficulties in consistently meeting its requirements. Therefore, we are announcing the availability of a guidance for industry titled “Protein Efficiency Ratio (PER) Rat Bioassay Studies to Demonstrate That a New Infant Formula Supports the Quality Factor of Sufficient Biological Quality of Protein.” This guidance will help infant formula manufacturers and contract laboratories that perform PER studies in designing, conducting, evaluating, and reporting PER studies. The guidance explains “appropriate modifications” of the AOAC Method to help manufacturers and contract laboratories conduct PER studies that demonstrate to FDA that a new infant formula meets the quality factor of sufficient biological quality of protein.

FDA’s work on this guidance began prior to significant infant formula supply chain concerns that arose in early 2022. Although this guidance was not prepared specifically to alleviate supply chain concerns, the guidance will help ensure that infant formula products meet FDA’s regulatory requirements and will contribute to ensuring a more resilient infant formula supply.

We are issuing the guidance consistent with our good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternate approach to make “appropriate modifications” if it satisfies the requirements of the applicable statutes and regulations.

Topics discussed in the guidance include:

- Purpose of the AOAC Method;
- Overview of the AOAC Method as originally described;
- Need for “appropriate modifications” to update the AOAC Method and for use of infant formulas in PER bioassays;
- Conduct and analysis of a PER study with “appropriate modifications” (matching the reference and test diets);
- Protocols and reports;
- Reference guidelines; and
- Appendices: AOAC Official Method 960.48, composition of vitamin and mineral mixtures, compositions of diets, and examples of an approach for matching vitamin, mineral, and (methionine + cystine) compositions of PER study diets.

We considered all comments on the draft guidance received during the comment period in finalizing the guidance. Comments on the draft guidance discussed the need for increased flexibility in formulating

diets; the need for clarification regarding addition of vitamins and minerals to diets; the need for cellulose in diets; the lack of need for an optional casein reference group with matched sulfur amino acid concentrations; development of validation data to substantiate the modifications in the PER bioassay; and replacement of the PER method with alternative methods, including non-animal methods.

We made technical changes in the guidance in response to the comments. While we generally maintain our recommendations for matching the compositions of the test and reference diets to within 20 percent above or below, we describe certain areas in which additional flexibility may be needed. We are also recommending changes in specific nutrients and deleting a recommendation for an optional casein reference group with matched sulfur amino acid concentrations. We anticipate future discussions regarding validation data for the modifications and considering alternative methods besides the PER method.

II. Paperwork Reduction Act of 1995

This guidance contains information collection provisions that 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 the guidance have been approved under OMB control number 0910–0256.

III. Electronic Access

Persons with access to the internet may obtain an electronic version of the guidance at <https://www.fda.gov/RegulatoryInformation/Guidances/default.html>, <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>, or <https://www.regulations.gov>. Use the FDA website listed in the previous sentence to find the most current version of the guidance.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–10284 Filed 5–21–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program: Revised Amount of the Average Cost of a Health Insurance Policy

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HRSA is publishing an updated monetary amount of the average cost of a health insurance policy as it relates to the National Vaccine Injury Compensation Program (VICP).

FOR FURTHER INFORMATION CONTACT: CAPT George Reed Grimes, Director, Division of Injury Compensation Programs, Health Systems Bureau, HRSA, HHS by mail at 5600 Fishers Lane, 14W-18, Rockville, Maryland 20857; or call (301) 443-9350.

SUPPLEMENTARY INFORMATION: Section 100.2 of the VICP's implementing regulation (42 CFR part 100) states that the revised amount of an average cost of a health insurance policy, as determined by the Secretary of HHS (the Secretary), is effective upon its delivery by the Secretary to the United States Court of Federal Claims (the Court) and will be published periodically in a notice in the **Federal Register**. The Secretary delegated this responsibility to the Director, Division of Injury Compensation Programs. This figure is calculated using the most recent Medical Expenditure Panel Survey-Insurance Component data available as the baseline for the average monthly cost of a health insurance policy. This baseline is adjusted by the annual percentage increase/decrease obtained from the most recent annual Kaiser Family Foundation Employer Health Benefits Survey.

In 2025, the Medical Expenditure Panel Survey-Insurance Component, available at <https://meps.ahrq.gov/mepsweb/>, published the annual 2024 average total single premium per enrolled employee at private-sector establishments that provide health insurance. The figure published was \$8,486. This figure is divided by 12 to determine the cost per month of \$707.17. The \$707.17 figure is increased or decreased by the percentage change reported by the most recent Kaiser Family Foundation Employer Health Benefits Survey, available at www.kff.org. The increase from 2024 to 2025 was 5 percent. By adding this

percentage increase, the calculated average monthly cost of a health insurance policy for a 12-month period is \$742.53.

Therefore, the Secretary announces that the revised average cost of a health insurance policy under the VICP is \$742.53 per month. In accordance with § 100.2, the revised amount was effective upon its delivery by the Secretary to the Court. Such notice was delivered to the Court on April 23, 2026.

Margaret M. Bush,

Deputy Administrator.

[FR Doc. 2026-10278 Filed 5-21-26; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Post-Transcriptional and Genomic Regulation.

Date: June 8, 2026.

Time: 10:30 a.m. to 1:00 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: Raj K. Krishnaraju, Ph.D., MS, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435-1047, kkrishna@csr.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 20, 2026.

Rosalind M. Niamke,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-10304 Filed 5-21-26; 8:45 am]

BILLING CODE 4167-05-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Deafness and Other Communication Disorders Advisory Council.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Deafness and Other Communication Disorders Advisory Council.

Date: July 20, 2026.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Meeting Format: Virtual Meeting.

Access Type: Closed to the public.

Contact Person: Rebecca Wagenaar-Miller, Ph.D., Director, Division of Extramural Activities, NIDCD/NIH, 6001 Executive Boulevard, Bethesda, MD 20892, (301) 496-8693, rebecca.wagenaar-miller@nih.gov.

Information is also available on the Institute's/Center's home page: <https://www.nidcd.nih.gov/about/advisory-council>, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: May 20, 2026.

Rosalind M. Niamke,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-10310 Filed 5-21-26; 8:45 am]

BILLING CODE 4167-05-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: Cardiovascular and Respiratory Sciences Integrated Review Group; Pulmonary Injury, Repair, and Remodeling Study Section (PIRR).

Date: June 25–26, 2026.

Time: 8:00 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: Ghenima Dirami, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 804 G, Bethesda, MD 20892, (240) 498–7546, diramig@csr.nih.gov.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neuronal Communications Study Section.

Date: June 25–26, 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: Wenyan Han, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Room 1010D, Bethesda, MD 20892, (301) 594–2337, wenyan.han@nih.gov.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Neural Basis of Psychopathology, Addictions and Sleep Disorders Study Section.

Date: June 25–26, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Todd Everett White, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Bethesda, MD 20892, (301) 594–3962, todd.white@nih.gov.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Pulmonary Vascular Disease and Physiology Study Section.

Date: June 25, 2026.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Bradley Nuss, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC7814, Bethesda, MD 20892, 301–451–8754, nussb@csr.nih.gov.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Skin and Connective Tissue Sciences Study Section.

Date: June 25–26, 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: Chiguang Feng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, (240) 552–4787, chiguang.feng@nih.gov.

Name of Committee: Oncology 1-Basic Translational Integrated Review Group; Tumor Host Interactions Study Section.

Date: June 25, 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: Angela Y. Ng, Ph.D., MBA, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 710–C, MSC 7806, Bethesda, MD 20892, (301) 435–1715, nga@csr.nih.gov.

Name of Committee: Applied Immunology and Disease Control Integrated Review Group; Vaccines Against Infectious Diseases Study Section.

Date: June 25, 2026.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Jian Wang, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7812, Bethesda, MD 20892, (301) 213–9853, wangjia@csr.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 20, 2026.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–10352 Filed 5–21–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Automated Commercial Environment (ACE) Export Manifest for Vessel Cargo Test: Renewal of Test

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

ACTION: General notice.

SUMMARY: This notice announces that U.S. Customs and Border Protection (CBP) is renewing the Automated Commercial Environment (ACE) Export Manifest for Vessel Cargo Test, a National Customs Automation Program (NCAP) test concerning ACE export manifest capability.

DATES: The voluntary pilot initially began on August 20, 2015, as corrected on October 20, 2015, and modified and extended on August 14, 2017, and further extended on April 27, 2022, and May 31, 2024. This renewal is effective May 22, 2026. The renewed test will run for an additional two years from the date of publication of this notice in the **Federal Register**.

ADDRESSES: Applications for new participants in the ACE Export Manifest for Vessel Cargo Test must be submitted via email to CBP Export Manifest at cbpexportmanifest@cbp.dhs.gov. In the subject line of the email, please write “ACE Export Manifest for Vessel Cargo Test Application”. Applications will be accepted at any time during the test period. Written comments concerning program, policy, and technical issues may also be submitted via email to CBP Export Manifest at cbpexportmanifest@cbp.dhs.gov. In the subject line of the email, please write “Comment on ACE Export Manifest for Vessel Cargo Test”. Comments may be submitted at any time during the test period.

FOR FURTHER INFORMATION CONTACT:

Thomas J. Pagano, Branch Chief, or David Garcia, Program Manager, Outbound Enforcement and Policy Branch, Office of Field Operations, CBP,

via email at cbpexportmanifest@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Under the current regulatory requirements, the complete manifest is generally not required to be submitted until after the departure of the vessel. See sections 4.75, 4.76, and 4.84 of title 19 of the Code of Federal Regulations (19 CFR 4.75, 4.76 and 4.84). U.S. Customs and Border Protection (CBP) is seeking to amend the regulatory requirements as a result of this test and published a notice of proposed rulemaking on February 10, 2026. 91 FR 6074. The Automated Commercial Environment (ACE) Export Manifest for Vessel Cargo Test is a voluntary test in which participants agree to submit export manifest data to CBP electronically at least twenty-four hours prior to loading of the cargo onto the vessel in preparation for departure from the United States. The ACE Export Manifest for Vessel Cargo Test is authorized under 19 CFR 101.9(b), which provides for the testing of National Customs Automation Program (NCAP) programs or procedures.

The ACE Export Manifest for Vessel Cargo Test examines the functionality of filing export manifest data for vessel cargo electronically in ACE. ACE creates a single automated export processing platform for certain export manifest, commodity, licensing, export control, and export targeting transactions. This will reduce costs for CBP, partner government agencies, and the trade community, as well as improve facilitation of export shipments through the supply chain.

The ACE Export Manifest for Vessel Cargo Test also assesses the feasibility of requiring the manifest information to be filed electronically in ACE within a specified time before the cargo is loaded on the vessel. This capability will enhance CBP's ability to calculate the risk and effectively identify and inspect shipments prior to the loading of cargo in order to facilitate compliance with U.S. export laws.

CBP announced the procedures and criteria related to participation in the ACE Export Manifest for Vessel Cargo Test in a notice published in the **Federal Register** on August 20, 2015 (80 FR 50644). This test was originally scheduled to run for approximately two years. A correction to the notice, regarding the technical capability requirements, was published on October 20, 2015 (80 FR 63575). On August 14, 2017, CBP extended the test period (82 FR 37890). At that time, CBP also

modified the original notice to make certain data elements optional and opened the test to accept additional applications for all parties who met the eligibility requirements. CBP further renewed the test for an additional two years on April 27, 2022 (87 FR 25036), and May 31, 2024 (89 FR 47157). Through this notice, CBP is renewing the test again.

The data elements, unless noted otherwise, are mandatory. Data elements which are mandatory must be provided to CBP for every shipment. Data elements which are marked "conditional" must be provided to CBP only if the particular information pertains to the cargo. Data elements which are marked "optional" may be provided to CBP but are not required to be completed. The data elements are set forth below:

- (1) Mode of Transportation (containerized vessel cargo or noncontainerized vessel cargo)
- (2) Name of Ship or Vessel
- (3) Nationality of Ship
- (4) Name of Master (optional)
- (5) Port of Loading
- (6) Port of Discharge
- (7) Bill of Lading Number (Master and House)
- (8) Bill of Lading Type (Master, House, Simple or Sub)
- (9) Number of House Bills of Lading (optional)
- (10) Marks and Numbers (conditional)
- (11) Container Numbers (conditional)
- (12) Seal Numbers (conditional)
- (13) Number and Kind of Packages
- (14) Description of Goods
- (15) Gross Weight (lb. or kg.) or Measurements (per HTSUS)
- (16) Shipper name and address
- (17) Consignee name and address
- (18) Notify Party name and address (conditional)
- (19) Country of Ultimate Destination
- (20) In-bond Number (conditional)
- (21) Internal Transaction Number (ITN) or AES Exemption Statement (per shipment)
- (22) Split Shipment Indicator (Yes/No) (optional)
- (23) Portion of Split Shipment (e.g., 1 of 10, 4 of 10, 5 of 10, Final, etc.) (optional)
- (24) Hazmat Indicator (Yes/No)
- (25) UN Number (conditional) (If the hazmat indicator is yes, then UN (for United Nations Number) or NA (North American Number) and the corresponding four-digit identification number assigned to the hazardous material must be provided.)
- (26) Chemical Abstract Service (CAS) Registry Number (conditional)

- (27) Vehicle Identification Number (VIN) or Product Identification Number (conditional) (For shipments of used vehicles, the VIN must be reported, or for used vehicles that do not have a VIN, the Product Identification Number must be reported.)

For further details on the background and procedures regarding this test, please refer to the August 20, 2015 notice, as corrected by the October 20, 2015 notice, and the August 14, 2017 extension and modification.

II. Renewal of the ACE Export Manifest for Vessel Cargo Test Period

CBP will renew the test for another two years to continue evaluating the ACE Export Manifest for Vessel Cargo Test. This will assist CBP in determining whether electronic submission of manifests will allow for improvements in the functionality and capabilities at the departure level. The renewed test will run for two additional years from the date of publication.

III. Applicability of Initial Test Notice

All provisions in the August 20, 2015 notice, as corrected by the October 20, 2015 notice, and in the August 14, 2017 modification and extension, remain applicable, subject to the further extension of the time period provided in this renewal.

IV. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3507), an agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget (OMB). The collections of information in this NCAP test have been approved by OMB in accordance with the requirements of the Paperwork Reduction Act and assigned OMB control number 1651–0001.

Donald R. Stakes,

*Acting Deputy Executive Assistant
Commissioner, Executive Director, Mission
Support, Office of Field Operations, U.S.
Customs and Border Protection.*

[FR Doc. 2026–10251 Filed 5–21–26; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY**U.S. Customs and Border Protection****[OMB Control Number 1651–0147]****Agency Information Collection Activities; Extension; International Mail Duty Worksheet (IMDW)****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 22, 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 55150) on December 01, 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:* International Mail Duty Worksheet.*OMB Number:* 1651–0147.*Form Number:* N/A.*Current Actions:* Extension.*Type of Review:* Extension (without change).*Affected Public:* Individuals.

Abstract: In order to effectuate the President's Executive Order 14324 of July 30, 2025 (Suspending Duty-Free *De Minimis* Treatment For All Countries), which suspends the duty-free *de minimis* exemption provided under section 321(a)(2)(C) of the Tariff Act of 1930, as amended, for all products, regardless of country of origin, valued at \$800 or less, and requires such articles, except those articles sent to the United States through the international postal network, to be subject to the formal or informal entry process, and establishes a new duty rate for international postal packages sent to the United States through the international postal network, the Secretary of Homeland Security has determined that appropriate action is needed to ensure collection of applicable duties as well as to modify the Harmonized Tariff

Schedule of the United States (HTSUS) as set out in the Annex to this notice.

On January 20, 2025, the President declared a national emergency with respect to the grave threat to the United States posed by the influx of illegal aliens and drugs into the United States, in Proclamation 10886 (Declaring a National Emergency at the Southern Border of the United States). *See* National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA).

In Executive Order 14193 of February 1, 2025 (Imposing Duties To Address the Flow of Illicit Drugs Across Our Northern Border), the President declared a national emergency regarding the unusual and extraordinary threat to the safety and security of Americans, including the public health crisis caused by fentanyl and other illicit drugs and the failure of Canada to do more to arrest, seize, detain, or otherwise intercept drug trafficking organizations, other drug and human traffickers, criminals at large, and illicit drugs. In that order, the President determined that it was necessary and appropriate to, among other things, suspend duty-free *de minimis* treatment under 19 U.S.C. 1321(a)(2)(C) for articles described in section 2(a) and section 2(b) of that order. In Executive Order 14226 of March 2, 2025 (Amendment to Duties To Address the Flow of Illicit Drugs Across Our Northern Border), the President paused the suspension of duty-free *de minimis* treatment on such articles until the President received a notification from the Secretary of Commerce that adequate systems are in place to fully and expeditiously process and collect duties for such articles that would otherwise be eligible for duty-free *de minimis* treatment.

In Executive Order 14194 of February 1, 2025 (Imposing Duties To Address the Situation at Our Southern Border), the President declared a national emergency regarding the unusual and extraordinary threat to the safety and security of Americans, including the public health crisis caused by fentanyl and other illicit drugs and the failure of Mexico to do more to arrest, seize, detain, or otherwise intercept drug trafficking organizations, other drug and human traffickers, criminals at large, and illicit drugs. In that order, the President determined that it was necessary and appropriate to, among other things, suspend duty-free *de minimis* treatment under 19 U.S.C. 1321(a)(2)(C) for articles described in section 2(a) of that order. In Executive Order 14227 of March 2, 2025 (Amendment to Duties To Address the Situation at Our Southern Border), the President paused the suspension of

duty-free *de minimis* treatment on such articles until the President received a notification from the Secretary of Commerce that adequate systems are in place to fully and expeditiously process and collect duties for such articles that would otherwise be eligible for duty-free *de minimis* treatment.

In Executive Order 14195 of February 1, 2025 (Imposing Duties To Address the Synthetic Opioid Supply Chain in the People's Republic of China), the President declared a national emergency regarding the unusual and extraordinary threat from the failure of the Government of the People's Republic of China (PRC) to arrest, seize, detain, or otherwise intercept chemical precursor suppliers, money launderers, other transnational criminal organizations, criminals at large, and illicit drugs. In that order, the President determined that it was necessary and appropriate to, among other things, suspend duty-free *de minimis* treatment under 19 U.S.C. 1321(a)(2)(C) for articles described in section 2(a) of that order. In Executive Order 14200 of February 5, 2025 (Amendment to Duties Addressing the Synthetic Opioid Supply Chain in the People's Republic of China), the President paused the suspension of duty-free *de minimis* treatment for articles described in section 2(a) of Executive Order 14195 until the President received a notification from the Secretary of Commerce that adequate systems are in place to fully and expeditiously process and collect duties for such articles that would otherwise be eligible for duty-free *de minimis* treatment.

The President subsequently received notification from the Secretary of Commerce that adequate systems have been established to process and collect duties for articles of the PRC and Hong Kong that would otherwise be eligible for duty-free *de minimis* treatment, and in Executive Order 14256 of April 2, 2025 (Further Amendment to Duties Addressing the Synthetic Opioid Supply Chain in the People's Republic of China as Applied to Low-Value Imports), the President suspended duty-free *de minimis* treatment under 19 U.S.C. 1321(a)(2)(C) for products of the PRC and Hong Kong described in section 2(a) of Executive Order 14195, as amended by Executive Order 14228 (Further Amendment to Duties Addressing the Synthetic Opioid Supply Chain in the People's Republic of China). In addition, the President instructed the Secretary of Commerce to submit a report regarding the impact of Executive Order 14256 on American industries, consumers, and supply

chains and to make recommendations for further action as he deems necessary.

In Executive Order 14257 of April 2, 2025 (Regulating Imports With a Reciprocal Tariff To Rectify Trade Practices That Contribute to Large and Persistent Annual United States Goods Trade Deficits), the President declared a national emergency with respect to underlying conditions indicated by the large and persistent annual U.S. goods trade deficits. The President also provided that duty-free *de minimis* treatment under 19 U.S.C. 1321(a)(2)(C) would remain available for products described in section 3(a) of that order until the President received a notification by the Secretary of Commerce that adequate systems are in place to fully and expeditiously process and collect duties applicable for articles otherwise eligible for duty-free *de minimis* treatment.

The Secretary of Commerce has notified the President that adequate systems are now in place to fully and expeditiously process and collect duties for articles otherwise eligible for duty-free *de minimis* treatment on a global basis, including for products described in section 2(a) and section 2(b) of Executive Order 14193, section 2(a) of Executive Order 14194, and section 3(a) of Executive Order 14257.

As stated in the President's Executive Order 14324 of July 30, 2025 (Suspending Duty-Free *De Minimis* Treatment For All Countries), the President determined that it is still necessary and appropriate to suspend duty-free *de minimis* treatment under 19 U.S.C. 1321(a)(2)(C) in the manner and for the articles described below to deal with the unusual and extraordinary threats, which have their source in whole or substantial part outside the United States, to the national security, foreign policy, and economy of the United States.

In Executive Order 14193 the President determined that it is necessary and appropriate to suspend duty-free *de minimis* treatment under 19 U.S.C. 1321(a)(2)(C) for certain Canadian goods to deal with the emergency declared in Executive Order 14193, as amended. In the President's judgment, this suspension is necessary and appropriate to ensure that the tariffs imposed by Executive Order 14193, as amended, are effective in addressing the emergency declared in Executive Order 14193 and that the purpose of this action and other actions to address the emergency declared in Executive Order 14193 is not undermined. For example, many shippers go to great lengths to evade law enforcement and hide illicit substances in imports that go through international

commerce. These shippers conceal the true contents of shipments sent to the United States through deceptive shipping practices. Some of the techniques employed by these shippers to conceal the true contents of the shipments, the identity of the distributors, and the country of origin of the imports include the use of re-shippers in the United States, false invoices, fraudulent postage, and deceptive packaging. The risks of evasion, deception, and illicit-drug importation are particularly high for low-value articles that have been eligible for duty-free *de minimis* treatment.

Independently, the President also determined that it is necessary and appropriate to suspend duty-free *de minimis* treatment under 19 U.S.C. 1321(a)(2)(C) for certain Mexican goods to deal with the emergency declared in Executive Order 14194, as amended. In the President's judgment, and for substantially similar reasons as above, this suspension is necessary and appropriate to ensure that the tariffs imposed by Executive Order 14194, as amended, are effective in addressing the emergency declared in Executive Order 14194 and that the purpose of this action and other actions to address the emergency declared in Executive Order 14194 is not undermined.

Independently, and after considering information newly provided by the Secretary of Commerce, among other things, the President determined that it is still necessary and appropriate to continue to suspend duty-free *de minimis* treatment under 19 U.S.C. 1321(a)(2)(C) for certain goods of the PRC and Hong Kong to deal with the emergency declared in Executive Order 14195, as amended. In the President's judgment, and for substantially similar reasons as above, this suspension is still necessary and appropriate to ensure that the tariffs imposed by Executive Order 14195, as amended, are effective in addressing the emergency declared in Executive Order 14195 and that the purpose of this action and other actions to address the emergency declared in Executive Order 14195 is not undermined.

Also independently, the President determined that it is necessary and appropriate to suspend duty-free *de minimis* treatment under 19 U.S.C. 1321(a)(2)(C) on a global basis to deal with the emergency declared in Executive Order 14257, as amended. In the President's judgment, this suspension is necessary and appropriate to ensure that the tariffs imposed by Executive Order 14257, as amended, are not evaded and are effective in

addressing the emergency declared in Executive Order 14257 and that the purpose of this action and other actions to address the emergency declared in Executive Order 14257 is not undermined.

The following modified information collection listed below is being submitted to OMB for consideration of approval on an emergency clearance, with the justification of an unanticipated event and reasons to believe following the normal PRA process is likely to prevent or disrupt the collection of information and cause public harm.

Modification of the CBP International Mail Duty Worksheet

In order for carriers to submit the information required by E.O. 14324, as amended, carriers will fill out the modified CBP International Mail Duty Worksheet (IMDW) and submit it via email to CBPDM@cbp.gov and IntlMailDutyHelp@cbp.dhs.gov.

CBP invites the public to comment on the previously approved emergency changes described above.

Type of Information Collection:

International Mail Duty Worksheet.

Estimated Number of Respondents: 100.

Estimated Number of Annual Responses per Respondent: 12.

Estimated Number of Total Annual Responses: 1,200.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 2,400.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2026-10311 Filed 5-21-26; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-R6-ES-2026-0826; FXES11140600000-267-FF06E24000]

Endangered and Threatened Wildlife and Plants; Enhancement of Survival Permit Application; Conservation Benefit Agreement for the Greenback Cutthroat Trout; Colorado

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are announcing the availability of

documents supporting Colorado Parks and Wildlife's (CPW) application for an enhancement of survival permit (permit) for the greenback cutthroat trout (*Oncorhynchus clarkii stomias*, GBCT) under the Endangered Species Act of 1973, as amended. CPW's permit application includes a programmatic conservation benefit agreement (CBA) for the GBCT, which would enable CPW and nonfederal landowners to implement conservation measures for the species. The documents available for review and comment are the applicant's CBA and our draft environmental action statement and low-effect screening form, which support a categorical exclusion under the National Environmental Policy Act. We invite comments from the public and Federal, Tribal, State, and local governments.

DATES: We will accept comments received or postmarked on or before June 22, 2026. Comments submitted online at <https://www.regulations.gov> (see **ADDRESSES**) must be received by 11:59 p.m. eastern time on the closing date.

ADDRESSES:

Obtaining Documents: The documents this notice announces, as well as any comments and other materials that we receive, will be available for public inspection online in Docket No. FWS-R6-ES-2026-0826 at <https://www.regulations.gov>.

Submitting comments: All submissions must include the docket number [FWS-R6-ES-2026-0826] this document. To submit written comments, please use one of the following methods, and note that your information requests or comments are in reference to the greenback cutthroat trout CBA.

- *Online:* <https://www.regulations.gov>. Follow the instructions for submitting comments to Docket Number FWS-R6-ES-2026-0826.

- *U.S. Mail:* Public Comments Processing, Attn: Docket No. FWS-R6-ES-2026-0826; U.S. Fish and Wildlife Service Headquarters, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041-3803.

Comments submitted through any method not authorized in this document, or sent to an address not listed here, will not be considered. We will not accept comments via email, fax, or hand delivery. We are not required to consider comments that are submitted after the comment period ends or that are submitted via a method outside of these instructions. Comments containing profanity, vulgarity, threats,

or other inappropriate content will not be considered.

FOR FURTHER INFORMATION CONTACT:

Laurel Hill, by phone at 720-903-9407 or email at laurel_hill@fws.gov.

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TTD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), have received an application from Colorado Parks and Wildlife (CPW). The applicant has applied for a 20-year enhancement of survival permit (permit) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The application addresses the potential take of the greenback cutthroat trout (*Oncorhynchus clarkii stomias*) associated with the implementation of a conservation benefit agreement (CBA) on nonfederal lands throughout the South Platte River Basin and Bear Creek in the Arkansas River Basin, in Colorado.

Applicant's Conservation Benefit Agreement

CPW has submitted this CBA to implement reintroductions of the GBCT on enrolled nonfederal lands throughout the South Platte River Basin in Colorado, and Bear Creek in the Arkansas River Basin. This includes the counties of Larimer, Boulder, Gilpin, Clear Creek, Park, Jefferson, Douglas, El Paso, and Teller. Through the CBA, CPW and participating landowners will work to restore GBCT populations; improve management, protection, enhancement, and restoration of instream habitat; prevent non-native fish invasion; improve water quality; reduce erosion; reduce sedimentation; improve riparian habitat; and/or improve land use practices on enrolled lands during the term of the CBA. The requested permit duration is 20 years, and the CBA provides regulatory assurances to enrolled landowners: as long as enrolled landowners are properly implementing the CBA, the Service will not impose additional requirements or restrictions beyond those voluntarily agreed to and described in the CBA.

Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. Before

including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

After the public comment period ends (see **DATES**), we will evaluate the permit application, associated documents, and any comments received to determine whether the permit application meets the requirements of section 10(a)(1)(A) of the ESA. We will also evaluate whether issuance of the requested permit would comply with section 7 of the ESA by conducting an intra-Service consultation under section 7(a)(2) of the ESA on the proposed action. The final National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and permit determinations will not be completed until after the end of the 30-day comment period and will fully consider all comments received during the comment period. If we determine that all requirements are met, we will issue an Enhancement of Survival Permit under section 10(a)(1)(A) of the ESA and associated implementing regulations found at 50 CFR 17.32(c).

Authority

We provide this notice under section 10(c) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22 and 17.32) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.5 and 43 CFR 46.305).

Marjorie Nelson,

Assistant Regional Director, Ecological Services, Mountain-Prairie Region.

[FR Doc. 2026–10238 Filed 5–21–26; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Modification to Consent Decree Under the Clean Water Act

On May 19, 2026, the Department of Justice lodged a proposed Agreement and Order on Modification to Consent Decree (“Modification”) with the United States District Court for the Western District of Arkansas in the lawsuit entitled *United States and State of Arkansas v. City of Fort Smith*, Arkansas, Civil Action No. 2:14–cv–002266–PKH.

The lawsuit was initiated on January 2, 2015, by the United States and the State of Arkansas, alleging illegal discharges of untreated sewage from Fort Smith’s sanitary sewer system (“SSOs”) in violation of Section 301(a) of the CWA, 33 U.S.C. 1311, and the City’s failure to properly operate and maintain its sewer system in accordance with the City’s National Pollutant Discharge Elimination System permits. The complaint was resolved by a Consent Decree entered as a judgment on April 6, 2015, that requires the City to properly operate and maintain its sewer system and to complete the assessment and remediation of condition defects and capacity constraints in the sewer system over a period of twelve (12) years (by January 2, 2027) in accordance with interim deadlines for the work. The Modification extends the Consent Decree term by 11.5 years for a total of 23.5 years (June 31, 2038) to complete rehabilitation of the sewer system and revises interim milestones and deadlines to allow the City greater flexibility in prioritizing rehabilitation projects. The Modification also requires the City to ensure adequate funding for the work through specific measures.

The publication of this notice opens a period for public comment on the proposed Modification. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of Arkansas v. City of Fort Smith*, Arkansas, D.J. Ref. No. 90–5–1–1–08677. 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

To submit comments:	Send them to:
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 Modification to 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 to Consent Decree, you may request assistance by email or by mail to the addresses provided above for submitting comments.

Thomas Carroll,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2026–10252 Filed 5–21–26; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0025]

UL LLC: Application for Expansion of Recognition and Proposed Modification to the NRTL Program’s List of Appropriate Test Standards

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

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of UL LLC for expansion of the scope of recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency’s preliminary finding to grant the application. Additionally, OSHA proposes to add one test standard to the NRTL Program’s List of Appropriate Test Standards.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before June 8, 2026.

ADDRESSES: Comments may be submitted as follows:

Electronically: You may submit comments, including attachments, electronically at <http://www.regulations.gov>, the Federal eRulemaking Portal. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency's name and the docket number for this rulemaking (Docket No. OSHA–2009–0025). All comments, including any personal information you provide, are placed in the public docket without change and may be made available online at <https://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting information they do not want made available to the public, or submitting materials that contain personal information (either about themselves or others), such as Social Security numbers and birthdates.

Submission of comments: You may submit comments and attachments, identified by Docket No. OSHA–2009–0025, electronically at www.regulations.gov, which is the Federal e-Rulemaking Portal. Follow the online instructions for making electronic submissions. The Federal e-Rulemaking Portal at www.regulations.gov is the only way to submit comments on this Notice.

Docket: To read or download comments or other material in the docket, go to <http://www.regulations.gov>. Documents in the docket (including this **Federal Register** notice) are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions.

Extension of comment period: Submit requests for an extension of the comment period on or before June 8, 2026 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, phone: (202) 693–1999 or email: meilinger.francis2@dol.gov.

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of

Technical Support and Emergency Management, Occupational Safety and Health Administration, phone: (202) 693–1911 or email: robinson.kevin@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice UL LLC (UL), is applying for expansion of the current recognition as a NRTL. UL requests the addition of three test standards to the NRTL scope of recognition.

OSHA's recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes: (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides a final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including UL, which details the NRTL's scope of recognition. These pages are available from the OSHA website at <http://www.osha.gov/dts/otpc/nrtl/index.html>.

II. General Background on the Application

UL submitted an application to OSHA for expansion of the NRTL scope of recognition on August 8, 2025 (OSHA–2009–0025–0082), requesting the addition of three test standards to the NRTL scope of recognition. OSHA staff performed a detailed analysis of the

application packet and reviewed other pertinent information. OSHA did not perform an on-site review in response to this application. OSHA staff has preliminarily determined that OSHA should grant the application for test standard expansion.

Table 1, below, lists the appropriate test standards found in UL's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED APPROPRIATE TEST STANDARDS FOR INCLUSION IN UL'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 1004–9	Form Wound and Medium Voltage Rotating Electrical Machines.
UL 979	Water Treatment Appliances.
UL 2683 *	Electric Heating Systems for Floor and Ceiling Installation.

* Represents the standard that OSHA proposes to add to the NRTL Program's List of Appropriate Test Standards.

III. Proposal To Add a New Test Standard to the NRTL Program's List of Appropriate Test Standards

Periodically, OSHA will propose to add new test standards to the NRTL list of appropriate test standards following an evaluation of the test standard document. To qualify as an appropriate test standard, the agency evaluates the document to (1) verify it represents a product category for which OSHA requires certification by a NRTL, (2) verify the document represents a product and not a component, and (3) verify the document defines safety test specifications (not installation or operational performance specifications). OSHA becomes aware of new test standards through various avenues. For example, OSHA may become aware of new test standards by: (1) monitoring notifications issued by certain standards developing organizations; (2) reviewing applications by NRTLs or applicants seeking recognition to include new test standards in their scopes of recognition; and (3) obtaining notification from manufacturers, manufacturing organizations, government agencies, or other parties. OSHA may determine to include a new test standard in the list, for example, if the test standard is for a particular type of product that another test standard also covers, or it covers a type of product that no standard previously covered.

In this notice, OSHA proposes to add one new test standard to the NRTL Program's list of appropriate test standards. Table 2, below, lists the test standard that is new to the NRTL Program. OSHA has preliminarily determined that this test standard is appropriate and proposes to include it in the NRTL Program's list of appropriate test standards. OSHA seeks public comment on this preliminary determination.

TABLE 2—STANDARD OSHA PROPOSES TO ADD TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test standard	Test standard title
UL 2683	Electric Heating Systems for Floor and Ceiling Installation.

IV. Preliminary Findings on the Application

UL submitted an acceptable application for expansion of the scope of recognition. OSHA's review of the application file and pertinent documentation indicates that UL has met the requirements prescribed by 29 CFR 1910.7 for expanding the recognition to include the addition of three test standards for NRTL testing and certification listed in Table 1. This preliminary finding does not constitute an interim or temporary approval of UL's application.

OSHA seeks comment on this preliminary determination.

IV. Public Participation

OSHA welcomes public comment as to whether UL meets the requirements of 29 CFR 1910.7 for expansion of recognition as a NRTL and whether the test standard listed in Table 2 above is an appropriate test standard that should be included in the NRTL Program's List of Appropriate Test Standards. Comments should consist of pertinent written documents and exhibits.

Commenters needing more time to comment must submit a request in writing, stating the reasons for the request by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer time period. OSHA may deny a request for an extension if it is not adequately justified.

To review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor. These materials also are generally available online at

<https://www.regulations.gov> under Docket No. OSHA–2009–0025 (for further information, see the “Docket” heading in the section of this notice titled **ADDRESSES**).

OSHA staff will review all comments to the docket submitted in a timely manner. After addressing the issues raised by these comments, staff will make a recommendation to the Assistant Secretary of Labor for Occupational Safety and Health on whether to grant UL's application for expansion of the scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of the final decision in the **Federal Register**.

V. Authority and Signature

Amanda Laihow, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 7–2025 (90 FR 27878; June 30, 2025), and 29 CFR 1910.7.

Signed at Washington, DC, on May 18, 2026.

Amanda Laihow,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2026–10275 Filed 5–21–26; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0039]

Intertek Testing Services NA, Inc.: Application for Expansion of Recognition

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

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of Intertek Testing Services NA, Inc. for expansion of the scope of recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of

time to make a submission, on or before June 8, 2026.

ADDRESSES: Comments may be submitted as follows:

Electronically: You may submit comments, including attachments, electronically at <http://www.regulations.gov>, the Federal eRulemaking Portal. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency's name and the docket number for this rulemaking (Docket No. OSHA–2007–0039). All comments, including any personal information you provide, are placed in the public docket without change and may be made available online at <https://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting information they do not want made available to the public, or submitting materials that contain personal information (either about themselves or others), such as Social Security numbers and birthdates.

Docket: To read or download comments or other material in the docket, go to <http://www.regulations.gov>. Documents in the docket (including this **Federal Register** notice) are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions.

Extension of comment period: Submit requests for an extension of the comment period on or before June 8, 2026 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, phone: (202) 693–1999 or email: meilinger.francis2@dol.gov.

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency

Management, Occupational Safety and Health Administration, phone: (202) 693-1911 or email: robinson.kevin@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice Intertek Testing Services NA, Inc. (ITSNA), is applying for expansion of the current recognition as a NRTL. ITSNA requests the addition of one test standard to the NRTL scope of recognition.

OSHA's recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes: (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides a final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including ITSNA, which details the NRTL's scope of recognition. These pages are available from the OSHA website at <http://www.osha.gov/dts/otpca/nrtl/index.html>.

II. General Background on the Application

ITSNA submitted an application to OSHA for expansion of the NRTL scope of recognition on October 11, 2024 (OSHA-2007-0039-0075), requesting the addition of two standards to the NRTL scope of recognition. This application was amended on March 11, 2026 to remove one standard from the

original application. (OSHA-2007-0039-0076). OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform an on-site review in response to this application. OSHA staff has preliminarily determined that OSHA should grant the application for test standard expansion.

Table 1, below, lists the appropriate test standard found in ITSNA's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED APPROPRIATE TEST STANDARD FOR INCLUSION IN ITSNA'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 6200	Controllers for Use in Power Production.

III. Preliminary Findings on the Application

ITSNA submitted an acceptable application for expansion of the scope of recognition. OSHA's review of the application file and pertinent documentation indicates that ITSNA has met the requirements prescribed by 29 CFR 1910.7 for expanding the recognition to include the addition of the one test standard for NRTL testing and certification listed in Table 1. This preliminary finding does not constitute an interim or temporary approval of ITSNA's application.

OSHA seeks comment on this preliminary determination.

IV. Public Participation

OSHA welcomes public comment as to whether ITSNA meets the requirements of 29 CFR 1910.7 for expansion of recognition as a NRTL. Comments should consist of pertinent written documents and exhibits.

Commenters needing more time to comment must submit a request in writing, stating the reasons for the request by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer time period. OSHA may deny a request for an extension if it is not adequately justified.

To review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor. These materials also are generally available online at <https://www.regulations.gov> under

Docket No. OSHA-2007-0039 (for further information, see the "Docket" heading in the section of this notice titled **ADDRESSES**).

OSHA staff will review all comments to the docket submitted in a timely manner. After addressing the issues raised by these comments, staff will make a recommendation to the Assistant Secretary of Labor for Occupational Safety and Health on whether to grant ITSNA's application for expansion of the scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of the final decision in the **Federal Register**.

V. Authority and Signature

Amanda Laihow, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 7-2025 (90 FR 27878; June 30, 2025), and 29 CFR 1910.7.

Signed at Washington, DC, on May 19, 2026.

Amanda Laihow,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2026-10273 Filed 5-21-26; 8:45 am]

BILLING CODE 4510-26-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2009-0025]

UL LLC: Grant of Expansion of Recognition

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

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to expand the scope of recognition for UL LLC as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The expansion of the scope of recognition becomes effective on May 22, 2026.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of

Communications, U.S. Department of Labor, telephone: (202) 693-1999; email: meilinger.francis@dol.gov.

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, phone: (202) 693-1911 or email: robinson.kevin@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of UL LLC (UL), as a NRTL. UL's expansion covers the addition of one test site to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by the applicable test standard and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition, as well as for an expansion or renewal of recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides the preliminary finding. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including UL, which details that NRTL's scope of recognition. These pages are available from the OSHA website at <http://www.osha.gov/dts/otpc/nrtl/index.html>.

UL submitted an application, dated October 30, 2023 (OSHA-2009-0025-0079), to expand recognition as a NRTL to include one additional test site

located at: Certification Entity for Renewable Energies (CERE), S.L., C/ Monturiol, 15. Getafe, Madrid, 28906, Spain. OSHA staff performed a review of UL's testing facilities at CERE Madrid on June 17-18, 2025, in which assessors found some nonconformances with the requirements of 29 CFR 1910.7. UL has addressed these issues sufficiently, and OSHA staff has preliminarily determined that OSHA should grant the application.

OSHA published the preliminary notice announcing UL's expansion application in the **Federal Register** on March 18, 2026 (91 FR 13068). The agency requested comments by April 2, 2026, but it received no comments in response to this notice. OSHA is now proceeding with this notice to grant expansion to UL's scope of recognition.

To obtain or review copies of all public documents pertaining to the UL expansion application, go to www.regulations.gov or contact the Docket Office (202) 693-2350 (TTY (877) 889-5627. Docket No. OSHA-2009-0025 contains all materials in the record containing UL's recognition.

II. Final Decision and Order

OSHA staff examined UL's expansion application, conducted a detailed on-site assessment, and examined other pertinent information. Based on review of this evidence, OSHA finds that UL meets the requirements of 29 CFR 1910.7 for expansion of recognition, subject to the specified limitations and conditions. OSHA, therefore, is proceeding with this final notice to grant UL's scope of recognition. OSHA limits the expansion of UL's recognition to include the site at Madrid, Spain as listed above. OSHA's recognition of the site limits UL to performing product testing and certifications only to the test standards for which the site has the proper capability and programs, and for test standards in UL's scope of recognition. This limitation is consistent with the recognition that OSHA grants to other NRTLs that operate multiple sites.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, UL also must abide by the following conditions of the recognition:

1. UL must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as a NRTL, and provide details of the change(s);
2. UL must meet all the terms of its recognition and comply with all OSHA

policies pertaining to this recognition; and

3. UL must continue to meet the requirements for recognition, including all previously published conditions on UL's scope of recognition, in all areas for which it has recognition.

OSHA hereby expands the NRTL scope of recognition for UL to include one additional test site in Madrid, Spain.

III. Authority and Signature

Amanda Laihow, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 7-2025 (90 FR 27878, June 30, 2025), and 29 CFR 1910.7.

Signed at Washington, DC, on May 18, 2026.

Amanda Laihow,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2026-10274 Filed 5-21-26; 8:45 am]

BILLING CODE 4510-26-P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to renew this collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, we are providing opportunity for public comments on this action. After obtaining and considering public comment, NSF will prepare the submission requesting Office of Management and Budget (OMB) clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by July 21, 2026 to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to address below.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 401 Dulany Street, Alexandria, Virginia 22314; telephone (703) 292-7556; or send email to splimpto@nsf.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339, which is accessible 24 hours a

day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: National Science Foundation (NSF) Directorate for Technology, Innovation and Partnerships (TIP) Reviewer Request Form

OMB Control Number: 3145–0273.

Type of Request: Revision to and extension of approval of an information collection.

Proposed Project

For more than 70 years, the National Science Foundation (NSF) has supported the full spectrum of science, technology, engineering, and mathematics (STEM) research and education—from foundational, curiosity-driven discovery to use-inspired and solutions-oriented research that addresses national and economic challenges. Across this continuum, scientific discovery, innovation, and technology translation are deeply interconnected.

The NSF Directorate for Technology, Innovation and Partnerships (TIP) was established to strengthen the agency's capacity to accelerate the translation of research outputs to the market. TIP advances use-inspired and translational research through investments that support technology development, workforce development, and regional innovation as outlined in the CHIPS and Science Act.

Some examples of TIP investments include: Accelerating Research Translation (ART), (<https://www.nsf.gov/funding/opportunities/art-accelerating-research-translation>) Innovation Corps (I-Corps) (<https://beta.nsf.gov/funding/initiatives/i-corps/about-teams>), Regional Innovation Engines (NSF Engines) (<https://www.nsf.gov/funding/initiatives/regional-innovation-engines>), Pathways to Enable Open-Source Ecosystems (POSE) (<https://www.nsf.gov/funding/initiatives/pathways-enable-open-source-ecosystems>), and America's Seed Fund (SBIR/STTR) (<https://seedfund.nsf.gov/>).

Due to the breadth and specialized nature of these programs, the Directorate requires the ability to recruit reviewers with wide-ranging expertise, experience, and perspectives. Appropriate reviewers for TIP programs may come from varied sectors and professional backgrounds, including academia, industry, startups, venture development, technology transfer organizations, workforce development entities, regional innovation partnerships, nonprofit organizations, and open-source communities.

Accordingly, NSF requests renewal of Office of Management and Budget (OMB) approval for the *TIP Directorate Reviewer Request Form*. The information collection enables TIP programs to gather information necessary to identify and recruit reviewers whose expertise, experience, and professional backgrounds align with the objectives, subject matter, and evaluation needs of specific funding opportunities and merit review activities.

The information collection consists of two components. The first component aligns with the NSF-wide Reviewer Request Form (NSF 428A) and collects standard reviewer information, educational background, demographic information, and professional experience. The second component contains customizable program-specific questions that allow TIP programs to request additional information relevant to the goals and needs of individual programs or solicitations.

Program-specific information may include, but is not limited to:

- Areas of technical or domain expertise;
- Sector experience (*e.g.*, academia, industry, nonprofit, venture, or government);
- Experience in technology translation, commercialization, entrepreneurship, workforce development, or regional innovation ecosystem development;
- Professional affiliations, websites, or LinkedIn profiles;
- Prior reviewer, mentoring, or startup advisory experience; and
- Potential conflicts of interest.

The flexibility afforded by the customizable portion of the *TIP Reviewer Request Form* is necessary because reviewer qualifications appropriate for one TIP program may not adequately reflect the expertise required for another. The requested information will support TIP Program Directors in identifying reviewers with the appropriate expertise and perspectives necessary to conduct fair, rigorous, and context-appropriate merit review processes across the Directorate's diverse portfolio and funding activities.

Following standard OMB requirements, NSF will require OMB approval in advance and provide OMB with a copy of the form containing these questions and/or data fields. Data collected will be used strictly for reviewer recruiting purposes. The data collection burden to the individuals will be limited to no more than 10 minutes of the respondents' time in each instance.

Respondents: The respondents generally have the education and/or experience level commensurate to a university assistant professor.

Estimated Number of Annual Respondents: 4,000.

Burden on the Public: It is estimated to take 10 minutes per respondent per form, for a total of 667 hours per year.

Dated: May 19, 2026.

Suzanne H. Plimpton,
Reports Clearance Officer, National Science Foundation.

[FR Doc. 2026–10254 Filed 5–21–26; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request; Grantee Reporting Requirements for the Industry-University Cooperative Research Centers (IUCRC) Program

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following request for revision of the approved collection of research and development data in accordance with the Paperwork Reduction Act of 1995. This is the second notice for public comment; the first was published in the **Federal Register** and no comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 401 Dulany Street, Alexandria, VA 22314; or send email to splimpto@nsf.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

SUPPLEMENTARY INFORMATION: NSF may not conduct or sponsor a collection of

information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Title of Collection: Grantee Reporting Requirements for the Industry-University Cooperative Research Centers (IUCRC) Program

OMB Number: 3145-0088.

Type of Request: Revision to and extension of approval of an information collection.

Proposed Project:

The IUCRC program provides a structure for academic researchers to conduct fundamental, pre-competitive research of shared interest to industry and government organizations. These organizations pay membership fees to a consortium so that they can collectively envision and fund research, with at least 90% of Member funds allocated to the direct costs of these shared research projects.

IUCRCs are formed around research areas of strategic interest to U.S. industry. Industry is defined very broadly to include companies (large and small), startups and non-profit organizations. Principal Investigators form a Center around emerging research topics of current research interest, in a pre-competitive space but with clear pathways to applied research and commercial development. Industry partners join at inception, as an existing Center grows, or they inspire the creation of a new Center by recruiting university partners to leverage NSF support. Government agencies participate in IUCRCs as Members or by partnering directly with NSF at the strategic level.

Universities, academic researchers, and students benefit from IUCRC participation through the research funding, the establishment and growth of industry partnerships, and educational and career placement opportunities for students. Industry Members benefit by accessing knowledge, facilities, equipment, and intellectual property in a highly cost-efficient model; leveraging Center research outcomes in their future proprietary projects; interacting in an informal, collaborative way with other private sector and government entities with shared interests; and identifying and recruiting talent. NSF provides funding to support Center administrative costs and a governance framework to manage membership, operations, and evaluation.

Sites within Centers will be required to provide data to NSF and/or its authorized representatives (contractors and/or grantees) annually—after the award expires for their fiscal year of activity—for the life of the Phase I, and if applicable, Phase II, and Phase III award(s).

Information collected are both quantitative and descriptive; they will provide managing Program Directors a means to monitor the operational and financial states of the Centers and ensure that the award is in good standing. These data will also allow NSF to assess the Centers in terms of intellectual, broader, and commercial impacts that are core to our review criteria. Finally, in compliance with the Evidence Act of 2019, information collected will be used in satisfying congressional requests, and supporting the agency's policymaking and reporting needs.

In addition to the agency's annual report requirement, Principal Investigators (IUCRC Center and Site Directors) of the awards are required to provide the following information:

Center-related Information:

- Center Data Reporting
 - A comprehensive annual survey collecting information on structure, funding, membership, personnel, and outcomes of the Center during a given reporting period. A Center must submit data for each fiscal year no later than September 30 of each year of operation, as well as after the award expires to describe its final year of activity.

Certification of Membership

- A list of members and membership fees collected by the Center and certified by the respective university's Sponsored Research Office (SRO), Total Program Income collected during the reporting period, In-kind Contributions during the reporting period, Allocation and Expenditures of each Site's research funds by project.

Site Research Projects Summary

- A list all projects in which the Site participated, including each project's goals; research tasks; key milestones, metrics/deliverables; developing results or outcomes; project budgets; and personnel.

• Assessment Coordinator Report

- An independent assessment of the annual Center activities (this report is done by an independent evaluator, and uploaded by the Principal Investigator as part of the NSF annual reporting requirement).

Logistical Information:

- IUCRC Directory

○ IUCRCs must provide accurate and current information for the online IUCRC directory (<https://iucrc.nsf.gov/centers/?uni=&sta=&prifoc=&prifoc=1&foc=>). The IUCRC program helps awardees to get their information updated on the website.

Optional:

- IUCRC Impact Stories for Public Distribution

IUCRCs are highly encouraged to submit information on their emerging research highlights and significant breakthrough stories to NSF to showcase their impact to the public and industry (see <https://iucrc.nsf.gov/centers/achievements/>) including new products, technology creation and/or enhancements, intellectual property of significant commercial relevance, and major improvements in cost-savings, efficiency, sustainability, productivity, and job growth.

Not only do these data provide valuable information on program activities, products, outcomes, and impact, they also help to paint a detailed longitudinal view of the program, provide insights for benchmarking individual Center performance, advancing industry-university engagement approaches, strengthening future workforce, and contribute to the Nation's research and technology ecosystem.

Use of the Information: The information collected is for internal use by NSF, sharing with the U.S. public, congressional requests, and for securing future funding for continued IUCRC program maintenance and growth. Survey data is collected and published at <https://iucrcstats.org>, made possible through NSF grant award 1732084.

Estimate Burden on the Public:

Estimated at 1.5 hours per award for 250 sites and one hour per 80 Centers for a total of 330 respondents and 455 hours per year.

Respondents: IUCRC Awardees (Academic Institutions).

Estimated Number of Respondents:

One from each IUCRC site (estimated: 225 active sites/year).

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of

information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: May 19, 2026.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2026–10239 Filed 5–21–26; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2026–1387]

State of Indiana: NRC Staff Assessment of a Proposed Agreement Between the Nuclear Regulatory Commission and the State of Indiana

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed state agreement; request for comment.

SUMMARY: As required by Section 274e. of the Atomic Energy Act of 1954, as amended (AEA), the U.S. Nuclear Regulatory Commission (NRC or Commission) is publishing the proposed Agreement for public comment (Appendix A). The NRC is also publishing the summary of a draft assessment by the NRC staff of the State of Indiana's regulatory program. Comments are requested on the proposed Agreement and its effect on public health and safety. Comments are also requested on the draft staff assessment, the adequacy of the State of Indiana's program, and the adequacy of the staffing of the State's program, as discussed in this document.

DATES: Submit comments by June 15, 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 on or 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–2026–1387. 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(s) 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.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

Sherrie Flaherty, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7288; email: Sherrie.Flaherty@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2026–1387 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2026–1387.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin ADAMS Public Search.” For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to PDR.Resource@nrc.gov. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the “Availability of Documents” section.

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

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal Rulemaking Website (<https://www.regulations.gov>). Please include Docket ID NRC–2026–1387 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 ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons 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.

II. Discussion

By letter received January 29, 2026, Governor Mike Braun of the State of Indiana requested that the NRC enter into an Agreement with the State of Indiana as authorized by Section 274b. of the AEA. Under the proposed Agreement, the Commission would discontinue, and the State of Indiana would assume, regulatory authority over certain types of byproduct materials as defined in the AEA, source material, and special nuclear material in quantities not sufficient to form a critical mass.

III. Additional Information on Agreements Entered Under Section 274 of the AEA

Under the proposed Agreement, the NRC would discontinue its authority over 213 licenses and would transfer its regulatory authority over those licenses to the State of Indiana. The NRC periodically reviews the performance of the Agreement States to assure compliance with the provisions of Section 274.

Section 274e. of the AEA requires that the terms of the proposed Agreement be published in the **Federal Register** for public comment once each week for four consecutive weeks. This document is being published in fulfillment of that requirement.

IV. Proposed Agreement With the State of Indiana

Background

(a) Section 274b. of the AEA provides the mechanism for a State to assume regulatory authority from the NRC over certain radioactive materials and

activities that involve use of these materials. The radioactive materials, sometimes referred to as "Agreement materials," are byproduct materials as defined in Sections 11e.(1), 11e.(2), 11e.(3), and 11e.(4) of the AEA; source material as defined in Section 11z. of the AEA; and special nuclear material as defined in Section 11aa. of the AEA, restricted to quantities not sufficient to form a critical mass.

The radioactive materials and activities (which together are usually referred to as the "categories of materials") that the State of Indiana requests authority over are:

1. The possession and use of byproduct material as defined in Section 11e.(1) of the Act;
2. The possession and use of byproduct material as defined in Section 11e.(3) of the Act;
3. The possession and use of byproduct material as defined in Section 11e.(4) of the Act;
4. The possession and use of source material as defined in Section 11z. of the Act; and
5. The possession and use of special nuclear material as defined in Section 11aa. of the Act, in quantities not sufficient to form a critical mass.

(b) The proposed Agreement contains articles that:

- (i) Specify the materials and activities over which authority is transferred;
- (ii) Specify the materials and activities over which the Commission will retain regulatory authority;
- (iii) Continue the authority of the Commission to safeguard special nuclear material, protect restricted data, and protect common defense and security.
- (iv) Commit the State of Indiana and the NRC to exchange information as necessary to maintain coordinated and compatible programs;
- (v) Provide for the reciprocal recognition of licenses;
- (vi) Provide for the suspension or termination of the Agreement; and
- (vii) Specify the effective date of the proposed Agreement.

The Commission reserves the option to modify the terms of the proposed Agreement in response to comments, to correct errors, and to make editorial changes. The final text of the proposed Agreement, with the effective date, will be published after the Agreement is approved by the Commission and signed by the NRC Chairman and the Governor of Indiana.

(c) The regulatory program is authorized by law under the Indiana Code (IC) Title 10, Article 19, Chapter 12, Section 11(a) (IC 10–19–12–11(a)), which provides the Governor with the

authority to enter into an Agreement with the Commission. The State of Indiana law contains provisions for the orderly transfer of regulatory authority over affected licenses from the NRC to the State. In a letter received January 29, 2026, Governor Braun certified that the State of Indiana has a program for the control of radiation hazards that is adequate to protect public health and safety within the State of Indiana for the materials and activities specified in the proposed Agreement, and that the State desires to assume regulatory responsibility for these materials and activities. After the effective date of the Agreement, licenses issued by the NRC would continue in effect as State of Indiana licenses until the licenses expire or are replaced by State-issued licenses.

(d) The draft staff assessment finds that the Indiana Department of Homeland Security (IDHS) and Radioactive Materials Control Program (RMCP) is adequate to protect public health and safety and is compatible with the NRC's regulatory program for the regulation of Agreement materials. However, the NRC staff identified several limited, section-specific inconsistencies within the Indiana Radioactive Materials regulations that were not fully compatible with the corresponding NRC requirements. In communications dated January 21, 2026, and February 27, 2026, the State of Indiana committed to making the necessary compatibility changes in the next rulemaking.

Summary of the Draft NRC Staff Assessment of the State of Indiana's Program for the Regulation of Agreement Materials

The NRC staff has examined the State of Indiana's request for an Agreement with respect to the ability of the State's radiation control program to regulate Agreement materials. The examination was based on the Commission's Policy Statement, "Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement," (46 FR 7540, January 23, 1981, as amended by Policy Statements published at 46 FR 36969, July 16, 1981, and at 48 FR 33376, July 21, 1983) (Policy Statement), and the Office of Nuclear Material Safety and Safeguards Procedure SA-700, "Processing an Agreement." The Policy Statement has 28 criteria that serve as the basis for the NRC staff's assessment of the State of Indiana's request for an Agreement. The following section will reference the appropriate criteria numbers from the

Policy Statement that apply to each section.

(a) *Organization and Personnel.* The NRC staff reviewed these areas under Criteria 1, 2, 20, and 24 in the draft staff assessment. The State of Indiana's proposed Agreement materials program for the regulation of radioactive materials is called the "Radioactive Materials Control Program" (RMCP) and will be located within the Radiation Programs section of the IDHS.

The educational requirements for the RMCP staff are specified in the State of Indiana's personnel position descriptions and meet the NRC criteria with respect to formal education or combined education and experience requirements. All current staff members meet the requirements of a bachelor's degree in the physical, life science or engineering; or an equivalent combination of education and experience has been substituted for the degree. All have training and work experience in radiation protection. Supervisory level staff each have at least five years of working experience in radiation protection.

The State of Indiana performed an analysis of the expected workload under the proposed Agreement. Based on the NRC staff review of the State of Indiana's analysis, the State has an adequate number of staff to regulate radioactive materials under the terms of the proposed Agreement. The State of Indiana will employ the equivalent of four full-time equivalent professional and technical staff to support the Radioactive Materials Program.

The State of Indiana has indicated that the RMCP has an adequate number of trained and qualified staff in place, and has developed qualification procedures for license reviewers and inspectors that are similar to the NRC's procedures. The RMCP staff has accompanied the NRC staff on inspections of NRC licensees in Indiana and participated in licensing training at NRC's Region III with Division of Radiological Safety and Security staff. The Radioactive Materials Program staff is also actively supplementing its experience through meetings, discussions, and facility visits with the NRC licensees in the State of Indiana and through self-study, in-house training, and formal training.

Overall, the NRC staff concluded that the RMCP staff identified by the State of Indiana to participate in the Agreement materials program has sufficient knowledge and experience in radiation protection, the use of radioactive materials, the standards for the evaluation of applications for licensing,

and the techniques of inspecting licensed users of Agreement materials.

(b) *Legislation and Regulations.* The NRC staff reviewed these areas under Criteria 1–15, 17, 19, and 21–28 in the draft staff assessment. IC 10–19–12–11(a) provides the Governor of Indiana the authority to enter into the Agreement, and IC 10–19–12–5 establishes the IDHS as the lead agency for carrying out the duties of the State's Agreement state program. The IDHS has the requisite authority to promulgate regulations under the IC 10–19–12–5(c) and 10–19–12–14 for protection against radiation. IC 10–19–12–5(c)), IC 10–19–12–6, IC 10–19–12–9, and IC 10–19–12–18(a) provide the IDHS the authority to issue licenses and orders; conduct inspections; and enforce compliance with regulations, license conditions, and orders. IC 10–19–12–9 requires licensees to provide access to inspectors.

The NRC staff verified that the State of Indiana adopted by reference the relevant NRC regulations in parts 19, 20, 30, 31, 32, 33, 34, 35, 36, 37, 39, 40, 61, 70, 71, and 150 of title 10 of the *Code of Federal Regulations* (10 CFR) into the Indiana Administrative Code Title 290 Article 3, Standards for Protection Against Radiation. With the State of Indiana's commitment to address the remaining compatibility comments, the State of Indiana adopted an adequate and compatible set of radiation protection regulations that apply to byproduct materials, source material, and special nuclear material in quantities not sufficient to form a critical mass. The NRC staff also verified that the State of Indiana will not attempt to enforce regulatory matters reserved to the Commission.

(c) *Storage and Disposal.* The NRC staff reviewed these areas under Criteria 8, 9a, and 11 in the draft staff assessment. The State of Indiana has adopted NRC compatible requirements for the handling and storage of radioactive material, including regulations equivalent to the applicable standards contained in 10 CFR part 20, which address the general requirements for waste disposal, and 10 CFR part 61, which addresses waste classification and form. These regulations are applicable to all licensees covered under this proposed Agreement.

(d) *Transportation of Radioactive Material.* The NRC staff reviewed this area under Criteria 10 in the draft staff assessment. The State of Indiana has adopted compatible regulations to the NRC regulations in 10 CFR part 71. Part 71 contains the requirements licensees must follow when preparing packages containing radioactive material for

transport. Part 71 also contains requirements related to the licensing of packaging for use in transporting radioactive materials.

(e) *Recordkeeping and Incident Reporting.* The NRC staff reviewed this area under Criteria 1 and 11 in the draft staff assessment. The State of Indiana has adopted compatible regulations to the sections of the NRC regulations that specify requirements for licensees to keep records and to report incidents or accidents involving the State's regulated Agreement materials specified in the proposed Agreement.

(f) *Evaluation of License Applications.* The NRC staff reviewed this area under Criteria 1, 7, 8, 9a, 13, 14, 15, 20, 23, and 25 in the draft staff assessment. The State of Indiana has adopted compatible regulations to the NRC regulations that specify the requirements to obtain a license to possess or use radioactive materials. The State of Indiana has also developed licensing procedures and adopted NRC licensing guides for specific uses of radioactive material for use by the program staff when evaluating license applications.

(g) *Inspections and Enforcement.* The NRC staff reviewed these areas under Criteria 1, 16, 18, 19, and 23 in the draft staff assessment. The State of Indiana has adopted a schedule providing for the inspection of licensees as frequently as, or more frequently than, the inspection schedule used by the NRC. The State of Indiana's Radioactive Materials Control Program has adopted procedures for the conduct of inspections, reporting of inspection findings, and reporting inspection results to the licensees. Additionally, the State of Indiana has also adopted procedures for the enforcement of regulatory requirements.

(h) *Regulatory Administration.* The NRC staff reviewed this area under Criterion 23 in the draft staff assessment. The State of Indiana is bound by requirements specified in its State law for rulemaking, issuing licenses, and taking enforcement actions. The State of Indiana has also adopted administrative procedures to assure fair and impartial treatment of license applicants. The State of Indiana law prescribes standards of ethical conduct for State employees.

(i) *Cooperation with Other Agencies.* The NRC staff reviewed this area under Criteria 25, 26, and 27 in the draft staff assessment. The State of Indiana law provides for the recognition of existing NRC and Agreement State licenses and the State has a process in place for the transition of active NRC licenses. Upon the effective date of the Agreement, all active NRC radioactive materials

licenses that are for materials covered by the proposed Agreement and were issued to facilities in the State of Indiana will be recognized as IDHS licenses.

The State of Indiana also provides for "timely renewal." This provision affords the continuance of licenses for which an application for renewal has been filed more than 30 days prior to the date of expiration of the license. NRC licenses transferred while in timely renewal are done in a manner to minimize the effects of the transition on the licensee. The NRC and the State of Indiana will collaborate to ensure a seamless and successful transition of NRC licenses under timely renewal.

The State of Indiana regulations in Indiana Administrative Code, Title 290, Article 3, Standards for Protection Against Radiation, provide exemptions from the State's requirements for the NRC and the U.S. Department of Energy contractors or subcontractors. The proposed Agreement commits the State of Indiana to use its best efforts to cooperate with the NRC and the other Agreement States in the formulation of standards and regulatory programs for the protection against hazards of radiation, and to assure that the State's program will continue to be compatible with the Commission's program for the regulation of Agreement materials. The proposed Agreement specifies the desirability of reciprocal recognition of licenses and commits the Commission and the State of Indiana to use their best efforts to accord such reciprocity. Consistent with NRC requirements, the State of Indiana would be able to recognize the licenses of other jurisdictions by general license, as appropriate.

Staff Conclusion

Section 274d. of the AEA provides that the Commission shall enter into an Agreement under Section 274b. with any State if:

(a) The Governor of that State certifies that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the Agreement materials within the State, and that the State desires to assume regulatory responsibility for the Agreement materials; and

(b) The Commission finds that the State program is in accordance with the requirements of Subsection 274o. and in all other respects compatible with the Commission's program for regulation of such materials, and that the State program is adequate to protect the public health and safety with respect to

the materials covered by the proposed Agreement.

The NRC staff has reviewed the proposed Agreement, the certification of Indiana Governor Braun, and the supporting information provided by the RMCP of the IDHS. Based upon this review, the NRC staff concludes that the State of Indiana Radioactive Material Control Program satisfies the Section 274d. criteria as well as the criteria in the Commission's Policy Statement "Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement." The NRC staff also concludes that the proposed State of Indiana program to regulate Agreement materials, as comprised of statutes, regulations, procedures, and staffing, is compatible with the Commission's program and is adequate to protect the public health and safety with respect to the materials

covered by the proposed Agreement. Therefore, the proposed Agreement meets the requirements of Section 274 of the AEA.

V. Executive Order Reviews

Executive Order (E.O.) 12866

The Office of Information and Regulatory Affairs has determined that this proposed agreement is not a significant regulatory action under E.O. 12866.

E.O. 13132

This action does not have federalism implications, as defined in E.O. 13132. It will not significantly limit the rights, roles, and responsibilities of State or local governments.

E.O. 14300

On May 23, 2025, President Donald J. Trump signed E.O. 14300, "Ordering the

Reform of the Nuclear Regulatory Commission." Section 5, "Reforming and Modernizing the NRC's Regulations," requires the NRC to undertake a review and wholesale revision of its regulations and guidance documents as guided by the policies set forth in section 2 of the E.O. The NRC is currently in the process of implementing the direction in E.O. 14300. When the NRC finalizes its rules during the implementation of E.O. 14300, the Agreement States will need to update their own regulations, as necessary, to maintain compatibility with the NRC's program within a specific timeframe.

VI. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document description	Adams accession no.
Final Indiana Application Section 4.1 Legal Elements (Revised), dated January 2026	ML26068A234.
Final Indiana Application Section 4.2 Regulatory Requirements Program Elements (Revised), dated January 2026	ML26068A235.
Final Indiana Application Section 4.3 Licensing Program Elements (Revised), dated January 2026	ML26068A236.
Final Indiana Application Section 4.4 Inspection Program Elements (Revised), dated January 21, 2026	ML26068A237.
Final Indiana Application Section 4.5 Enforcement Program Elements (Revised), dated January 2026	ML26068A238.
Final Indiana Application Section 4.6 Technical Staffing and Training Program Elements (Revised), dated January 2026	ML26068A239.
Final Indiana Application Section 4.7 Event and Allegation Response Program Elements (Revised), dated January 2026	ML26068A240.
Indiana Application Request for Additional Information, dated February 2026	ML26068A127.
Receipt from C. Eckstein Acknowledging Indiana Revisions to Regulations 290 IAC 3-1 through 3-18, dated January 26, 2026	ML26026A076.
Letter from C. Eckstein re: Indiana Revisions to Regulations 290 IAC 3-1 through 3-18, dated February 27, 2026	ML26068A068.
Indiana Response to RAI, dated March 9, 2026	ML26068A126.
Letter from Governor Mike Braun, Indiana, to Chair Nieh requesting agreement be established between the NRC and State of Indiana, received January 29, 2026.	ML26033A182.
Staff Requirements Memorandum for SECY-26-0053 "Proposed Agreement Between the State of Indiana and the Commission Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended," dated May 5, 2026.	ML26125A146 (package).
SECY-26-0053 "Proposed Agreement Between the State of Indiana and the Commission Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended," dated April 10, 2026.	ML26069A564.
Draft Staff Assessment of the Proposed Indiana Program, dated April 10, 2026	ML26069A567.
State Agreement (SA)-700 Processing an Agreement final, dated June 15, 2022	ML22138A414.
SA-700 Handbook for Processing an Agreement Procedure final, ...	ML22140A396.
dated June 17, 2022	

Authority: 42 U.S.C. 2011 *et seq.*

Dated: May 20, 2026.

For the Nuclear Regulatory Commission.

Dafna Silberfeld,

Acting Director, Division of Materials Safety, Security, State, and Tribal Programs, Office of Nuclear Material Safety and Safeguards.

Appendix A

An Agreement Between The United States Nuclear Regulatory Commission and the State Of Indiana for the Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of the Atomic Energy Act Of 1954, as Amended

Whereas, The United States Nuclear Regulatory Commission (hereinafter referred to as "the Commission") is authorized under Section 274 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 *et seq.* (hereinafter referred to as "the Act"), to enter into an agreement with the Governor of the State of Indiana (hereinafter referred to as

"the State") providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to byproduct materials as defined in Sections 11e.(1), (3), and (4) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and,

Whereas, The Governor of the State of Indiana is authorized under IC 10-19-12-11 to enter into this Agreement with the Commission; and,

Whereas, The Governor of the State of Indiana certified on January 29, 2026, that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and,

Whereas, The Commission found on [date] that the program of the State of Indiana for the regulation of the materials covered by this Agreement is compatible with the

Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and,

Whereas, The State of Indiana and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and,

Whereas, The Commission and the State of Indiana recognize the desirability of the reciprocal recognition of licenses, and of the granting of limited exemptions from licensing of those materials subject to this Agreement; and,

Whereas, This Agreement is entered into pursuant to the provisions of the Act;

Now, therefore, it is hereby agreed between the Commission and the Governor of Indiana acting on behalf of the State as follows:

Article I

Subject to the exceptions provided in Articles II, IV, and V, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7 and 8, and Section 161 of the Act with respect to the following materials:

- A. Byproduct material as defined in Section 11e.(1) of the Act;
- B. Byproduct material as defined in Section 11e.(3) of the Act;
- C. Byproduct materials as defined in Section 11e.(4) of the Act;
- D. Source materials; and
- E. Special nuclear materials, in quantities not sufficient to form a critical mass.

Article II

This Agreement does not provide for the discontinuance of any authority, and the Commission shall retain authority and responsibility, with respect to:

- A. The regulation of the construction, operation, and decommissioning of any production or utilization facility or any uranium enrichment facility;
- B. The regulation of byproduct material as defined in Section 11e.(2) of the Act;
- C. The regulation of the export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;
- D. The regulation of the disposal into the ocean or sea of byproduct, source, or special nuclear material waste as defined in regulations or orders of the Commission;
- E. The regulation of the disposal of such other byproduct, source, or special nuclear material as the Commission determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed without a license from the Commission;
- F. The evaluation of radiation safety information on sealed sources or devices containing byproduct, source, or special nuclear material and the registration of the sealed sources or devices for distribution, as provided for in regulations or orders of the Commission;
- G. The regulation of activities not exempt from Commission regulation as stated in 10 CFR part 150; and
- H. The regulation of the land disposal of byproduct, source, or special nuclear material received from other persons;

Article III

With the exception of those activities identified in Article II, paragraphs A., C. through E. and G., this Agreement may be amended, upon application by the State and approval by the Commission, to include the additional areas specified in Article II, paragraphs B., F., and H., whereby the State may then exert regulatory authority and responsibility with respect to those activities.

Article IV

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or

special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption for licensing issued by the Commission.

Article V

This Agreement shall not affect the authority of the Commission under Subsection 161b. or 161i. of the Act to issue rules, regulations, or orders to promote the common defense and security, to protect restricted data, or to guard against the loss or diversion of special nuclear material.

Article VI

The Commission will cooperate with the State and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for: (a) protection against hazards of radiation; and (b) to assure that Commission and State programs for protection against the hazards of radiation are coordinated and compatible.

The State agrees to cooperate with the Commission and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for: (a) protection against the hazards of radiation; and (b) to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of materials covered by this Agreement.

The State and the Commission agree to keep each other informed of proposed changes in their respective rules and regulations, and to provide each other the opportunity for early and substantive contribution to the proposed changes.

The State and the Commission agree to keep each other informed of events, accidents, and licensee performance that may have generic implication or otherwise be of regulatory interest.

Article VII

The Commission and the State agree that it is desirable to provide reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any other Agreement State.

Accordingly, the Commission and the State agree to develop appropriate rules, regulations, and procedures by which reciprocity will be accorded.

Article VIII

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of Indiana, may terminate or suspend all or part of this Agreement and reassert the licensing and regulatory authority vested in it under the Act, if the Commission finds that (1) such termination or suspension is required to protect the public health and safety, or (2) the State has not complied with one or more of the requirements of Section 274 of the Act. Pursuant to Section 274j. of the Act, the Commission may, after notifying the Governor, temporarily suspend all or part of this Agreement without notice or hearing if, in the judgment of the Commission, an emergency situation exists with respect to any material covered by this agreement

creating danger which requires immediate action to protect the health and safety of persons either within or outside the State and the State has failed to take steps necessary to contain or eliminate the cause of danger within a reasonable time after the situation arose. The Commission shall periodically review actions taken by the State under this Agreement to ensure compliance with Section 274 of the Act, which requires a State program to be adequate to protect the public health and safety with respect to the materials covered by this Agreement and to be compatible with the Commission's program.

Article IX

This Agreement shall become effective on XXXXXXXX, 2026, and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Executed at Indianapolis, Indiana, this [date] day of [month], 2026.

For the United States Nuclear Regulatory Commission.

Ho K. Nieh,

Chairman of the U.S. Nuclear Regulatory Commission.

For the State of Indiana.

Michael Braun,

Governor of Indiana.

[FR Doc. 2026–10323 Filed 5–21–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2026–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of May 25, and June 1, 8, 15, 22, 29, 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 25, 2026

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/>.

Week of June 15, 2026—Tentative

There are no meetings scheduled for the week of June 15, 2026.

Week of June 22, 2026—Tentative

There are no meetings scheduled for the week of June 22, 2026.

Week of June 29, 2026—Tentative

There are no meetings scheduled for the week of June 29, 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 20, 2026.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2026-10301 Filed 5-20-26; 4:15 pm]

BILLING CODE 7590-01-P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2026-249 and K2026-247; MC2026-250 and K2026-248; MC2026-251 and K2026-249]

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.

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).

For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established. Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. See 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)-(d), the Commission does not appoint a Public Representative or request public comment in proceedings to review such requests.

II. Public Proceeding(s)

None. See Section III for summary proceedings.

III. Summary Proceeding(s)

1. *Docket No(s).*: MC2026-249 and K2026-247; *Filing Title*: USPS Request to Add New Fulfillment Standardized Distinct Product, PM-GA Contract 993, and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: May 19, 2026; *Filing Authority*: 39 U.S.C. 3642 and 3633, 39 CFR 3035.105, and 39 CFR 3041.325.

2. *Docket No(s).*: MC2026-250 and K2026-248; *Filing Title*: USPS Request to Add Mid-Market Standardized Distinct Product, PM-GA Contract 994, and Notice of Filing Materials Under

Seal; *Filing Acceptance Date*: May 19, 2026; *Filing Authority*: 39 U.S.C. 3642 and 3633, 39 CFR 3035.105, and 39 CFR 3041.325.

3. *Docket No(s)*: MC2026–251 and K2026–249; *Filing Title*: USPS Request to Add Mid-Market Standardized Distinct Product, PM–GA Contract 995, and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: May 19, 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. 2026–10285 Filed 5–21–26; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105521; File No. 4–698]

Joint Industry Plan; Notice of Filing and Immediate Effectiveness of Amendment to the National Market System Plan Governing the Consolidated Audit Trail To Add Texas Stock Exchange LLC as a Participant

May 19, 2026.

Pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 608 thereunder,² notice is hereby given that on May 11, 2026, Texas Stock Exchange LLC (“TXSE” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) an amendment to the National Market System Plan Governing the Consolidated Audit Trail (“CAT NMS Plan” or “Plan”).³ The amendment adds TXSE as a Participant⁴ to the CAT NMS Plan. The Commission is publishing this

notice to solicit comments on the amendment from interested persons.

I. Description and Purpose of the Amendment

The amendment to the CAT NMS Plan adds TXSE as a Participant.⁵ The CAT NMS Plan provides that any Person⁶ approved by the Commission as a national securities exchange or national securities association under the Exchange Act may become a Participant by submitting to the Company⁷ a completed application in the form provided by the Company.⁸ As a condition to admission as a Participant, said Person shall: (i) execute a counterpart of the CAT NMS Plan, at which time Exhibit A shall be amended to reflect the status of said Person as a Participant (including said Person’s address for purposes of notices delivered pursuant to the CAT NMS Plan); and (ii) pay a fee to the Company as set forth in the Plan (the “Participation Fee”).⁹ The amendment to the Plan reflecting the admission of a new Participant shall be effective only when: (x) it is approved by the Commission in accordance with Rule 608 or otherwise becomes effective pursuant to Rule 608; and (y) the prospective Participant pays the Participation Fee.¹⁰

TXSE has executed a copy of the current CAT NMS Plan, amended to include TXSE in the List of Parties (including the address of TXSE), paid the applicable Participation Fee and provided each current Plan Participant with a copy of the executed and amended CAT NMS Plan.¹¹

⁵ Defined in Section 1.1 of the CAT NMS Plan as follows: “Participant” means each Person identified as such on Exhibit A hereto, and any Person that becomes a Participant as permitted by this Agreement, in such Person’s capacity as a Participant in the Company (it being understood that the Participants shall comprise the “members” of the Company (as the term “member” is defined in Section 18–101(11) of the Delaware Act)).

⁶ Defined in Section 1.1 of the CAT NMS Plan as follows: “Person” means any individual, partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative or association and any heirs, executors, administrators, legal representatives, successors and assigns of such Person where the context so permits.

⁷ The “Company” refers to the limited liability company, Consolidated Audit Trail, LLC, which is responsible for conducting the activities of the CAT. See Securities Exchange Act Release No. 87149 (September 27, 2019), 84 FR 52905 (October 3, 2019).

⁸ See Section 3.3 of the CAT NMS Plan. TXSE was approved as a national securities exchange on September 30, 2025. See Securities Exchange Act Release No. 104146 (September 30, 2025), 90 FR 47880 (October 2, 2025).

⁹ See Section 3.3 of the CAT NMS Plan.

¹⁰ *Id.*

¹¹ See Letter from Jeff Brown, Chief Legal Officer and General Counsel, Texas Stock Exchange LLC,

II. Effectiveness of the Proposed Plan Amendment

The foregoing CAT NMS Plan amendment has become effective pursuant to Rule 608(b)(3)(iii)¹² because it involves solely technical or ministerial matters. At any time within sixty days of the filing of this amendment, the Commission may summarily abrogate the amendment and require that it be refiled pursuant to paragraph (a)(1) of Rule 608,¹³ if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the amendment 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 4–698 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 4–698. 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

dated May 11, 2026, to Vanessa Countryman, Secretary, U.S. Securities and Exchange Commission.

¹² 17 CFR 242.608(b)(3)(iii).

¹³ 17 CFR 242.608(a)(1).

¹ 15 U.S.C. 78k–1(a)(3).

² 17 CFR 242.608.

³ The Commission approved the CAT NMS Plan on November 16, 2016. See Securities Exchange Act Release No. 79318, 81 FR 84695 (November 23, 2016) (order approving the CAT NMS Plan).

⁴ The Participants to the CAT NMS Plan are: 24 National Exchange LLC; BOX Exchange LLC; Cboe BYX Exchange, Inc.; Cboe BZX Exchange, Inc.; Cboe C2 Exchange, Inc.; Cboe EDGA Exchange, Inc.; Cboe EDGX Exchange, Inc.; Cboe Exchange, Inc.; Financial Industry Regulatory Authority, Inc.; Investors Exchange LLC; Long-Term Stock Exchange, Inc.; MEMX, LLC; Miami International Securities Exchange LLC; MIAx Emerald, LLC; MIAx PEARL, LLC; MIAx Sapphire, LLC; Nasdaq GEMX, LLC; Nasdaq ISE, LLC; Nasdaq MRX, LLC; Nasdaq PHLX LLC; Nasdaq Texas, LLC; The NASDAQ Stock Market LLC; New York Stock Exchange LLC; NYSE American LLC; NYSE Arca, Inc.; NYSE Texas, Inc.; and NYSE National, Inc.

to file number 4–698 and should be submitted on or before June 12, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–10246 Filed 5–21–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36162; File No. 812–15960]

Keystone Private Income Fund, et al.

May 20, 2026.

AGENCY: Securities and Exchange Commission (“Commission” or “SEC”).

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the “Act”) and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain business development companies (“BDCs”), closed-end management investment companies, and open-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

APPLICANTS: Keystone Private Income Fund, Keystone National Group, LLC, Keystone Private Market Opportunities IX (Q), LP, Keystone Private Market Opportunities IX, LP, Keystone Real Estate Lending Fund, LLC, and Keystone Real Estate Investment Trust, LLC.

FILING DATES: The application was filed on December 19, 2025, and amended on March 31, 2026, and May 8, 2026.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC’s Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. The email should include the file number referenced above. Hearing requests should be

received by the Commission by 5:30 p.m., Eastern time, on June 15, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission’s Secretary at *Secretarys-Office@sec.gov*.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*. Applicants: J. Troy Beatty, *troy@keystonenational.com*; and James E. Anderson, *JAnderson@willkie.com*.

FOR FURTHER INFORMATION CONTACT: Thomas Ahmadifar, Branch Chief, or Adam Large, Senior Special Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel’s Office).

SUPPLEMENTARY INFORMATION: For Applicants’ representations, legal analysis, and conditions, please refer to Applicants’ second amended application, filed May 8, 2026, which may be obtained via the Commission’s website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC’s EDGAR system.

The SEC’s EDGAR system may be searched at <https://www.sec.gov/search-filings>. You may also call the SEC’s Office of Investor Education and Assistance at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–10269 Filed 5–21–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105520; File No. SR–BOX–2026–13]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 3120 To Increase the Position and Exercise Limits for Options on the iShares Bitcoin Trust ETF

May 19, 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 May 8, 2026, BOX Exchange LLC (“Exchange” or “BOX”) 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend IM–3120–2 under Rule 3120 (Position Limits) to increase the position and exercise limits for options on the iShares Bitcoin Trust ETF. The text of the proposed rule change is available from the principal office of the Exchange and also on the Exchange’s internet website at <https://rules.bonexchange.com/rulefilings>.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend IM–3120–2 under Rule 3120 (Position Limits) to increase the position and exercise limits for options on the iShares Bitcoin Trust ETF (“IBIT”). This is a competitive filing that is based on a proposal recently submitted by Nasdaq ISE, LLC (“ISE”) and approved by the Commission.³

IBIT is an Exchange-Traded Fund (“ETF”) that holds Bitcoin and is listed

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 105317 (April 27, 2026), 91 FR 23333 (April 30, 2026) (SR–ISE–2025–26) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 5, to Amend the Position and Exercise Limits for IBIT Options) (“ISE Approval Order”).

¹⁴ 17 CFR 200.30–3(a)(85).

on The Nasdaq Stock Market LLC.⁴ On November 25, 2024, BOX received approval to list options on IBIT.⁵ The position and exercise limits for IBIT options are currently set as stated in Rules 3120 and 3140.⁶ Position limits, and exercise limits, are designed to limit the number of options contracts traded on the Exchange in an underlying security that an investor, acting alone or in concert with others directly or indirectly, may control. These limits are intended to address potential manipulative schemes and adverse market impacts surrounding the use of options, such as disrupting the market in the security underlying the options. Position and exercise limits must balance concerns regarding mitigating potential manipulation and the cost of inhibiting potential hedging activity that could be used for legitimate economic purposes. To achieve this balance, BOX proposes to increase the position limits and exercise limits for options on IBIT to 1,000,000 contracts by noting the proposed position limit in IM-3120-2. The position limit for options on IBIT is currently set pursuant to Rule 3120(d) where the largest in capitalization and the most frequently traded stocks and ETFs have an option position limit of 250,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market; and smaller capitalization stocks and ETFs have position limits of 200,000, 75,000, 50,000 or 25,000 contracts (with adjustments for splits, recapitalizations, etc.) on the same side of the market. The Exchange notes that the proposed position limits and exercise limits for options on IBIT are consistent with

existing position limits and exercise limits for options on iShares MSCI Emerging Markets, iShares China Large-Cap ETF, and iShares MSCI EAFE ETF.

Composition and Growth Analysis for Underlying ETFs

As stated above, position (and exercise) limits are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate the underlying market so as to benefit options positions. The Commission has recognized that these limits are designed to minimize the potential for mini-manipulations and for corners or squeezes of the underlying market, as well as serve to reduce the possibility for disruption of the options market itself, especially in illiquid classes.⁷

Per the Commission, “rules regarding position and exercise limits are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options positions.”⁸ For this reason, the Commission requires that “position and exercise limits must be sufficient to prevent investors from disrupting the market for the underlying security by acquiring and exercising a number of options contracts disproportionate to the deliverable supply and average trading volume of the underlying security.”⁹ The Exchange has observed an ongoing increase in demand in options on IBIT in 2025.¹⁰ The Exchange believes the current position limit and exercise limit of 250,000 contracts (the highest position limit available pursuant to Rule 3120 and exercise limit pursuant to Rule 3140) will impede trading activity and strategies of investors, such as use of effective hedging vehicles or income generating strategies (e.g., buy-write or put-write), and the ability of Market Makers to make liquid markets with tighter spreads in IBIT options.

The Exchange believes that increasing the position limit (and exercise limit) for options on IBIT to 1,000,000 contracts would enable liquidity

providers to provide additional liquidity to the Exchange, as well as other options exchange on which they participate. As described in further detail below, the Exchange believes that the continuously increasing market capitalization of IBIT options, as well as the highly liquid markets for those securities, reduces the concerns for potential market manipulation and/or disruption in the underlying markets upon increasing position limits, while the rising demand for trading options on IBIT for legitimate economic purposes compels an increase in position limits (and corresponding exercise limits).

IBIT currently qualifies for a 250,000 contract position limit pursuant to the criteria in Rule 3120(d), which requires that, for the most recent six-month period, trading volume for the underlying security be at least 100 million shares.¹¹ As of February 11, 2026, the market capitalization for IBIT was 52,661,063,818¹² with an average daily volume (“ADV”), for the preceding 6 months prior to February 11, 2026 of 61,803,035 shares. By comparison on the same day, the iShares MSCI Emerging Markets (“EEM”) has an ADV of 29,459,889 shares and an AUM of 27,761,941,292 the iShares China Large-Cap ETF (“FXI”) has an ADV 31,656,532 and an AUM of 6,594,337,253, and the iShares MSCI EAFE ETF (“EFA”) has an ADV of 17,215,037 shares and an AUM of 76,788,457,200.¹³

In addition to IBIT’s Rule 3120(d) eligibility for 250,000 contracts, the ISE performed additional analysis with respect to IBIT. First, ISE considered IBIT’s market capitalization and ADV, and prospective position limit in relation to other securities. In measuring IBIT against other securities, ISE aggregated market capitalization and volume data for securities that have defined position limits utilizing data from The Options Clearing Corporations (“OCC”).¹⁴ This pool of data took into

⁴ Nasdaq received approval to list and trade Bitcoin-Based Commodity-Based Trust Shares in IBIT pursuant to Rule 5711(d) of Nasdaq. See Securities Exchange Act Release No. 99306 (January 10, 2024), 89 FR 3008 (January 17, 2024) (SR-NASDAQ-2023-016) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Bitcoin-Based Commodity-Based Trust Shares and Trust Units). IBIT started trading on January 11, 2024.

⁵ See Securities Exchange Act Release No. 101735 (November 25, 2024), 89 FR 95264 (December 2, 2024) (SR-BOX-2024-27) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rules 3120 (Position Limits) and 5020 (Criteria for Underlying Securities) To Permit Trading of iShares Bitcoin ETF Options) (“IBIT Approval Order”).

⁶ IBIT currently has a position limit of 250,000 contracts. The Exchange notes the exercise limits established under Rule 3140, in respect to options on shares or other securities that represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that satisfy the criteria set forth in Rule 5020 shall be equivalent to the position limits prescribed for such options in IM-3120-2, subject to any exemptions granted in respect to such position limits. See IM-3140-1.

⁷ See Securities Exchange Act Release No. 67672 (August 15, 2012), 77 FR 50750 (August 22, 2012) (SR-NYSEAmex-2012-29).

⁸ See *supra*, note 5.

⁹ See *id.*

¹⁰ In 2025, the Exchange filed a rule proposal to eliminate the 25,000 contract position and exercise limits for IBIT options and apply the position and exercise limits in Rules 3120 and 3140 to IBIT options. See Securities Exchange Act Release No. 103747 (August 20, 2025), 90 FR 41442 (August 25, 2025) (SR-BOX-2025-22) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend BOX Rule 3120 To Increase the Position and Exercise Limits for the iShares Bitcoin Trust ETF) (“SR-BOX-2025-22”).

¹¹ Rule 3120(d), Position Limits, provides at subparagraph (5) that to be eligible for the 250,000 option contract limit, either the most recent six (6) month trading volume of the underlying security must have totaled at least 100 million shares or the most recent six-month trading volume of the underlying security must have totaled at least seventy-five (75) million shares and the underlying security must have at least 300 million shares currently outstanding.

¹² The market capitalization was determined by multiplying a Net Asset Value of \$38.29 by the number of shares outstanding 1,337,920,000. This figure was acquired as of February 11, 2026. See <https://www.ishares.com/us/products/333011/ishares-Bitcoin-trust-etf>.

¹³ These figures are from February 11, 2026.

¹⁴ The computations are based on OCC data from February 11, 2026. Data displaying zero values in market capitalization or ADV were removed.

consideration 3,797 options on single stock securities, excluding broad based ETFs.¹⁵ Next, the data was aggregated based on market capitalization and ADV and grouped by option symbol and position limit utilizing statistical thresholds for ADV, based on 180 days, and market capitalization that were one standard deviation¹⁶ above the mean for each position limit category (*i.e.* 25,000, 50,000 to 52,000, 75,000, 200,000, 250,000 to 375,000, 450,000 to 650,000, 750,000 to 1,250,000 and, and greater than or equal to 2,000,000).¹⁷ This exercise was performed to demonstrate IBIT's position limit relative to other options symbols in terms of market capitalization and ADV. For reference, the market capitalization for IBIT was \$52,661,063,818¹⁸ with an ADV, for the preceding 180 days prior to February 11, 2026, of 61,803,035 shares.

According to the ISE Approval Order, if IBIT were compared to the 10 stocks that have position limits of 750,000 contracts to 1.25 million contracts it would rank in the 45th percentile for market capitalization and the 89th percentile for ADV. ISE also analyzed the position limits for IBIT by regressing the median elements from each bucket of market capitalization and 180-day ADV of all non-ETF equities, against their respective position limit figures. From this regression, ISE was able to determine the implied coefficients to create a formulaic method for determining an appropriate position limit.¹⁹ ISE utilized a linear model approach which incorporated the median metric from each bucket given the data at both the lower end of each position limit bucket and the higher end of each position limit bucket could be considered significant outliers, thereby skewing the results.

¹⁵ IBIT has one asset and therefore is not comparable to a broad-based ETF where there are typically multiple components.

¹⁶ The standard deviation added limited utility to the analysis given the heavily skewed distribution of market capitalizations in the single stock securities.

¹⁷ These buckets are based on OCC's current positions limits. See <https://www.theocc.com/market-data/market-data-reports/series-and-trading-data/position-limits>. Rule 3120(d) sets out position limits for various contracts. For example, a 25,000 contract limit applies to those options having an underlying security that does not meet the requirements for a higher options contract limit. The Exchange notes that position limits may also be higher due to corporate actions in the underlying equities, such as a stock split.

¹⁸ Net Asset Value of \$38.29 by the number of shares outstanding 1,337,920,000. This figure was acquired as of February 11, 2026. See <https://www.ishares.com/us/products/333011/ishares-bitcoin-trust-etf>.

¹⁹ ISE utilized Excel's Data Analysis Package to model the position limit.

ISE utilized IBIT's market capitalization of 52,661,063,818 to arrive at a modeled position limit of 1,707,654. Additionally, ISE utilized IBIT's ADV of 61,803,035 to arrive at a modeled position limit of 5,672,081. Based on the aforementioned analysis, the Exchange believes that the proposed 1,000,000 contracts position and exercise limit is appropriate.

Second, ISE reviewed IBIT's data relative to the market capitalization of the entire Bitcoin market in terms of exercise risk and availability of deliverables. Also, as of February 11, 2026, there were approximately 20.5 million Bitcoins in circulation.²⁰ At a price of \$66,938,²¹ that equates to a market capitalization of greater than \$1.374 trillion US. If a position limit of 1,000,000 contracts were considered, the exercisable risk would represent 7.474%²² of the outstanding shares outstanding of IBIT. Since IBIT has a creation and redemption process managed through the issuer, the position limit can be compared to the total market capitalization of the entire Bitcoin market and in that case, the exercisable risk for options on IBIT would represent 0.278% of all Bitcoin outstanding.²³ Assuming a scenario where all options on IBIT shares were exercised given the proposed 1,000,000-contract position limit (and exercise limit), this would have a virtually unnoticed impact on the entire Bitcoin market. This analysis demonstrates that the proposed 1,000,000 per same side position and exercise limit is appropriate for options on IBIT given its liquidity.

Third, ISE reviewed the proposed position limit by comparing it to position limits for derivative products regulated by the Commodity Futures Trading Commission ("CFTC"). While the CFTC, through the relevant Designated Contract Markets, only regulates options positions based upon delta equivalents (creating a less stringent standard), ISE examined equivalent bitcoin futures position limits. In particular, ISE looked to the CME bitcoin futures contract²⁴ that has

²⁰ See <https://www.coingecko.com/en/coins/bitcoin>.

²¹ This is the approximate price of Bitcoin from February 11, 2026.

²² This percentage is arrived at with this equation: (1,000,000 contract limit * 100 share per option / 1,337,920,000 shares outstanding).

²³ This number was arrived at with this calculation: (1,000,000 limit * 100 shares per option * \$38.29 IBIT NAV) / (20,528,687 BTC outstanding * \$66,938 BTC price).

²⁴ CME Bitcoin Futures are described in Chapter 350 of CME's Rulebook.

a position limit of 2,000 futures.²⁵ On February 11, 2026, CME bitcoin futures settled at \$677,150,406.33.²⁶ On February 11, 2026, IBIT settled at \$38.29, which would equate to greater than 17,684,774 shares of IBIT if the CME notional position limit was utilized. Since substantial portions of any distributed options portfolio is likely to be out of the money on expiration, an options position limit equivalent to the CME position limit for bitcoin futures (considering that all options deltas are ≤ 1.00) should be a bit higher than the CME implied 176,848 limit. Of note, unlike options contracts, CME position limits are calculated on a net futures-equivalent basis by contract and include contracts that aggregate into one or more base contracts according to an aggregation ratio(s).²⁷ Therefore, if a portfolio includes positions in options on futures, CME would aggregate those positions into the underlying futures contracts in accordance with a table published by CME on a delta equivalent value for the relevant spot month, subsequent spot month, single month and all month position limits.²⁸ If a position exceeds position limits because of an option assignment, CME permits market participants to liquidate the excess position within one business day without being considered in violation of its rules. Additionally, if at the close of trading, a position that includes options exceeds position limits for futures contracts, when evaluated using the delta factors as of that day's close of trading, but does not exceed the limits when evaluated using the previous day's delta factors, then the position shall not constitute a position limit violation. Based on the aforementioned analysis, the Exchange believes that the proposed 1,000,000 contracts position and exercise limit is appropriate.

Fourth, ISE analyzed a position limit and exercise limit of 1,000,000 for IBIT options against other options on ETFs with an underlying commodity, namely SPDR Gold Shares ("GLD"), iShares Silver Trust ("SLV"), and ProShares Bitcoin ETF ("BITO").²⁹ GLD has a float

²⁵ See the Position Accountability and Reportable Level Table in the Interpretations & Special Notices Section of Chapter 5 of CME's Rulebook.

²⁶ 2,000 futures at a 5 bitcoin multiplier (per the contract specifications) equates to \$677,150,000 (2,000 contracts * 5 BTC per contract * \$67,715 price of February BTC future) of notional value.

²⁷ See <https://www.cmegroup.com/education/courses/market-regulation/position-limits/position-limits-aggregation-of-contracts-and-table.htm>.

²⁸ *Id.*

²⁹ GLD, SLV and BITO each hold one asset in trust similar to IBIT.

of 377 million shares³⁰ and a position limit of 250,000 contract. SLV has a float of 552 million shares,³¹ and a position limit of 250,000 contracts. Finally, BITO has 200.89 million shares outstanding³² and a position limit of 250,000 contracts. As previously noted, position limits and exercise limits are designed to limit the number of options contracts traded on the exchange in an underlying security that an investor, acting alone or in concert with others directly or indirectly, may control. A position limit exercise in GLD would represent 6.63% of the float of GLD; a position limit exercise in SLV would represent 4.53% of the float of SLV, and a position limit exercise of BITO would represent 12.44% of the float of BITO. In comparison, a 1,000,000-contract position limit in IBIT options would represent 7.474%³³ of the float of IBIT. Consequently, the 1,000,000 proposed IBIT options position and exercise limit is more conservative than the standard applied to GLD, SLV and BITO, and appropriate.

Fifth, ISE notes that IBIT began trading in penny increments as of January 2, 2025 pursuant to the Penny Interval Program.³⁴ The Commission noted that evidence and analysis provided in connection with the Penny Pilot demonstrated that the Pilot benefited investors and other market participants in the form of narrower spreads.³⁵ The most actively traded options classes are included in the Penny Program based on certain objective criteria (trading volume thresholds and initial price tests). As noted in the Penny Approval Order, the Penny Program reflects a certain level of trading interest (either because the class is newly listed or a class experienced a significant growth in investor interest) to quote in finer trading increments, which in turn should benefit market participants by reducing the cost of trading such options.³⁶ IBIT options is among a select group of products that

have achieved a certain level of liquidity that have garnered it the ability to trade in finer increments. Failing to increase position and exercise limits for IBIT options, now that it is trading in finer increments, may artificially inhibit liquidity and create price inefficiency. The Exchange notes that options on iShares MSCI Emerging Markets, iShares China Large-Cap ETF and iShares MSCI EAFE ETF also trade in penny increments based on their liquidity.

The Exchange believes that IBIT options have more than sufficient liquidity to garner an increased position and exercise limit of 1,000,000 contracts. The Exchange believes that any concerns related to manipulation and protection of investors are mollified by the significant liquidity provision in IBIT. The Exchange states that, as a general principle, increases in active trading volume and deep liquidity of the underlying securities do not lead to manipulation and/or disruption.

The Exchange believes that increasing the position (and exercise) limits for IBIT options would lead to a more liquid and competitive market environment for IBIT options, which will benefit customers that trade these options. Further, the reporting requirement for such options would remain unchanged. Thus, the Exchange will still require that each Participant that maintains positions in impacted options on the same side of the market, for its own account or for the account of a customer, report certain information to the Exchange. This information includes, but would not be limited to, the options' positions, whether such positions are hedged and, if so, a description of the hedge(s). Market Makers would continue to be exempt from this reporting requirement, however, the Exchange may access Market Maker position information.³⁷ Moreover, the Exchange's requirement that Participants file reports with the Exchange for any customer who held aggregate large long or short positions on the same side of the market of 200 or more option contracts of any single class for the previous day will remain at this level and will continue to serve as an important part of the Exchange's surveillance efforts.³⁸

The Exchange also has no reason to believe that the growth in trading volume in IBIT will not continue. Rather, the Exchange expects continued options volume growth in IBIT as opportunities for investors to participate in the options markets increase and evolve. The Exchange believes that the current position and exercise limits in IBIT options are restrictive and will hamper the listed options markets from being able to compete fairly and effectively with the over-the-counter ("OTC") markets. OTC transactions occur through bilateral agreements, the terms of which are not publicly disclosed to the marketplace. As such, OTC transactions do not contribute to the price discovery process on a public exchange or other lit markets. The Exchange believes that without the proposed changes to position and exercise limits for IBIT options, market participants will find the 250,000-contract position limit an impediment to their business and investment objectives as well as an impediment to efficient pricing. As such, market participants may find the less transparent OTC markets a more attractive alternative to achieve their investment and hedging objectives, leading to a retreat from the listed options markets, where trades are subject to reporting requirements and daily surveillance.

The Exchange believes that the existing surveillance procedures and reporting requirements at the Exchange are capable of properly identifying disruptive and/or manipulative trading activity. The Exchange also represents that it has adequate surveillances in place to detect potential manipulation, as well as reviews in place to identify continued compliance with the Exchange's listing standards. These procedures monitor market activity via automated surveillance techniques to identify unusual activity in both options and the underlyings, as applicable. The Exchange also notes that large stock holdings must be disclosed to the Commission by way of Schedules 13D or 13G,³⁹ which are used to report ownership of stock which exceeds 5% of a company's total stock issue and may assist in providing information in monitoring for any potential manipulative schemes. Further, the Exchange believes that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns regarding potentially large, unhedged positions in equity options. Current margin and risk-based haircut methodologies serve to

³⁰ See <https://www.ssga.com/us/en/intermediary/etfs/spdr-gold-shares-gld>.

³¹ See <https://www.ishares.com/us/products/239855/ishares-silver-trust-fund>.

³² See <https://www.marketwatch.com/investing/fund/bit0>.

³³ This percentage is arrived at with this equation: (1,000,000 contract limit * 100 share per option / 1,337,920,000 shares outstanding). This information was captured on February 11, 2026.

³⁴ See Rule 7260.

³⁵ See Securities Exchange Act Release No. 88532 (April 1, 2020), 85 FR 19545, 19548 (April 7, 2020) (File No. 4-443) (Joint Industry Plan; Order Approving Amendment No. 5 to the Plan for the Purpose of Developing and Implementing Procedures Designed To Facilitate the Listing and Trading of Standardized Options To Adopt a Penny Interval Program) ("Penny Approval Order").

³⁶ *Id.* at 19548.

³⁷ OCC through the Large Option Position Reporting ("LOPR") system acts as a centralized service provider for Participant compliance with position reporting requirements by collecting data from each Participant, consolidating the information, and ultimately providing detailed listings of each Participant's report to the Exchange, as well as Financial Industry Regulatory Authority, Inc. ("FINRA"), acting as its agent pursuant to a regulatory services agreement ("RSA").

³⁸ See Rule 3150.

³⁹ 17 CFR 240.13d-1.

limit the size of positions maintained by any one account by increasing the margin and/or capital that a Participant must maintain for a large position held by itself or by its customer.⁴⁰ In addition, Rule 15c3–1⁴¹ imposes a capital charge on Participants to the extent of any margin deficiency resulting from the higher margin requirement.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),⁴² in general, and Section 6(b)(5) of the Act,⁴³ 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, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that increasing the position limit and exercise limit for options on IBIT to 1,000,000 contracts is consistent with the Act. This proposal will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, because it will provide market participants with the ability to more effectively execute their trading and hedging activities. Also, based on current trading volume, the resulting increase in the position (and exercise) limits for IBIT options may allow Market Makers to maintain their liquidity in these options in amounts commensurate with the continued high consumer demand in IBIT options. The increased position and exercise limits may also encourage other liquidity providers to continue to trade on the Exchange rather than shift their volume to OTC markets, which will enhance the process of price discovery conducted on the Exchange through increased order flow. Further, this proposal would allow institutional investors to utilize IBIT options for prudent risk management purposes.

In addition, the Exchange believes that the current liquidity in IBIT will continue to mitigate concerns regarding potential manipulation of IBIT options and/or disruption of IBIT upon

amending the table of position limits in IM–3120–2. ISE compared IBIT’s data relative to the market capitalization of the entire Bitcoin market in terms of exercise risk and availability of deliverables, and concluded that if a position limit of 1,000,000 contracts were considered, the exercisable risk would represent 7.474%⁴⁴ of the shares outstanding of IBIT. Since IBIT has a creation and redemption process managed through the issuer (whereby Bitcoin is used to create IBIT shares), the position limit can be compared to the total market capitalization of the entire Bitcoin market and in that case, the exercisable risk for options on IBIT would represent less than 0.278% of all Bitcoin outstanding.⁴⁵ This analysis demonstrated that a 1,000,000 contracts position and exercise limits would be appropriate. Comparing a position limit of 1,000,000 for IBIT options against other options on ETFs with an underlying commodity, namely GLD, SLV and BITO, a position limit exercise in GLD represents 6.63% of the float of GLD, a position limit exercise in SLV represents 4.53% of the float of SLV, and a position limit exercise of BITO represents 12.44% of the float of BITO. In comparison, a 1,000,000-contract position limit in IBIT options would represent 7.474%⁴⁶ of the float of IBIT. Consequently, a 1,000,000 IBIT options position limit is generally aligned with the standards applied to GLD, SLV and BITO, and appropriate. ISE notes that IBIT began trading in penny increments on January 2, 2025 pursuant to the Penny Interval Program.⁴⁷ The Commission noted that evidence and analysis provided in connection with the Penny Pilot demonstrated that the Pilot benefitted investors and other market participants in the form of narrower spreads.⁴⁸ The most actively traded options classes are included in the Penny Program based on certain objective criteria (trading volume

thresholds and initial price tests).⁴⁹ As noted in the Penny Approval Order, the Penny Program reflects a certain level of trading interest (either because the class is newly listed or a class that experience a significant growth in investor interest) to quote in finer trading increments, which in turn should benefit market participants by reducing the cost of trading such options.⁵⁰ IBIT options are among a select group of products that have achieved a certain level of liquidity that have garnered it the ability to trade in finer increments pursuant to the Penny Interval Program. Failing to permit IBIT options to potentially increase position and exercise limits given the trading in finer increments, may artificially inhibit liquidity and create price inefficiency for IBIT options.

Finally, as discussed above, the Exchange’s surveillance and reporting safeguards continue to be designed to deter and detect possible manipulative behavior that might arise from increasing or eliminating position and exercise limits in certain classes. The Exchange believes that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns regarding potentially large, unhedged positions in the options on the underlying securities, further promoting just and equitable principles of trading, the maintenance of a fair and orderly market, and the protection of investors.

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. In this regard and as indicated above, the Exchange notes that the rule change is substantially similar in all material respects to a proposal submitted by ISE.⁵¹

The Exchange does not believe that the proposed rule change will impose any burden on inter-market competition as the proposal is not competitive in nature. The Exchange expects that all option exchanges will adopt substantively similar proposals, such that the Exchange’s proposal would benefit competition. For these reasons, the Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or

⁴⁴ This percentage is arrived at with this equation: (1,000,000 contract limit * 100 share per option / 1,337,920,000 shares outstanding). This information was captured on February 11, 2026.

⁴⁵ This number was arrived at with this calculation: (1,000,000 limit * 100 shares per option * \$38.29 IBIT NAV) / (20,528,687 BTC outstanding * \$66,938 BTC price).

⁴⁶ This percentage is arrived at with this equation: (1,000,000 contract limit * 100 share per option / 1,337,920,000 shares outstanding). This information was captured on February 11, 2026.

⁴⁷ See Rule 7260.

⁴⁸ See Securities Exchange Act Release No. 88532 (April 1, 2020), 85 FR 19545, 19548 (April 7, 2020) (File No. 4–443) (Joint Industry Plan; Order Approving Amendment No. 5 to the Plan for the Purpose of Developing and Implementing Procedures Designed To Facilitate the Listing and Trading of Standardized Options To Adopt a Penny Interval Program) (“Penny Approval Order”).

⁴⁰ See Rule 10120.

⁴¹ 17 CFR 240.15c3–1.

⁴² 15 U.S.C. 78f(b).

⁴³ 15 U.S.C. 78f(b)(5).

⁴⁹ Options on iShares MSCI Emerging Markets, iShares China Large-Cap ETF and iShares MSCI EAFE ETF also trade in penny increments based on their liquidity.

⁵⁰ See *supra*, note 48.

⁵¹ See *supra*, note 3.

appropriate in furtherance of the purposes of the Act. The Exchange's proposal does not burden intra-market competition because all Participants would be subject to the position limits in Rule 3120 and corresponding exercise limits in Rule 3140. The Exchange believes that the proposed rule change will also provide additional opportunities for market participants to continue to efficiently achieve their investment and trading objectives for equity options on the Exchange.

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 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: (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)(iii) of the Act⁵² and subparagraph (f)(6) of Rule 19b-4 thereunder.⁵³

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)⁵⁴ 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 proposal may become operative immediately upon filing. The Commission notes that the proposal will conform the Exchange's IBIT options position and exercise limits with ISE's IBIT options position and exercise limits.⁵⁵ Therefore, the proposal raises no novel legal or regulatory issues. Thus, the Commission believes that waiver of the 30-day operative delay is consistent with the

protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.⁵⁶

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-BOX-2026-13 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-BOX-2026-13. 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-BOX-2026-13 and should be submitted on or before June 12, 2026.

⁵⁶ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵⁷

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-10245 Filed 5-21-26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105517]

Order Granting Additional Directors and Officers of Certain Foreign Private Issuers an Exemption From the Filing Requirements of Section 16(a) of the Exchange Act

May 20, 2026.

Pursuant to the authority granted under Section 16(a)(5) of the Securities Exchange Act of 1934 ("Exchange Act"), and subject to the conditions listed below, the Commission is exempting from the reporting requirements of Section 16(a), and rules related to that provision, the directors and officers of a foreign private issuer, as that term is defined in Exchange Act Rule 3b-4,¹ with a class of equity securities registered pursuant to Section 12 of the Exchange Act ("FPI"), that is (i) incorporated or organized in a "qualifying jurisdiction," as defined below, and (ii) subject to a "qualifying regulation," as defined below. The exemptive relief is available to directors and officers of an FPI that is either (i) incorporated or organized in a "qualifying jurisdiction" and subject to a "qualifying regulation" of the same jurisdiction or (ii) incorporated or organized in a qualifying jurisdiction but subject to a qualifying regulation of a different jurisdiction.²

The jurisdictions and regulations listed below are added to the list of "Qualifying Jurisdictions" and "Qualifying Regulations" previously set forth in the Order Granting Directors and Officers of Certain Foreign Private Issuers an Exemption from the Filing Requirements of Section 16(a) of the Exchange Act issued March 5, 2026 (the "March 5, 2026 Order").³

⁵⁷ 17 CFR 200.30-3(a)(12), (59).

¹ 17 CFR 240.3b-4.

² For example, officers and directors of an FPI that is incorporated in a jurisdiction covered by the March 5, 2026 Order (as defined below) with securities registered in a qualifying jurisdiction covered by this order and subject to a qualifying regulation that otherwise satisfies the conditions of this order would be exempt from the Section 16(a) reporting obligations.

³ Order Granting Directors and Officers of Certain Foreign Private Issuers an Exemption from the Filing Requirements of Section 16(a) of the

Continued

⁵² 15 U.S.C. 78s(b)(3)(A)(iii).

⁵³ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) 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.

⁵⁴ 17 CFR 240.19b-4(f)(6)(iii).

⁵⁵ See *supra* note 3 and accompanying text.

Qualifying Jurisdictions:

- Australia;
- India; or
- Singapore.

Qualifying Regulations:

Section 205G of the Corporations Act 2001 of Australia and Australian Securities Exchange Listing Rule 3.19, which provide, in general, requirements that directors of covered issuers promptly report their initial holdings and any changes in beneficial ownership of the issuer's securities, including a description of the security, the nature of the transaction, and the price and volume of the transaction, and that such reports be made available to the general public;

- Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015, which provide, in general, requirements that directors and officers of covered issuers promptly report their initial holdings and any changes in beneficial ownership of the issuer's securities, including a description of the security, the nature of the transaction, and the price and volume of the transaction, and that such reports be made available to the general public; or

- Part 7 of Singapore's Securities and Futures Act 2001, which provides, in general, requirements that directors and chief executive officers of covered issuers promptly report their initial holdings and any changes in beneficial ownership of the issuer's securities, including a description of the security, the nature of the transaction, and the price and volume of the transaction, and that such reports be made available to the general public.

The Commission has reviewed each of the qualifying regulations set forth above and assessed how each qualifying regulation compares to Section 16(a) of the Exchange Act with regard to each of the criteria listed in the March 5, 2026 Order. The Commission has determined that each of the qualifying regulations covers substantially similar securities and transactions as those covered by Section 16(a) of the Exchange Act, and requires timely public disclosures of the covered persons' changes in beneficial ownership. The exemption granted by this order is subject to the director or officer of an FPI satisfying the conditions set forth in the March 5, 2026 Order.⁴

Exchange Act, Release No. 34-104931 (March 5, 2026), available at <https://www.sec.gov/files/rules/exorders/2026/34-104931.pdf>.

⁴ The conditions set forth in the March 5, 2026 Order are (i) any director or officer, as defined in Section 3(a)(7) of the Exchange Act and Rule 16a-1(f) of the Exchange Act, respectively, seeking to rely on this exemption is required to report their

Accordingly, it is ordered, pursuant to Section 16(a)(5) of the Exchange Act, that directors and officers of an FPI that is incorporated or organized in a qualifying jurisdiction, including each qualifying jurisdiction set forth in the March 5, 2026 Order and each Qualifying Jurisdiction named above, and subject to a qualifying regulation, including each qualifying regulation set forth in the March 5, 2026 Order and each Qualifying Regulation named above, are exempt from the reporting requirements of Section 16(a) of the Exchange Act, provided that each condition set forth in the March 5, 2026 Order is satisfied.

By the Commission.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2026-10283 Filed 5-21-26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105522; File No. SR-DTC-2026-007]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the DTC Operational Arrangements (Necessary for Securities to Become and Remain Eligible for DTC Services)

May 19, 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 May 11, 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 Act³ and Rule 19b-4(f)(6)

transactions in the issuer's securities as set forth under the qualifying regulation to which they are subject, which is intended to ensure that any director or officer that does not fall within the defined category of reporting persons under the applicable qualifying regulation (e.g., an officer of an FPI whose qualifying regulation is Section 205G of the Corporations Act 2001 of Australia and Australian Securities Exchange Listing Rule 3.19 or an officer, other than a chief executive officer, of an FPI whose qualifying regulation is Part 7 of Singapore's Securities and Futures Act 2001) will still be required to file Section 16(a) reports; and (ii) any report filed pursuant to a qualifying regulation is made available in English to the general public within no more than two business days of its public posting.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

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 consists of amendments to the DTC Operational Arrangements (Necessary for Securities to Become and Remain Eligible for DTC Services) (the "OA")⁵ to consolidate and update the documentation for Agents processing Participant instructions for a corporate action offer, election, solicitation or tabulation (each, an "Offer") through the DTC Automated Tender Offer Program (ATOP)⁶ or DTC Automated Subscription Offer Program (ASOP),⁷ as further described below.

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 the proposed rule change is to amend the OA to consolidate and update the documentation for Agents processing

⁴ 17 CFR 240.19b-4(f)(6).

⁵ Available at www.dtcc.com/~media/Files/Downloads/legal/issue-eligibility/operational-arrangements.pdf. Each term not otherwise defined herein has its respective meaning as set forth in the OA, the Rules, By-Laws and Organization Certificate of DTC (the "DTC Rules") and the Reorganizations Service Guide (the "Reorganizations Guide"), available at www.dtcc.com/legal/rules-and-procedures.

⁶ For the history of ATOP, see Securities Exchange Act Release Nos. 26538 (Feb. 13, 1989), 54 FR 7316 (Feb. 17, 1989) (SR-DTC-88-19); 27139 (Aug. 14, 1989), 54 FR 34841 (Aug. 22, 1989) (SR-DTC-88-19); 29168 (May 7, 1991), 56 FR 22742 (May 16, 1991) (SR-DTC-91-04); 30678 (May 7, 1992), 57 FR 20541 (May 13, 1992) (SR-DTC-91-11); 32645 (July 16, 1993), 58 FR 39585 (July 23, 1993) (SR-DTC-92-12); 33797 (Mar. 22, 1994), 58 FR 66043 (Mar. 29, 1994) (SR-DTC-93-11); and 35108 (Dec. 16, 1994), 59 FR 14696 (Dec. 29, 1994) (SR-DTC-94-15).

⁷ For more information about ASOP, see Securities Exchange Act Release No. 35108 (Dec. 16, 1994), 59 FR 67356 (Dec. 29, 1994) (SR-DTC-94-15).

Participant instructions for a corporate action offer, election, solicitation or tabulation an Offer through ATOP or ASOP, as further described below.

(i) Background

ATOP is an instruction processor originally developed by DTC in 1988 to automate the processing of tender and exchange offers through DTC. Over the years, ATOP has evolved and now can be used with any corporate action event that DTC deems appropriate (an “ATOP-eligible Offer”), including, but not limited to, tenders and exchanges, cash conversions, consent solicitations, and event processing of mergers with elections.⁸ When an Offer is ATOP-eligible, a Participant can (i) submit instructions and elections for the Offer⁹ without having to provide a letter of transmittal¹⁰ or a notice of guaranteed delivery¹¹ (or other documentation that would otherwise be required by the terms of the Offer) to the Agent, which instead receives an electronic message transmitted by DTC (an “Agent’s Message”)¹² through ATOP with respect to each Participant instruction and election; and (ii) tender the subject securities directly from the Participant’s account into the Agent’s account

maintained by DTC for purposes of the Offer.

ASOP is an instruction processor developed by DTC in 1994 to automate the processing of rights subscription offers through DTC. ASOP is similar to ATOP, but ASOP also provides a mechanism for debiting payments from Participant accounts in connection with the Offer and provides functionality relating to rights step-up and oversubscription privileges. When an Offer is ASOP-eligible (an “ASOP-eligible Offer”), a Participant can (i) submit subscription instructions¹³ without providing a subscription form, letter of transmittal, or a notice of guaranteed delivery (that would otherwise be required by the terms of the Offer) to the Agent, which instead receives an Agent’s Message through the ASOP system with respect to each Participant instruction; (ii) tender the subject rights directly from the Participant’s account into the Agent’s account maintained by DTC for purposes of the ASOP-eligible Offer; and (iii) authorize DTC to debit the payment from Participant’s account and credit the payment to the Agent’s account.

In order for an Agent to be able to process Offers through ATOP or ASOP, the Agent must become an ATOP Agent or ASOP Agent, as the case may be. To become an ATOP Agent or ASOP Agent, the Agent is required to execute the master agreement for ATOP Agents (the “Original ATOP Agent Master Agreement”)¹⁴ or the master agreement for ASOP Agents¹⁵ (the “Original ASOP Agent Master Agreement,” together with the Original ATOP Agent Master Agreement, the “Original Master Agreements”). The Original ATOP Agent Master Agreement and the Original ASOP Master Agreement reference the “DTC ATOP Agents Procedures” and the “DTC ASOP Agents Procedures” as the procedures for ATOP-eligible Offers and the ASOP eligible Offers, respectively.

The Original ASOP Master Agreement is virtually identical to the Original ATOP Master Agreement, except that references to “ATOP” are replaced by “ASOP” and a reference to “letter of

transmittal” is replaced by the term “subscription form.” The Original Master Agreements were last updated in 1994. The ATOP Agents Procedures and ASOP Agents Procedures (collectively, the “Procedures Documents”) that are referenced in the Original Master Agreements¹⁶ are documents that DTC provides to ATOP Agents and ASOP Agents upon onboarding. The ATOP Agents Procedures document was last updated in 2008, and the ASOP Agents Procedures document was last updated in 1998.

In addition, for each Offer the Agent makes ATOP-eligible or ASOP-eligible, the Agent is required to electronically approve a letter of agreement (“LOA”), which is used to confirm the agreement between the Agent and DTC to handle the particular offer in ATOP or ASOP, as the case might be, and to confirm the additional procedures, terms and conditions applicable to the specific Offer.¹⁷

(ii) Proposed Rule Change

Although the current governing procedures, terms and conditions for ATOP-eligible Offers and ASOP-eligible Offers are reflected across the OA, the Reorganizations Guide, as well as in the specific LOA for each Offer as applicable,¹⁸ the Original Master Agreements and the Procedures Documents still exist but do not reflect the current state and continuing evolution of ATOP/ASOP technology and processing. In addition, the ATOP Agents Procedures and ASOP Agents Procedures are separate standalone documents outside of the OA, and therefore not as easily accessible for Agents. Finally, there is substantial overlap between the Original ATOP Agent Master Agreement and the Original ASOP Agent Master Agreement, between the ATOP Agents Procedures document and ASOP Agents Procedures document, and among the population of ATOP Agents and ASOP Agents. DTC believes that having separate designations, agreements, and procedure documents for Agents has become inefficient and unnecessary.

Therefore, in order to provide enhanced clarity, transparency and

⁸ See Securities Exchange Act Release Nos. 56538 (Sept. 26, 2007), 72 FR 56409 (Oct. 3, 2007) (SR-DTC-2007-09); 62119 (May 18, 2010), 75 FR 29374 (May 25, 2010) (SR-DTC-2010-08); 69597 (May 16, 2013), 78 FR 30382 (May 22, 2013) (SR-DTC-2013-06); and 81096 (July 7, 2017), 82 FR 32406 (July 13, 2017) (SR-DTC-2017-011).

⁹ Participants can submit instructions for ATOP-eligible Offers via the DTC Participant Terminal System (“PTS”) PTOF function, the DTC Participant Browser Service (“PBS”) Voluntary Tenders and Exchanges function, and Automated Instruction Messaging (ISO 20022 messages and Application Program Interfaces). See Securities Exchange Act Release No. 92339 (July 7, 2021), 86 FR 36810 (July 13, 2021) (SR-DTC-2021-010). See generally Reorganizations Guide pp. 32–42, *supra* note 6.

¹⁰ The letter of transmittal is the legal document signed by the securities holder in which it agrees to tender its securities pursuant to the terms of the offer. It contains information about the certificates and quantity being tendered as well as where and to whom the payment should be made.

¹¹ A notice of guaranteed delivery, sometimes called a “protect,” is a document submitted to the tender agent prior to the expiration of the tender offer whereby the holder submitting the notice guarantees delivery of securities (a “cover” of the protect) after the expiration of the Offer but before the expiration of the protection period.

¹² When ATOP was established in 1989, the term “Agent’s Message” referred to the hardcopy message for each Participant’s ATOP instruction that was generated on the Agent’s DTC PTS printer in the office of the Agent. In 1991, DTC began transmitting Agent’s Messages electronically. See Securities Exchange Act Release No. 29168 (May 7, 1991), 56 FR 22742 (May 16, 1991) (SR-DTC-91-04). The term “Agent’s Message” appears in the Original Master Agreements (as defined below), the Procedures Documents (as defined below), and throughout the Reorganizations Guide.

¹³ Participants can submit instructions for ASOP-eligible Offers via the PTS PSOP function, the PBS Rights Subscriptions function, and Automated Instruction Messaging. See Securities Exchange Act Release No. 95197 (July 5, 2022), 87 FR 41153 (July 11, 2022) (SR-DTC-2022-007). See generally Reorganizations Guide pp. 51–68, *supra* note 6.

¹⁴ See Securities Exchange Release No. 33797 (Mar. 22, 1994), 59 FR 32645 (Mar. 29, 1994) (SR-DTC-93-11).

¹⁵ See Securities Exchange Act Release No. 35108 (Dec. 16, 1994), 59 FR 67356 (Dec. 29, 1994) (SR-DTC-94-15).

¹⁶ The Original ATOP Agent Master Agreement also references the DTC Voluntary Offerings Agents Procedures, which is obsolete.

¹⁷ For example, an LOA could reflect that the particular ATOP-eligible Offer provides for withdrawal rights or that the particular ASOP-eligible Offer allows the bulking of odd lot instructions.

¹⁸ In addition, an “ATOP Agent User Guide” and an “ASOP Agent User Guide,” which contain current descriptions of technical processes and screenshots of the ATOP and ASOP systems, are posted on the DTCC website.

certainty to Agents with respect to their roles, rights, and obligations as Agents processing ATOP-eligible and ASOP-eligible Offers, DTC is proposing to amend the OA to: (i) replace the discrete designations of an ATOP Agent and ASOP Agent with a combined designation of an “ATOP/ASOP Agent,” which would be permitted to process both types of Offers; (ii) replace the discrete and separate agreements for ATOP Agents and ASOP Agents with a consolidated and updated single form of master agreement applicable to ATOP/ASOP Agents (the “New Master Agreement”), which would be attached as an Exhibit to the OA; and (iii) insert consolidated procedures for ATOP/ASOP Agents that appropriately reflect the current processing of ATOP-eligible and ASOP-eligible Offers.

A. New Automated Tender Offer (ATOP)/Automated Subscription Offer Program (ASOP) Agent Master Agreement—New Exhibit C to the OA

Pursuant to the proposed rule change, the New Master Agreement would (i) reflect consolidated terms from the Original Master Agreements, which would be updated to: (x) align with the current state of the technology and processing of Offers through ATOP and ASOP, and (y) address the increasing complexity and scope of Offers processed through ATOP and ASOP; (ii) clarify and highlight important terms, particularly for new Agents or Agents using ATOP and ASOP for Offers other than standard tender, exchange, or subscription rights Offers; and (iii) make conforming and technical changes, as described in more detail below.

(1) Agent Information

To enhance DTC recordkeeping and Agent identification, the proposed New Master Agreement would require the following information from the Agent:

- a. “Agent Name:
- b. Agent Address:
- c. Agent Phone:
- d. Reorg Agent (RA) ¹⁹ or FAST #:
- e. Date of Executed Operational Arrangements Agent Letter: ²⁰
- f. LEI #:
- g. If LEI is not available, then at least one of the following legal entity identifiers:
 - DUNS ID:
 - S&P CIQ ID:
 - EIN:
- h. Agent Primary Contact Name:

¹⁹ DTC assigns an RA number to ATOP Agents and ASOP Agents that are not already FAST Agents.

²⁰ All Agents are required to have an executed Operational Arrangements Agent Letter on file at DTC. See OA, p. 6, *supra* note 6.

- i. Agent Primary Contact Phone:
- j. Agent Primary Contact Email:”

(2) Preamble of the New Master Agreement

The proposed preamble of the New Master Agreement would reflect the new designation of an Agent as an ATOP/ASOP Agent and would clarify that the DTC Rules and Procedures, including, but not limited to the OA, and the LOA for a particular Offer, governs each ATOP-eligible Offer and ASOP-eligible Offer.²¹ The proposed preamble of the New Master Agreement would also indicate that the New Master Agreement replaces and supersedes all Original Master Agreements.

Accordingly, pursuant to the proposed rule change, the preamble of the New Master Agreement would state as follows:

“The Depository Trust Company (“DTC”) and the agent named above (the “Agent”) hereby agree that the provisions of this Automated Tender Offer Program (“ATOP”)/Automated Subscription Offer Program (“ASOP”) Agent Master Agreement (“Master Agreement”), the DTC Rules and Procedures (including, without limitation, the DTC Operational Arrangements (“OA”)), as may be amended from time to time, and the Letter of Agreement (“LOA”) for each particular offer (“Offer”) will govern the rights and obligations of DTC, its Participants and the Agent in respect of any Offer which DTC and the Agent agree to make eligible for either ATOP or ASOP. This Master Agreement replaces and supersedes any and all Automated Tender Offer Program DTC/Agent Master Agreements and Automated Subscription Offer Program DTC/Agent Master Agreements entered into between DTC and the Agent before execution of this Master Agreement.”

(3) Paragraph 1 of the New Master Agreement

Paragraph 1 of the New Master Agreement would adopt and update the

²¹ The preamble of the Original Master Agreements states: “The Depository Trust Company (“DTC”) and the agent named above (the “Agent”) hereby agree that the provisions of the [DTC Automated Tender Offer Program (“ATOP”) Agents Procedures and the DTC Voluntary Offerings Agents Procedures (the ATOP Agents Procedures and the Voluntary Offerings Agent Procedures being hereinafter referred to together as the “Agents Procedures”)] [DTC Automated Subscription Offer Program (“ASOP”) Agent Operating Procedures] will govern the rights and obligations of DTC, its Participants and the Agent in respect of any [tender or exchange][rights] offer (an “Offer”) which DTC and the Agent agree to make eligible for [ATOP][ASOP], to the extent that the provisions of the Agents Procedures are not reflected in the terms of the Offer. The Agreement of DTC and the Agent to make an Offer eligible for [ATOP][ASOP] shall be indicated in the manner prescribed in the Agents Procedures, a copy of which is in the possession of the Agent. The Agents Procedures may be amended by DTC from time to time on 10 days’ prior written notice to the Agent.”

terms of clause (i) of the second paragraph of the Original Master Agreements²² as follows:

- a. To align with technological evolution of the ATOP and ASOP systems, the reference to “the delivery by DTC of an Agent’s Message” would be replaced with “the transmission by DTC of an Agent’s Message;”
- b. To clearly reflect the use of ATOP for Offers other than standard tenders and exchanges, which could require documentation other than, or in addition to, a letter of transmittal or notice of guaranteed delivery, DTC would expand the reference to “letter of transmittal, notice of guaranteed delivery, or other form of instruction, election, or acceptance;” and, similarly,
- c. To reflect the use of ASOP for Offers other than standard subscription rights Offers, which could require documentation other than, or in addition to, a subscription form or a notice of guaranteed delivery, DTC would expand references to “a subscription form, a notice of guaranteed delivery, other form of instruction, election, or acceptance.”

Accordingly, pursuant to the proposed rule change, Paragraph 1 of the New Master Agreement would state as follows:

“1. The transmission by DTC of an Agent’s Message will satisfy the terms of:

- (a) each ATOP-eligible Offer as to the execution and delivery of a letter of transmittal, a notice of guaranteed delivery, or other form of instruction, election, or acceptance, as the case may be, in the form of the letter of transmittal, notice of guaranteed delivery, or other form of instruction, election, or acceptance required by the Offer by the Participant identified in such Agent’s Message;
- (b) each ASOP-eligible Offer as to the execution and delivery of a subscription form, a notice of guaranteed delivery, other form of instruction, election, or acceptance, as the case may be, in the form of the subscription form, notice of guaranteed delivery, or other form of instruction, election, or acceptance required by the Offer

²² Clause (i) of the second paragraph of the Original Master Agreements states: “The Agent agrees that (i) the delivery by DTC of an Agent’s Message in accordance with the provisions of the Agents Procedures will satisfy the terms of each Offer made eligible for [ATOP][ASOP] as to the execution and delivery of a [letter of transmittal][subscription form] or a notice of guaranteed delivery, as the case may be, in the form of the letter of transmittal or notice of guaranteed delivery required by the Offer by the Participant identified in such Agent’s Message and (ii) the agreement set forth in the preceding clause (i) will be enforceable against the offeror in each Offer made eligible for [ATOP][ASOP] by the Participant identified in such Agent’s Message. The Agent represents and warrants that the Agent will be authorized by the offeror in each Offer made eligible for [ATOP][ASOP] to make the agreements in the preceding sentence.”

by the Participant identified in such Agent's Message."

(4) Paragraph 2 of the New Master Agreement

To highlight for Agents what constitutes a timely Participant instruction through ATOP or ASOP for purposes of an Offer, Paragraph 2 of the New Master Agreement would substantively mirror the existing language in the OA as to what constitutes a timely submission of an instruction through DTC instruction processors (which include, but are not limited to, ATOP and ASOP).²³

Specifically, Paragraph 2 of the proposed New Master Agreement would state:

"2. Notwithstanding anything to the contrary, for purposes of making a determination of the timeliness of an instruction, election, or acceptance and, if applicable, the tender of securities, the date and time of a Participant's submission of any instruction, election, or acceptance to DTC through ATOP or ASOP (as reflected in the Transaction ID or Subscription ID of the transaction), and not the date and time of the transmission of the Agent's Message by DTC to the Agent, shall govern. By way of example, but without limitation, for purposes of determining the timeliness of a Participant's instruction and/or tender in connection with an event, the Participant's instruction is deemed to have been timely received by, and, if applicable, the securities timely tendered to, the Agent when the date and time of the submission of a Participant's instruction to DTC (as reflected in the Transaction ID or Subscription ID of the completed transaction) is prior to the applicable cutoff/expiration date and time, even if the transaction does not complete and/or an Agent's Message is not transmitted until after the applicable cutoff/expiration date and time for the event."

(5) Paragraphs 3 and 4 of the New Master Agreement

Clause (ii) and the last sentence of the second paragraph of the Original Master Agreements,²⁴ provide (x) for the enforceability of the agreements in clause (i) of the second paragraph of the Original Master Agreements against the offeror in each Offer by the Participant identified in the Agent's Message, and (y) that the Agent represents and warrants that it will be authorized by the offeror in each Offer to make the

foregoing agreements. Paragraphs 3 and 4 of the New Master Agreement would expand the scope of those provisions to include the agreement in Paragraph 2 of the New Master Agreement as to the timeliness of a Participant instruction.

Specifically, paragraphs 3 and 4 of the proposed New Master Agreement would state as follows:

"3. The agreements set forth in the preceding paragraphs 1 and 2 are enforceable against the offeror in each ATOP-eligible Offer or ASOP-eligible Offer by the Participant identified in such Agent's Message."

4. The Agent represents and warrants that prior to making an Offer eligible for ATOP or ASOP, the Agent will be authorized by the offeror in each Offer to make the agreements in the preceding paragraphs 1–3."

(6) Paragraphs 5 and 6 of the New Master Agreement

Pursuant to the proposed rule change, Paragraphs 5 and 6 of the New Master Agreement would highlight the Agent's obligations to review the Agent's Messages upon receipt and to directly notify the Participant if the Agent believes that the Participant's instruction was deficient. Specifically, Paragraphs 5 and 6 of the New Master Agreement would provide as follows:

"5. The Agent is required to inspect all Agent's Messages promptly upon receipt and to immediately escalate any questions to the appropriate DTC contacts identified in the OA and in the LOA for the specific Offer."

6. If the Agent believes that the acceptance of an Offer (including, without limitation, acceptance by notice of guaranteed delivery and cover of protect instructions), instruction, election and/or the tender of securities reflected in an Agent's Message is deficient for some reason, it is the sole responsibility of the Agent to promptly notify the affected Participant directly to resolve the issue and/or request that the Participant enter a withdrawal of its acceptance, instruction, or election, as the case might be. The Agent must also promptly notify DTC about the deficiency by emailing the DTC contacts listed in the OA and in the LOA for the specific Offer."

(7) Paragraph 7 of the New Master Agreement

Pursuant to the proposed rule change, Paragraph 7 of the New Master Agreement would contain termination provisions with respect to the New Master Agreement and with respect to a specific Offer that DTC and the Agent agreed to make eligible for ATOP or ASOP. The terms of Paragraph 7 of the New Master Agreement would be consistent with those in the third paragraph of the Original Master Agreements,²⁵ except as follows: (i)

²⁵ The third paragraph of the Original Master Agreements states: "This agreement may be

given technological advances, termination of the New Master Agreement by either party would only require 10 days prior written notice, instead of 30, and (ii) to take into account the increasing complexity of ATOP-eligible Offers and ASOP-eligible Offers, DTC's ability to terminate the ATOP-eligibility or ASOP-eligibility of an Offer would include circumstances when DTC becomes aware of a fact, factor, or circumstance about the Offer and determines that, in light of such fact, factor or circumstance, that DTC does not have the operational capacity to process the Offer and/or that processing the Offer through DTC could adversely affect DTC, Participants or investors.

Specifically, Paragraph 7 of the New Master Agreement would state:

"7. This agreement may be terminated by either party on 10 days' prior written notice to the other party; provided, however, that this Agreement shall continue in effect thereafter in respect of any Offer which was made eligible for ATOP or ASOP prior to such termination. DTC may terminate the agreement of DTC and the Agent to make an Offer ATOP-eligible or ASOP-eligible in the event that the terms of such Offer are amended, or if DTC becomes aware of a fact, factor, or circumstance about the Offer, and DTC determines in its discretion that as a result of the amendment or in light of such fact, factor or circumstance, DTC no longer has the operational capability to provide services in respect of such Offer and/or that processing the Offer through ATOP or ASOP could adversely affect the rights of DTC, Participants, or investors."

(8) Paragraph 8 of the New Master Agreement

Pursuant to the proposed rule change, Paragraph 8 of the New Master Agreement would provide for New York choice of law and venue in order to provide enhanced legal certainty. Specifically, Paragraph 8 of the New Master Agreement would state:

"8. The Master Agreement shall be governed by and construed in accordance with the laws of the state of New York without regard to its conflict of laws provisions. Any disputes, controversies, or claims arising out of this Master Agreement shall be heard in the state or federal courts of New York County, New York, and the Agent waives any objection to the

terminated by either party on 30 days' prior written notice to the other party; provided, however, that this Agreement shall continue in effect thereafter in respect of any Offer which was made eligible for [ATOP][ASOP] prior to such termination. DTC may terminate the agreement of DTC and the Agent to make an Offer eligible for [ATOP][ASOP] in the event that the terms of such Offer are amended and DTC determines in its discretion that as a result of such amendment DTC no longer has the operational capability to provide services in respect of such Offer."

²³ See OA p. 59, *supra* note 6.

²⁴ Clause (ii) and the last sentence of the second paragraph of the Original Master Agreements states: "(ii) the agreement set forth in the preceding clause (i) will be enforceable against the offeror in each Offer made eligible for [ATOP][ASOP] by the Participant identified in such Agent's Message. The Agent represents and warrants that the Agent will be authorized by the offeror in each Offer made eligible for [ATOP][ASOP] to make the agreements in the preceding sentence."

jurisdiction of these courts, whether based on convenience or otherwise. The Agent waives, to the fullest extent permitted by applicable law, any right it may have to trial by jury in any legal proceeding directly or indirectly arising out of or relating to this Master Agreement or the transactions contemplated hereby.”

B. Proposed Amendments to the OA

Pursuant to the proposed rule change, DTC would amend the OA as follows:

(1) Deletions and Renumbering

DTC is proposing to (i) delete Section VI.D.2 (Rights Offers (Use of DTC’s Automated Subscription Offer Program (“ASOP”))), because use of ASOP would be addressed in the text of the proposed rule change; (ii) renumber Section VI.D.3 to VI.D.2; and (iii) delete the headings and first three paragraphs of Section VI.D.4. (Voluntary Tenders/Exchanges/Mergers with Election (Use of DTC’s Automated Tender Offer Program (“ATOP”))), because those terms would be addressed in the text of the proposed rule change.

(2) New Section VI.D.3: DTC’s Automated Tender Offer Program (“ATOP”) and DTC’s Automated Subscription Offer Program (“ASOP”)

In place of the headings and first three paragraphs of Section VI.D.4.a., DTC is proposing to insert a new section VI.D.3 that would be titled “DTC’s Automated Tender Offer Program (“ATOP”) and DTC’s Automated Subscription Offer Program (“ASOP”),” a new subsection VI.D.3.a. titled “Becoming an ATOP/ASOP Agent,” and a new subsection VI.D.3.b. titled “ATOP Eligibility or ASOP Eligibility of an Offer.”

New subsection VI.D.3.a. (Becoming an ATOP/ASOP Agent) would reflect the new consolidated designation of an Agent as an ATOP/ASOP Agent and would restate the requirements for an Agent to become an ATOP/ASOP Agent. Specifically, proposed new subsection VI.D.3.a would state as follows:

“To make a corporate action event, offer, election, solicitation or tabulation (each, an “Offer”) eligible to be processed through ATOP (“ATOP-eligible Offer”) or ASOP (“ASOP-eligible Offer”), an Agent must be an ATOP/ASOP Agent. To become an ATOP/ASOP Agent, the Agent must: (1.) obtain the proper connectivity to access the ATOP and ASOP functions as may be required by DTC; (2.) execute a DTC Operational Arrangements (“OA”) Agent Letter, if the Agent does not already have one on file with DTC; and (3.) execute an Automated Tender Offer Program (ATOP)/Automated Subscription Offer Program (ASOP) Agent Master Agreement (“ATOP/ASOP Master Agent Agreement”). The template ATOP/ASOP Agent Master Agreement is attached to these Operational Arrangements as Exhibit C.”

Proposed new subsection VI.D.3.b. (ATOP Eligibility or ASOP Eligibility of an Offer) would reflect the current procedures on how an Agent can make an Offer ATOP-eligible or ASOP-eligible, including the requirement for the Agent to approve the LOA for the Offer. In addition, the subsection would highlight DTC’s discretion to decline to process any Offer and the responsibility of an Agent to confirm in advance whether a non-standard Offer could be made ATOP-eligible or ASOP-eligible. The subsection would also note the specific DTC cutoff date/time for Participants to submit instructions through ATOP and ASOP as compared to the actual expiration date/time of the Offer and would reflect that DTC does not accept Participant instructions after the applicable DTC cut-off time.²⁶

The proposed new subsection would provide as follows:

“To make an Offer ATOP-eligible or ASOP-eligible, the Agent must send the offering announcement, including the source document, and a completed DTC questionnaire to DTC within the timeframes and in the manner described in the OA (*see*, as applicable, Section VI.A. Standards for Mandatory and Voluntary Reorganization Notices). DTC may require the Agent to provide additional documentation on the Offer. For an ASOP-eligible Offer, the Agent must also provide the “Agent Wire Instructions Letter” for which DTC is to send the subscription payments. After DTC reviews the documentation and information and determines it is complete, DTC will post the terms of the Offer on ATOP or ASOP, as the case may be, viewable by the Agent only. Within one business day of posting, the Agent shall review and approve the details of the Offer and the terms of the Letter of Agreement (“LOA”) for the Offer by entering an acknowledgement in ATOP or ASOP, as applicable. Any delays by the Agent may impact the timeliness of opening the Offer to Participants.

If the Agent disagrees with one or more terms of the LOA or details of the Offer as posted by DTC, the Agent must notify DTC

²⁶ DTC notes that to the extent an Agent accepts an email instruction directly from a Participant on the expiration date between the applicable DTC cutoff time and the actual cutoff time, DTC will continue its current practice of coordinating with the Agent and Participant after the expiration date with respect to any tender of securities and/or adjustment of the ATOP or ASOP record relating to such email instruction. *See e.g.*, Reorganizations Guide p. 33, *supra* note 6. (“If you intended to accept an offer via PTS PTO, PBS Voluntary Tenders and Exchanges, or Automated Instruction Messaging, but missed the cutoff for submitting the acceptance via PTS PTO, PBS Voluntary Tenders and Exchanges or Automated Instruction Messaging, it is your responsibility to contact the agent and determine if they will accept an email submission directly. If accepted, the agent will notify DTC and the Participant should submit an acceptance instruction form to DTC via email. DTC will then input the acceptance on behalf of the Participant. The Participant must confirm the acceptance input by DTC is accurate.”)

of its disagreement by entering the LOA rejection and the reason for the rejection in ATOP or ASOP, as applicable, and by email to the DTC contacts listed in the LOA. DTC, at its option, may work with the Agent to modify the terms and/or details of the Offer and resolve any differences with the Agent. DTC will not make an Offer available to Participants unless the LOA approval has been received from the Agent.

Note: When making an Offer ATOP-eligible or ASOP-eligible, DTC will confirm with the Agent the actual expiration date/time of the Offer and the DTC cutoff date/time for the Offer. For Offers in which the offering documentation (i) allows for holders to participate in the Offer (*i.e.*, submit instructions) on the expiration date until a time later than the DTC cutoff time of 6:00 p.m. ET for equities or 5:00 p.m. ET for debt (*e.g.*, Offers with an actual expiration time of 11:59 p.m. ET on expiration date), or (ii) reflects an Offer expiration time on expiration date that is earlier than the DTC cutoff time for equities or 5:00 p.m. ET on expiration date (*e.g.*, an Offer with an 11:00 a.m. ET expiration time on expiration date), in which case DTC’s cutoff date and time for such Offer will typically be at 6:00 p.m. ET for equities or 5:00 p.m. ET for debt on the business day prior to the actual expiration date. DTC will not accept Participant instructions for ATOP-eligible or ASOP-eligible Offers after the applicable DTC cutoff time.”

New subsection VI.D.3.c. (Processing an ATOP-eligible Offer and an ASOP-eligible Offer) would consolidate existing language in the OA that provides a brief background on the use of ATOP or ASOP for certain tender and exchange Offers and subscription exercise activities as a DTC-eligibility requirement for DTC-eligibility (except if certain conditions preclude such use). The subsection would note that ATOP or ASOP can be used for any Offer as DTC may deem appropriate, and, in addition, would highlight that DTC may require additional instructions, indemnification and processing fees from the Agent and Issuer for Offers that require special handling.

Specifically, proposed subsection VI.D.3.c. would state as follows:

“With regard to certain Offers such as for tenders or exchanges and mergers with elections, ATOP procedures and systems must be used for all elections (*e.g.*, original acceptances, withdrawals of acceptances, notices of guaranteed deliveries, conditional acceptances). Use of ATOP for these purposes is an eligibility requirement for securities that are the subject of such Offers unless it is communicated by the offeror or Agent to DTC and determined by DTC that certain conditions preclude the use of DTC’s processors for a particular Offer, or preclude DTC from allocating entitlements for such an Offer (*e.g.*, restricted securities that cannot be made DTC eligible). In the case of rights offerings, DTC’s ASOP procedures and systems must be used to process subscription

exercise activities, including the submission of instructions for basic subscriptions, the exercise of oversubscriptions, sales of rights, notices of guaranteed deliveries, and all related activities. Use of ASOP for these purposes is an eligibility requirement for securities that are the subject of rights offers.

The following sections describe the standard processes for tender or exchange Offers on ATOP and rights offerings processed through ASOP. However, ATOP and ASOP can be used for processing any Offer as DTC may deem appropriate. Accordingly, certain processes and requirements may differ and, when applicable, will be communicated to the Agent by DTC in writing and/or in a rider to the ATOP/ASOP Master Agreement and/or in the LOA. In addition, for such Offers, including, but not limited to, Offers that require special or manual processing, DTC may require the Agent and Issuer to provide additional written instructions and indemnifications from the Agent and Issuer and to pay additional processing fees. Unless otherwise agreed, DTC's announcement of the Offer to Participants is contingent on receipt of payment for all additional processing fees, if any.

Note: DTC has the discretion to decline to process any Offer through ATOP or ASOP, and DTC's acceptance of a particular Offer in one case does not set a precedent for any future Offers. An Agent with a proposed non-standard Offer that could require special processing must confirm with DTC whether the particular Offer can be processed on the ATOP or ASOP platform before including references to, or instructions or directions for, ATOP or ASOP processing in any documentation or filings relating to the Offer."

(3) *Section VI.D.4: Processing an ATOP-eligible Offer*

DTC is proposing to insert a new Section VI.D.4, titled "Processing an ATOP-eligible Offer," a new subsection VI.D.4.a titled "Participant Acceptances and Surrender of Securities Through ATOP," a new subsection VI.D.4.b titled "Withdrawal of Acceptances (including acceptances by notice of guaranteed delivery or instructions to cover the protect)," and a new subsection heading VI.D.4.c. titled "After Expiration of an ATOP-eligible Offer."

Proposed subsection VI.D.4.a. (Participant Acceptances and Surrender of Securities Through ATOP) would describe the general mechanics of a Participant's acceptance of an Offer through ATOP, stating as follows:

"When a Participant submits an instruction to DTC for an ATOP-eligible Offer, such as an acceptance and surrender of securities, acceptance by submission of a notice of guaranteed delivery (a "protect"), or a surrender of securities to cover a notice of guaranteed delivery (a "cover of a protect") through ATOP, the ATOP system will typically (x) process the Participant submission, and, in the case of an acceptance with surrender of securities or a cover of a

protect, effect a book-entry delivery of the Participant's subject position in the securities to the Agent's account maintained by DTC for ATOP-eligible Offers and ASOP-eligible Offers (the "ATOP/ASOP Agent Account"), and (y) enter information about the submission (including the time of the Participant's submission into DTC) into ATOP, and transmit an Agent's Message to the Agent that indicates the Participant's acceptance of the ATOP-eligible Offer or its instruction to cover a protect, as the case may be, and, to the extent applicable, reflects the book-entry delivery of the securities into the ATOP/ASOP Agent Account."

For clarity, proposed subsection VI.D.4.a. would include a footnote explaining that "[t]he Agent's Message is the electronic message that is generated and transmitted to the Agent through ATOP or ASOP with respect to each Participant instruction and election."

Proposed subsection VI.D.4.b. (Withdrawal of Acceptances (including acceptances by notice of guaranteed delivery or instructions to cover the protect)) would describe the general mechanics of a Participant's withdrawal of its acceptance through ATOP, stating as follows:

"If permitted under the terms of the ATOP-eligible Offer, Participants can submit an instruction for a partial or full withdrawal of their acceptance of an ATOP-eligible Offer. When a Participant submits a withdrawal request, the ATOP System will transmit a form of Agent's Message with respect to the withdrawal ("Withdrawal Message") to the Agent indicating the withdrawal instruction submitted by the Participant. The Agent must promptly inspect all Withdrawal Messages upon receipt to verify the validity of the withdrawal request. No later than 30 minutes after DTC's cutoff time on the day of the withdrawal instruction, the Agent must take one of the following actions with respect to each Withdrawal Message it receives:

- (1) If the Agent determines to accept the withdrawal, the Agent must transmit an acceptance ("Withdrawal Acceptance") to DTC through ATOP; or
- (2) If the Agent determines to reject the request, the Agent must transmit a rejection ("Withdrawal Rejection") to DTC through ATOP.

The Agent's failure to timely accept or reject a pending Withdrawal Message could affect the Agent's ability to balance with DTC and delay any payments due to Participants pursuant to the ATOP-eligible Offer.

Note: The Withdrawal Acceptance and Withdrawal Rejection must be for the full amount of the Participant's withdrawal request.

If the withdrawal instruction relates to securities delivered to the ATOP/ASOP Agent Account in connection with the acceptance of the ATOP-eligible Offer, the Withdrawal Acceptance shall constitute an authorization from the Agent to DTC to deliver by book-entry from the ATOP/ASOP Agent Account to the account of the Participant submitting the withdrawal

instruction the securities that are the subject of the Participant's withdrawal instruction. Upon receipt of such a Withdrawal Acceptance, DTC will effect a book-entry delivery returning the securities to the Participant from the ATOP/ASOP Agent Account. If the withdrawal request relates to an acceptance of the ATOP-eligible Offer by notice of guaranteed delivery, the Withdrawal Acceptance constitutes an authorization from the Agent to DTC to reduce the quantity of securities to which the notice of guaranteed delivery relates by the quantity of securities that are subject to the withdrawal instruction."

Subsection VI.D.4.c. (After Expiration of an ATOP-eligible Offer) would contain the existing enumerated list of requirements, with some changes to correct grammar and typos, make conforming changes, and insert the following sentence into No. 2 in the list: "Agent must reconcile balances with DTC at least one business day prior to the allocation of entitlements and must receive DTC confirmation prior to wiring funds to DTC." DTC would also delete No. 4 of the list, because the payment of additional fees for non-standard Offers is already addressed in new subsection VI.D.3.c. Pursuant to the proposed rule change, subsection VI.D.4.c. would state as follows:

"1. At least one business day prior to payment and allocation of entitlements by DTC, Agent must provide the specific rate and entitlement information for all tender/exchange offers processed through ATOP in the format required by DTC. Payment detail should be sent via email to reorgtenders@dtcc.com and shall include:

- amount of tendered Securities;
- cash and security rates (per \$1,000 principal amount, for debt security);
- proration rates and handling of unaccepted positions with unique denominations;
- handling of baby bonds (target and entitlement securities);
- maximum shares to be issued;
- amount of new Securities to be issued (specifying the CUSIP number);
- amount of Securities to be returned (specifying the CUSIP number); and
- amount of cash to be disbursed.

Securities that will be issued as the entitlement payment of the Offer must have a CUSIP number and Agent must notify DTC of such CUSIP number assigned to the new securities no less than 3 business days prior to allocation of the entitlement if the security is already DTC eligible. If the security is not DTC eligible, Agent must provide all required documentation no later than 5 business days prior to allocation of the entitlement security for DTC to complete the eligibility process prior to allocation. Additional eligibility processing time could be required dependent upon the eligibility review and any requirements for additional documentation, (e.g., legal opinion for a Non-US security) and Issuer and Agent shall plan accordingly. See Section I, *Eligibility Requirements*, as the

Securities will be subject to these standards and requirements.

2. Upon expiration and leading up to the payment of the entitlements, Agent must provide additional information specific to the positions and entitlements. In the event processing requires the use of a spreadsheet as determined by DTC, Agent shall be responsible for ensuring the accuracy of all details within the spreadsheet, including agreeing to use a format specified by DTC and providing the spreadsheet to DTC in advance of the anticipated payment date to confirm it complies with DTC's formatting requirements. The spreadsheet must include instruction level detail (*i.e.*, calculated for each Agent's Message input into ATOP) and participant level detail and be password protected and encrypted when emailed to DTC. DTC may require additional lead time to process complex spreadsheets, (*e.g.*, 2 business days prior to payment). Agent must reconcile balances with DTC at least one business day prior to the allocation of entitlements and must receive DTC confirmation of the balances prior to wiring funds to DTC. The timeframe required for Agent to provide DTC the final spreadsheet will be included in the LOA for Agent's review and approval. Agent must provide entitlements calculated at the instruction level and when applicable, Agent must be able to provide DTC's participants directly with instruction level detail.

3. In the event there is a default allocation for holders not instructing, Agent must provide the opportunity to cash-out bulk securities entitlements in order to appropriately process entitlements of securities and cash (or cash-in-lieu) at the beneficial holder level. (*See Section VI (B) Fractional Entitlements in Cash or Additional Roundup Shares.*)

(4) Renumber Existing ATOP Subsections

Pursuant to the proposed rule change, DTC would conform the numbering of the subsections previously numbered VI.D.4.b.–4.f. to become VI.D.4.d.–VI.D.4.h.

(5) New Section VI.D.5: Processing an ASOP-eligible Offer

Before Section VI.E. (Chargeback of Reorganization Payments), DTC is proposing to insert a new Section VI.D.5, titled "Processing an ASOP-eligible Offer," a new subsection VI.D.5.a titled "Participant Acceptances of the ASOP-eligible Offer and Surrender of Rights through ASOP," and a new subsection VI.D.5.b titled "Instructions to Surrender and Sell Rights Through ASOP."

Proposed subsection VI.D.5.a. (Participant Acceptances of the ASOP-eligible Offer and Surrender of Rights through ASOP) would describe the general mechanics of a Participant's acceptance of an Offer through ASOP, stating as follows:

"When a Participant submits an instruction to DTC for an ASOP-eligible Offer, such as an acceptance and surrender of rights, acceptance by submission of a protect, or a surrender of securities as a cover of a protect, through ASOP, the ASOP system will typically (x) process the Participant submission, and in the case of an acceptance with surrender of rights or cover of a protect, effect a book-entry delivery of the Participant's subject position in the rights from Participant's account to the ATOP/ASOP Agent Account, (y) debit the required subscription payment from the Participant's account and credit the payment to the ATOP/ASOP Agent Account, and (z) enter information about the submission (including the time of the Participant's submission into DTC) into ASOP, and transmit an Agent's Message to the Agent that indicates the Participant's acceptance of the ASOP-eligible Offer and reflects the crediting of the required subscription payment to the ATOP/ASOP Agent Account, and, to the extent applicable, the book-entry delivery of the rights into the ATOP/ASOP Agent Account.

The subscription payment indicated on the Agent's Message is typically credited to the ATOP/ASOP Agent Account on the same day, except where the Agent agrees to, or the Terms and Conditions of the Offer provides for, different procedures with respect to payment. Once the funds are credited to the ATOP/ASOP Agent Account, the funds are usually wired to the Agent on the following business day."

Proposed subsection VI.D.5.a. would include a footnote that states:

"Depending on the terms of the Offer, the subscription payment may be debited at the end of the Offer."

Proposed subsection VI.D.5.b. (Instructions to Surrender and Sell Rights Through ASOP) would describe the general mechanics of a Participant selling rights through ASOP, stating as follows:

"For any ASOP-eligible Offer on which the Agent accepts instructions to sell rights, when a Participant submits instructions to sell rights through the Agent by means of ASOP, the ASOP system will typically (x) process the Participant submission, (y) effect a book-entry delivery of the Participant's position in the subject rights from the Participant's account to the ATOP/ASOP Agent Account, and (z) enter information about the submission (including the time of the Participant's submission into DTC) into ASOP, transmit an Agent's Message to the Agent that indicates the Participant's instruction to sell rights, and reflect the book-entry delivery of the rights into the ATOP/ASOP Agent Account."

2. Statutory Basis

DTC believes these proposed changes are consistent with the requirements of the Act, and the rules and regulations thereunder applicable to DTC. Specifically, DTC believes that the proposed changes are consistent with

Section 17A(b)(3)(F) of the Act²⁷ and Rules 17ad–22(e)(1)²⁸ and 17ad–22(e)(21)²⁹ under the Act.

Section 17A(b)(3)(F) of the Act requires, in part, that the Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions.³⁰ As described above, the proposed rule change would (i) replace the discrete designations of an ATOP Agent and ASOP Agent with a combined designation of an ATOP/ASOP Agent; (ii) replace the discrete and separate agreements for ATOP Agents and ASOP Agents with the consolidated and updated New Master Agreement; and (iii) insert consolidated procedures for ATOP/ASOP Agents that appropriately reflect the current processing of ATOP-eligible and ASOP-eligible Offers. DTC believes that these proposed changes would provide streamlined, transparent, and current procedures for ATOP/ASOP Agents, thereby allowing Agents to more efficiently and effectively process corporate action events and associated securities transactions. Based on the foregoing, DTC believes that the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act, cited above.

Rule 17ad–22(e)(1) under the Act requires DTC to 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.³¹ As described above, the proposed rule change would provide (i) an updated agreement that DTC would enter into with ATOP/ASOP Agents, and (ii) updated ATOP/ASOP Agent procedures, which together would provide a clear, transparent, and enforceable legal basis for, among other things (i) the ATOP/ASOP Agent's acceptance of Participant elections without separate documentation such as letters of transmittal or notices of guaranteed delivery, as well as the enforceability of such Participant elections against the offeror; (ii) the timeliness of Participant elections through ATOP/ASOP to be determined by the time of submission; (iii) DTC's discretion to permit ATOP and ASOP to be used for any Offer as DTC may deem appropriate; (iv) DTC's right to terminate the agreement to make a

²⁷ 15 U.S.C. 78q–1(b)(3)(F).

²⁸ 17 CFR 240.17ad–22(e)(1).

²⁹ 17 CFR 240.17ad–22(e)(21).

³⁰ 15 U.S.C. 78q–1(b)(3)(F).

³¹ 17 CFR 240.17ad–22(e)(1).

particular Offer ATOP-eligible or ASOP-eligible in the event that the DTC becomes aware of a fact, factor, or circumstance about the Offer, and DTC determines in its discretion that in light of such fact, factor or circumstance, processing the Offer through ATOP or ASOP could adversely affect the rights of DTC, Participants, or investors; and (v) New York choice of law and venue. Based on the foregoing, DTC believes that the proposed rule change is designed to provide for a well-founded, clear, transparent, and enforceable legal basis necessary for DTC's clearance and settlement of securities transactions associated with Offers, consistent with Rule 17ad-22(e)(1) under the Act, cited above.

(B) Clearing Agency's Statement on Burden on Competition

DTC believes that the proposed rule change to amend the OA to consolidate and update the documentation for Agents processing ATOP-eligible Offers and ASOP-eligible Offers will not have any impact on competition.³² The proposed rule change would provide procedures that are more accessible, transparent, and reflective of current processes and would apply to all ATOP/ASOP Agents equally. Any additional efforts required on the part of Agents would be merely administrative, such as entering into the New Master Agreement. In light of the foregoing, DTC does not believe that the proposed rule change would impose a burden on competition.³³

(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 would 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.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Because the foregoing 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)³⁴ of the Act and Rule 19b-4(f)(6)³⁵ 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.

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-DTC-2026-007 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-DTC-2026-007. 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](https://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 (<https://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 obscene or subject to copyright protection. All submissions should refer to File Number SR-DTC-2026-007 and should be submitted on or before June 12, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁶

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-10241 Filed 5-21-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105518; File No. SR-NASDAQ-2026-045]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Position and Exercise Limit Rules

May 19, 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 May 11, 2026, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to 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's ("NOM") Options 9, Section 13, Position Limits, Options 9, Section 15, Exercise Limits, and Options 6C, Section 3, Margin Requirements, to make technical, non-substantive revisions to these Rules.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/>

³⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³² 15 U.S.C. 78q-1(b)(3)(I).

³³ *Id.*

³⁴ 15 U.S.C 78s(b)(3)(A).

³⁵ 17 CFR 240.19b-4(f)(6).

rulebook/nasdaq/rulefilings, and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Options 9, Section 13, Position Limits, Options 9, Section 15, Exercise Limits, and Options 6C, Section 3, Margin Requirements, to make technical, non-substantive revisions to these Rules. Each change is described below.

Position Limits

The Exchange proposes to amend its rules relating to position limits at Options 9, Section 13, Position Limits, and exercise limits at Options 9, Section 15, Exercise Limits. The Exchange proposes to remove the following rule text at Options 9, Section 13(a), "notwithstanding the foregoing options contracts overlying SPDR® S&P 500® ETF Trust (SPY) shall have a position limit of 3,600,000 contracts on the same side of the market." Further, the Exchange proposes to remove the following text at Options 9, Section 15(a), "notwithstanding the foregoing options contracts overlying SPDR® S&P 500® ETF Trust (SPY) shall have an exercise limit of 3,600,000 contracts on the same side of the market."

Currently, Options 9, Section 13(a) and Options 9, Section 15(a) provide that no Options Participant shall make, for any account in which it has an interest or for the account of any customer, an opening transaction on any exchange or exercise a long position in any options contract if the Options Participant has reason to believe that as a result of such transaction the Options Participant or its customer would, acting alone or in concert with others, directly or indirectly exceed the applicable position or exercise limit fixed from time to time by the Cboe

Exchange, Inc. ("Cboe") for any options contract traded on NOM Options and Cboe. The Exchange notes that Cboe's position and exercise limit rules currently provide that SPY options shall have a position limit and exercise limit of 3,600,000 contracts on the same side of the market.³ The Exchange proposes to remove the rule text referencing the position and exercise limits of 3,600,000 contracts for SPY options because they are unnecessary. The proposed amendments are non-substantive and do not amend the current position or exercise limit for SPY options.

Margin

Currently, Options 6C, Section 3, Margin Requirements, provides at subparagraph (a) that a Participant or associated person must be bound by the initial and maintenance margin requirements of either the Chicago Board Options Exchange ("CBOE") or the New York Stock Exchange ("NYSE") as the same may be in effect from time to time. The Exchange proposes to update Cboe's name from "Chicago Board Options Exchange" to "Cboe Exchange, Inc."

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁴ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁵ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange's proposal to remove rule text at Options 9, Section 13(a) and Options 9, Section 15(a) related to position and exercise limits for SPY Options of 3,600,000 contracts on the same side of the market is consistent with the Act because the proposed amendments are non-substantive and do not amend the current position or exercise limit for SPY options. Currently, Options 9, Section 13(a) and Options 9, Section 15(a) provide that no Options Participant shall make, for any account in which it has an interest or for the account of any customer, an opening

transaction on any exchange or exercise a long position in any options contract if the Options Participant has reason to believe that as a result of such transaction the Options Participant or its customer would, acting alone or in concert with others, directly or indirectly exceed the applicable position or exercise limit fixed from time to time by the Cboe for any options contract traded on NOM Options and Cboe. The Exchange notes that Cboe's position and exercise limit rules currently provide that SPY options shall have a position limit and exercise limit of 3,600,000 contracts on the same side of the market.⁶ Therefore, the Exchange proposes to remove the rule text referencing the position and exercise limits of 3,600,000 contracts for SPY options because they are unnecessary.

The amendment to Options 6C, Section 3 to update Cboe's name is a non-substantive amendment.

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's proposal to remove rule text in Options 9, Section 13(a) and Options 9, Section 15(a) regarding the position and exercise limit for SPY Options and amend Cboe's name in Options 6C, Section 3 does not burden intra-market competition because the amendments are non-substantive. Further, the Exchange does not believe that the proposed amendments will impose any burden on inter-market competition because the proposed position and exercise limits, as amended, continue to align with the rules of other options exchanges. Also, the proposed name change at Options 6C, Section 3 conforms to Cboe's current name and is non-substantive.

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

Because the foregoing 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

³ See Cboe Rule 8.30 at Interpretations and Policies .07.

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

⁶ See Cboe Rule 8.30 at Interpretations and Policies .07.

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 Act⁷ and Rule 19b-4(f)(6) thereunder.⁸

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 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-NASDAQ-2026-045 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-NASDAQ-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-NASDAQ-2026-045 and should be submitted on or before June 12, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-10240 Filed 5-21-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105514; File No. SR-IEX-2026-13]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Fee Schedule Applicable to Members Concerning Equities Transaction Pricing

May 19, 2026.

Pursuant to Section 19(b)(1) ¹ of the Securities Exchange Act of 1934 (the "Act") ² and Rule 19b-4 thereunder, ³ notice is hereby given that, on May 8, 2026, the Investors Exchange LLC ("IEX" 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

Pursuant to the provisions of Section 19(b)(1) under the Act, ⁴ and Rule 19b-4 thereunder, ⁵ the Exchange is filing with the Commission a proposed rule change pursuant to IEX Rule 15.110(a) and (c) to amend the Exchange's fee schedule applicable to Members ⁶ (the "Fee Schedule" ⁷) to modify some of the criteria to qualify for displayed liquidity adding rebates and to modify the threshold volume required to qualify for the incremental fee tiers. Changes to the

Fee Schedule pursuant to this proposal are effective upon filing, ⁸ and will be implemented on June 1, 2026.

The text of the proposed rule change is available at the Exchange's website at <https://www.iexexchange.io/resources/regulation/rule-filings> and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of 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 modify its Fee Schedule, pursuant to IEX Rule 15.110(a) and (c), to modify some of the criteria to qualify for the Displayed Liquidity Adding Rebate Tiers ⁹ and to modify the threshold volume required to qualify for the Incremental Fee Tiers. ¹⁰ Specifically, IEX proposes to increase the volume of non-displayed trading activity on the Exchange required to qualify for five of its eight Displayed Liquidity Adding Rebate tiers, and to increase the threshold volume required to qualify for the reduced fees of Incremental fee Tier 2. ¹¹

Displayed Liquidity Adding Rebates Change

IEX offers Members eight Displayed Liquidity Rebate Tiers based on the Member's trading activity in the

⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

⁹ See footnote 4 to the Transaction Fees, Base Rates table and Fee Code Combinations and Associated Fees table of the IEX Fee Schedule, *supra* note 7.

¹⁰ See footnote 6 to the Transaction Fees, Base Rates table and Fee Code Combinations and Associated Fees table of the IEX Fee Schedule, *supra* note 7.

¹¹ Nothing in this rule filing affects trades below \$1.00 per share ("sub-dollar trades"), which will continue to receive a rebate equal to 0.15% of the total dollar value of the trade for displayed liquidity adding executions. And sub-dollar trades will continue to have no impact on any of the rebate or fee tier calculations for trades with an execution price of \$1.00 per share or more.

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 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.

⁹ 17 CFR 200.30-3(a)(12).

¹⁰ 15 U.S.C. 78s(b)(1).

¹¹ 15 U.S.C. 78a.

¹² 17 CFR 240.19b-4.

¹³ 15 U.S.C. 78s(b)(1).

¹⁴ 17 CFR 240.19b-4.

¹⁵ See IEX Rule 1.160(s).

¹⁶ See Investors Exchange Fee Schedule, available at <https://www.iexexchange.io/resources/trading/fee-schedule>.

immediately preceding month.¹² These rebates, which apply equally to executions of Tape A, Tape B, and Tape C securities,¹³ are as follows:

- *Tier 1*: provides Member the Exchange's base fee of FREE for all displayed liquidity adding executions priced at or above \$1.00 per share ("Added Displayed Liquidity") if the Member added less than 3,000,000 ADV.¹⁴

- *Tier 2*: provides Member a rebate of \$0.0010 per share for all Added Displayed Liquidity if the Member traded at least 5,000,000 non-displayed ADV and less than 10,000,000 non-displayed ADV.¹⁵

- *Tier 3*: provides Member a rebate of \$0.0014 per share for all Added Displayed Liquidity if the Member: (1) added at least 3,000,000 ADV of displayed liquidity and less than 10,000,000 ADV of displayed liquidity; or (2) added at least 10,000,000 non-displayed ADV; or (3) had an NBBO Time¹⁶ of at least 50% in at least 250 ETPs.

- *Tier 4*: provides Member a rebate of \$0.0016 per share for all Added Displayed Liquidity if the Member: (1) added at least 10,000,000 ADV of displayed liquidity and less than 15,000,000 ADV of displayed liquidity; or (2) had an NBBO Time of at least 50% in at least 750 ETPs.

- *Tier 5*: provides Member a rebate of \$0.0018 per share for all Added Displayed Liquidity if the Member: (1) added at least 15,000,000 ADV of displayed liquidity and less than 20,000,000 ADV of displayed liquidity; or (2) traded at least 15,000,000 non-displayed ADV.

¹² Pursuant to Rule 610(d) of Regulation NMS, all IEX transaction fees and rebates are determinable at the time of execution. Accordingly, all rebates are based upon a Member's trading or quoting activity in the immediately preceding month.

¹³ IEX also offers a separate set of rebates for displayed liquidity adding executions at or above \$1 per share in Tape B Securities. See IEX Fee Schedule, *supra* note 7, footnote 7 to the Transaction Fees, Base Rates table and Fee Code Combinations and Associated Fees table. This rule filing makes no changes to the Tape B-specific rebates.

¹⁴ "ADV" as average daily volume calculated as the number of shares added or removed (as applicable) that execute at or above \$1.00 per share, per day. ADV is calculated on a monthly basis, based on trading activity in the immediately preceding month, unless otherwise indicated in the Fee Schedule. See IEX Fee Schedule, *supra* note 7, Transaction Fees, Definitions.

¹⁵ "non-displayed ADV" refers to executions with the following Fee Code Combinations: MI, MIB, TI, TIB, TTY, TIYB, TIR, TLW, TLWB, and MIA. See IEX Fee Schedule, *supra* note 7, Transaction Fees, Definitions.

¹⁶ "NBBO Time" is the Member's percentage of market hours quoting on the NBB plus the Member's percentage of market hours quoting on the NBO. See IEX Fee Schedule, *supra* note 7, Transaction Fees, Definitions.

- *Tier 6*: provides Member a rebate of \$0.0020 per share for all Added Displayed Liquidity if the Member: (1) added at least 20,000,000 ADV of displayed liquidity and less than 30,000,000 ADV of displayed liquidity; or (2) traded at least 20,000,000 non-displayed ADV.

- *Tier 7*: provides Member a rebate of \$0.0022 per share for all Added Displayed Liquidity if the Member: (1) added at least 30,000,000 ADV of displayed liquidity; or (2) added at least 25,000,000 ADV of displayed liquidity and traded at least 30,000,000 non-displayed ADV.

- *Tier 8*: provides Member a rebate of \$.0023 per share for all Added Displayed Liquidity if the Member added at least 40,000,000 ADV of displayed liquidity.¹⁷

As set forth above, there are several ways a Member can qualify for the Displayed Liquidity Adding Rebate Tiers 2, 3, 5, 6, and 7, including by exceeding threshold volumes of non-displayed ADV in the prior month. IEX proposes to increase the non-displayed ADV thresholds required to qualify for those specific rebate tiers.¹⁸ Specifically, IEX proposes to make the following changes to the non-displayed ADV criteria to qualify for Displayed Liquidity Adding Rebate Tiers 2, 3, 5, 6, and 7 in both the Base Rates table description of Fee Code ML and the Displayed Liquidity Adding Rebates Tiers set forth in footnote 4 to the Fee Code Combinations and Associated Fees table:

- *Tier 2*: Increase the non-displayed ADV minimum from 5,000,000 to 10,000,000 (and the maximum from 10,000,000 to 20,000,000), in order to qualify for a \$0.0010 per share rebate on displayed liquidity adding executions.

- *Tier 3*: Increase the non-displayed ADV minimum from 10,000,000 to 20,000,000, in order to qualify for a \$0.0014 per share rebate on displayed liquidity adding executions.

- *Tier 5*: Increase the non-displayed ADV minimum from 15,000,000 to 30,000,000, in order to qualify for a \$0.0018 per share rebate on displayed liquidity adding executions.

- *Tier 6*: Increase the non-displayed ADV minimum from 20,000,000 to 40,000,000, in order to qualify for a

¹⁷ IEX Fee Schedule, *supra* note 7, Base Rates table and Fee Code Combinations and Associated Fees table.

¹⁸ Nothing in this filing changes the other qualification criteria for these rebates. For example, a Member can still qualify for Displayed Liquidity Adding Rebate Tier 3 if the Member had between 3,000,000 and 10,000,000 displayed liquidity adding executions or had an NBBO Time of at least 50% in at least 250 ETPs.

\$0.0020 per share rebate on displayed liquidity adding executions.

- *Tier 7*: Increase the non-displayed ADV minimum from 30,000,000 to 50,000,000, in order to qualify for a \$0.0023 per share rebate on displayed liquidity adding executions.

Incremental Fee Tiers Change

IEX's Incremental Fee Tiers are a volume-based fee incentive designed to incentivize Members to increase their Incremental Fee eligible ADV¹⁹ on the Exchange. Generally, a Member qualifies for the reduced fee of \$0.0001 per share²⁰ (*i.e.*, Incremental Fee Tier 2) for a portion of its Incremental Fee eligible ADV²¹ in the current month if its Incremental non-displayed ADV²² exceeded its Baseline non-displayed ADV²³ by at least 15,000,000. However, if a Member qualified for Displayed Liquidity Adding Rebate Tier 7 or Tier 8 in the prior month, that Member would qualify for Incremental Fee Tier 2 in the current month if its Incremental non-displayed ADV exceeded its Baseline non-displayed ADV by at least 10,000,000. IEX now proposes to standardize the threshold amount to qualify for Incremental Fee Tier 2 by requiring all Members' Incremental non-displayed ADV to have exceeded their Baseline non-displayed ADV by 15,000,000.

To effect this change, IEX proposes modifying the second bullet in the Incremental Fee Tiers section of the Fee

¹⁹ "Incremental Fee eligible ADV" means executions with any of the Fee Code Combinations MI, MIB, TI, TIB, TTY, or TIYB. Unless otherwise specified, Incremental Fee eligible ADV refers to executions in the current month. See IEX Fee Schedule, *supra* note 7, Transaction Fees, Definitions.

²⁰ IEX's base rate for transactions that add or remove non-displayed liquidity is \$0.0010 per share. See IEX Fee Schedule, *supra* note 7, Transaction Fees, Base Rates table.

²¹ The amount of Incremental Fee eligible ADV that is eligible for the reduced fee of \$0.0001 per share is capped at the Baseline non-displayed ADV, unless the Member qualified for Incremental Fee Tier 2 for at least three immediately preceding months. See IEX Fee Schedule, *supra* note 7, footnote 6 to the Transaction Fees, Base Rates table and Fee Code Combinations and Associated Fees table.

²² "Incremental non-displayed ADV" means executions in the immediately preceding month of Incremental Fee eligible ADV that exceeded the Baseline non-displayed ADV. See IEX Fee Schedule, *supra* note 7, Transaction Fees, Definitions.

²³ "Baseline non-displayed ADV" is calculated by taking the average of the Member's Incremental Fee eligible ADV in the three months with the lowest Incremental Fee eligible ADV between March 1, 2025 and February 28, 2026. For Members that joined IEX after March 1, 2025, the Baseline non-displayed ADV is calculated by taking the average of the Member's Incremental Fee eligible ADV in its first three full months of trading on the Exchange. See IEX Fee Schedule, *supra* note 7, Transaction Fees, Definitions.

Schedule to remove the text marked here with italic:

- A Member qualifies for the Incremental Fee (*i.e.*, Incremental Fee Tier 2) in the current month if its Incremental Fee eligible ADV in the prior month exceeded its Baseline non-displayed ADV by at least 15,000,000 (*or by at least 10,000,000 if the Member qualified for Displayed Liquidity Adding Rebate Tier 7 or Tier 8*).

Additionally, IEX proposes to delete footnote “a” from the “Incremental Fee Tier Calculation Table (used by both Options 1 and 2)” and renumber current footnote “b” to now be footnote “a.”²⁴

Thus, IEX proposes to make the two changes described above: (1) increasing the non-displayed ADV minimums for five of the Displayed Liquidity Adding Rebate Tiers and (2) standardizing the qualification threshold for the Incremental Fee Tiers so that all Members must exceed their Baseline non-displayed ADV by at least 15,000,000 in the prior month in order to qualify for the reduced Incremental Fee Tier 2 fees in the current month. IEX is making no other changes to the Fee Schedule.

As noted above, changes to the Fee Schedule pursuant to this proposal are effective upon filing,²⁵ and will be implemented on June 1, 2026.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b)²⁶ of the Act in general and furthers the objectives of Sections 6(b)(4)²⁷ of the Act, in particular, in that it is designed to not be unfairly discriminatory and to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

The Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. Accordingly, IEX has

designed these two changes to its Fee Schedule to encourage more trading on the Exchange while providing a fee structure that is fair, equitable, and not designed to permit unfair discrimination because they will be applied equally to all Members who satisfy the criteria.

Within that context, the proposed increases to the non-displayed ADV minimums required to qualify for five of the Displayed Liquidity Adding Rebate Tiers and the standardization of the threshold volume by which all Members must exceed their Baseline non-displayed ADV in order to qualify for Incremental Fee Tier 2 are within the range of rebate and fee tier requirements applied by other exchanges, and thus the Exchange does not believe that the proposal raises any new or novel issues not already considered by the Commission.

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX does not believe that the proposed rule change will result in 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 intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As discussed in the Statutory Basis section, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if fee schedules at other venues are viewed as more favorable. Consequently, the Exchange believes that the degree to which IEX fees could impose any burden on competition is extremely limited and does not believe that such fees would burden competition between Members or competing venues. Moreover, as noted in the Statutory Basis section, the Exchange does not believe that the proposed changes raise any new or novel issues not already considered by the Commission.

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because, while different fees are assessed on Members, these fees are not based on the type of Member entering the orders that match, but rather on the Member's own trading activity. Further, the proposed fee change is intended to encourage market participants to bring increased order flow to the Exchange, which benefits all market participants.

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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii)²⁸ of the Act.

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 shall institute proceedings under Section 19(b)(2)(B)²⁹ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-IEX-2026-13 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-IEX-2026-13. 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

²⁴ The footnote IEX proposes to delete reads in full: “A Member that qualifies for either Displayed Liquidity Adding Rebate Tier 7 or Tier 8 (based on its prior month activity) qualifies for Incremental Fee Tier 2 in the current month if its prior month's Incremental non-displayed ADV exceeded its Baseline non-displayed ADV by at least 10,000,000. The below examples for Incremental Fee Tier Option 1 and Option 2 assume the Member did not qualify for Displayed Liquidity Added Rebate Tier 7 or Tier 8, and therefore the Member's Incremental non-displayed ADV must exceed its Baseline non-displayed ADV by at least 15,000,000 in the prior month to qualify for Incremental Fee Tier 2 in the current month.”

²⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

²⁶ 15 U.S.C. 78f(b).

²⁷ 15 U.S.C. 78f(b)(4).

²⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

²⁹ 15 U.S.C. 78s(b)(2)(B).

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-IEX-2026-13 and should be submitted on or before June 12, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁰

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-10244 Filed 5-21-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105519; File No. SR-NasdaqTX-2026-024]

Self-Regulatory Organizations; Nasdaq Texas, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Position and Exercise Limits Rules

May 19, 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 May 11, 2026, Nasdaq Texas, LLC (“Nasdaq Texas” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to 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 Options 9, Section 13, Position Limits, Options 9, Section 15, Exercise Limits, and Options 6C, Section 3, Margin Requirements, to make technical, non-substantive revisions to these Rules.

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

The Exchange proposes to amend Options 9, Section 13, Position Limits, Options 9, Section 15, Exercise Limits, and Options 6C, Section 3, Margin Requirements, to make technical, non-substantive revisions to these Rules. Each change is described below.

Position Limits

The Exchange proposes to amend its rules relating to position limits at Options 9, Section 13, Position Limits, and exercise limits at Options 9, Section 15, Exercise Limits. The Exchange proposes to remove the following rule text at Options 9, Section 13(a), “notwithstanding the foregoing options contracts overlying SPDR® S&P 500® ETF Trust (SPY) shall have a position limit of 3,600,000 contracts on the same side of the market.” Further, the Exchange proposes to remove the following text at Options 9, Section 15(a), “notwithstanding the foregoing options contracts overlying SPDR® S&P 500® ETF Trust (SPY) shall have an exercise limit of 3,600,000 contracts on the same side of the market.”

Currently, Options 9, Section 13(a) and Options 9, Section 15(a) provide that no Options Participant shall make, for any account in which it has an interest or for the account of any customer, an opening transaction on any exchange or exercise a long position in any options contract if the Options Participant has reason to believe that as a result of such transaction the Options Participant or its customer would, acting alone or in concert with others, directly or indirectly exceed the applicable position or exercise limit fixed from time to time by the Cboe Exchange, Inc. (“Cboe”) for any options contract traded on NTX Options and Cboe. The Exchange notes that Cboe’s

position and exercise limit rules currently provide that SPY options shall have a position limit and exercise limit of 3,600,000 contracts on the same side of the market.³ The Exchange proposes to remove the rule text referencing the position and exercise limits of 3,600,000 contracts for SPY options because they are unnecessary. The proposed amendments are non-substantive and do not amend the current position or exercise limit for SPY options.

Margin

Currently, Options 6C, Section 3, Margin Requirements, provides at subparagraph (a) that a Participant or associated person must be bound by the initial and maintenance margin requirements of either the Chicago Board Options Exchange (“CBOE”) or the New York Stock Exchange (“NYSE”) as the same may be in effect from time to time. The Exchange proposes to update Cboe’s name from “Chicago Board Options Exchange” to “Cboe Exchange, Inc.”

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁴ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁵ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange’s proposal to remove rule text at Options 9, Section 13(a) and Options 9, Section 15(a) related to position and exercise limits for SPY Options of 3,600,000 contracts on the same side of the market is consistent with the Act because the proposed amendments are non-substantive and do not amend the current position or exercise limit for SPY options. Currently, Options 9, Section 13(a) and Options 9, Section 15(a) provide that no Options Participant shall make, for any account in which it has an interest or for the account of any customer, an opening transaction on any exchange or exercise a long position in any options contract if the Options Participant has reason to

³⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Cboe Rule 8.30 at Interpretations and Policies .07.

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

believe that as a result of such transaction the Options Participant or its customer would, acting alone or in concert with others, directly or indirectly exceed the applicable position or exercise limit fixed from time to time by the Cboe for any options contract traded on NTX Options and Cboe. The Exchange notes that Cboe's position and exercise limit rules currently provide that SPY options shall have a position limit and exercise limit of 3,600,000 contracts on the same side of the market.⁶ Therefore, the Exchange proposes to remove the rule text referencing the position and exercise limits of 3,600,000 contracts for SPY options because they are unnecessary.

The amendment to Options 6C, Section 3 to update Cboe's name is a non-substantive amendment.

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's proposal to remove rule text in Options 9, Section 13(a) and Options 9, Section 15(a) regarding the position and exercise limit for SPY Options and amend Cboe's name in Options 6C, Section 3 does not burden intra-market competition because the amendments are non-substantive. Further, the Exchange does not believe that the proposed amendments will impose any burden on inter-market competition because the proposed position and exercise limits, as amended, continue to align with the rules of other options exchanges. Also, the proposed name change at Options 6C, Section 3 conforms to Cboe's current name and is non-substantive.

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

Because the foregoing 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 Act⁷ and Rule 19b-4(f)(6) thereunder.⁸

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 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-NasdaqTX-2026-024 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-NasdaqTX-2026-024. 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

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 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.

protection. All submissions should refer to file number SR-NasdaqTX-2026-024 and should be submitted on or before June 12, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-10242 Filed 5-21-26; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[License No. 02020702; License No. 04045175]

Brightwood Capital SBIC III, LP, Brightwood Capital SBIC IV, LP; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Brightwood Capital SBIC III, LP and Brightwood Capital SBIC IV, LP, 810 Seventh Avenue, 26th Floor, New York, New York 10019, Federal Licensees under the Small Business Investment Act of 1958, as amended ("the Act"), in connection with financings of a small business, has sought an exemption under Section 312 of the Act and 13 CFR 107.730, *Financings which Constitute Conflicts of Interest* of the Code of Federal Regulations. Brightwood Capital SBIC III, LP and Brightwood Capital SBIC IV, LP propose to provide financing to Image One Industries, LLC, 677 Dunksferry Rd., Bensalem, PA 19020, to support the company's growth.

The financing is brought within the purview of 13 CFR 107.730(a) of the regulations because BCOF Capital V, LP, BW Credit Unlevered Holdings SCSp, Brightwood Capital MM CLO 2023-1, Ltd., and Brightwood Capital MM CLO 2024-2, Ltd. are Associates of Brightwood Capital SBIC III, LP and Brightwood Capital SBIC IV, LP due to Common Control and collectively own more than ten percent of Image One Industries, LLC. Therefore, this transaction is considered a financing which constitutes a conflict of interest.

Notice is hereby given that any interested person may submit written comments on the transaction, within fifteen days of the date of this publication, to the Associate Administrator, Office of Investment and Innovation, U.S. Small Business

⁹ 17 CFR 200.30-3(a)(12).

⁶ See Cboe Rule 8.30 at Interpretations and Policies .07.

Administration, 409 Third Street SW,
Washington, DC 20416.

Paul Salgado,
*Director, Investment Portfolio Management,
Office of Investment and Innovation.*

[FR Doc. 2026–10339 Filed 5–21–26; 8:45 am]

BILLING CODE 8026–09–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2026–0496]

**Agency Information Collection
Activities: Comment Request**

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency’s burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to

minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA (SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, Mail Stop 3253 Altmeyer, 6401 Security Blvd., Baltimore, MD 21235, Fax: 833–410–1631, Email address: *OR.Reports.Clearance@ssa.gov*

Or you may submit your comments online through *https://www.reginfo.gov/public/do/PRAMain* by clicking on Currently under Review—Open for Public Comments and choosing to click on one of SSA’s published items. Please reference Docket ID Number [SSA–2026–0496] in your submitted response.

SSA submitted the information collections below to OMB for clearance. Your comments regarding these information collections would be most

useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than June 22, 2026. Individuals can obtain copies of this OMB clearance package by writing to the *OR.Reports.Clearance@ssa.gov*.

1. Request for Corrections of Earnings Record—20 CFR 404.820 and 20 CFR 422.125—0960–0029. Individuals alleging that SSA’s files contain inaccurate earnings records for them use paper Form SSA–7008, or a personal interview with SSA employees during which SSA employees key their answers into our electronic Earnings Modernization Item Correction system, to address the situation. Using these modalities the individuals whose records are in question provide the information SSA needs to check earnings posted, and, as necessary, initiate development to resolve any inaccuracies. The respondents are individuals who request correction of earnings posted to their Social Security earnings records.

Type of Request: Revision of an OMB-approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office or telephone wait time (minutes) **	Total annual opportunity cost (dollars) ***
SSA–7008	9,766	1	30	4,883	*\$32.66		*** \$159,479
In-person or telephone interview	112,312	1	30	56,156	* 32.66	** 35	*** 3,973,775
mySSA Earnings Correction Screen	14,194	1	30	7,097	* 32.66		*** 231,788
Totals	136,272			68,136			*** 4,365,042

* We based this figure on the average U.S. worker’s hourly wages, as reported by Bureau of Labor Statistics data (*Occupational Employment and Wage Statistics*).

** We based this figure on the average combined FY 2026 wait times for field offices (22 minutes) and for teleservice centers (48 minutes which includes the average speed of answer of 7 minutes as well as the average 41-minute wait time for a call back from an SSA technician), based on SSA’s current management information data. This figure reflects both data from our systems and the data posted on our public facing website (Social Security performance | SSA) on the date we drafted this document. As the figures fluctuate daily, the wait times may be different on the website than they appear here. We continue to monitor our website and management information data on call back times to ensure we report updated figures when possible.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

2. Application for Supplemental Security Income (Deferred or Abbreviated)—20 CFR 416.305–416.335, Subpart C—0960–0444. SSA provides Supplemental Security Income (SSI) payments to members of the public who meet the required eligibility criteria and who file the prescribed application. SSA uses Form SSA–8001–BK, Application for SSI (Deferred or Abbreviated), to collect information from respondents to either: (1) provide a formal determination of ineligibility based on non-medical reasons only, or (2) document allegations of potential eligibility prior to requesting a medical determination from the state disability determination services (DDS) while

deferring the collection of additional information until after the DDS approves a medical determination. Respondents apply for SSI using the deferred application through one of three modalities: (1) a paper application for both adult and child claims (Form SSA–8001), which the public can access as a fillable PDF from our website and submit through SSA’s Upload Documents Portal (OMB Control No. 0960–0830); (2) a field office interview (in person or over the phone), during which an SSA employee enters applicant data directly into the Consolidated Claim Experience (CCE) and Intranet SSI Claims System screens; or (3) the iSSI internet application, basic

eligibility questions (within the internet Claims (iClaim site)). SSI applicants can also use a simplified online hybrid approach that streamlines and simplifies the online application form and the modalities we offer across other service channels (*i.e.*, phone and in-person interviews). In this hybrid approach, we (1) capture the claimant’s basic eligibility with a simplified application, and (2) use a technician-supported experience to develop additional information as necessary to make an initial determination. This second step only happens after we provide medical approval and identify the specific additional information needed. This approach strikes a balance

between improving the applicant's filing experience and collecting all necessary information to make eligibility determinations. SSA uses the information we gather on the SSA-8001, deferred SSI Application, to:

(1) formally deny SSI for nonmedical reasons when information the applicant provides results in ineligibility; or (2) establish a disability claim but defer the evidence development of non-medical issues until SSA approves the disability. The respondents are individuals who

are applying for SSI and are either clearly ineligible or, disabled or blind, or are the third parties who aid these individuals in applying for SSI.

Type of Request: Revision of an OMB-approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical cost amount (dollars) *	Average wait time in field office or teleservice centers (minutes) **	Total annual opportunity cost (dollars) ***
Intranet CCE or SSI Claims System	596,633	1	28	278,429	*\$23.47	** 35	***\$14,703,134
Internet Claim System (iSSI)	167,331	1	6	16,733	* 23.47		*** 392,724
SSA-8001 (Paper Version)	371,585	1	15	92,896	* 23.47	** 35	*** 7,703,629
Total	1,135,579			388,058			*** 7,267,579

*We based this figure by averaging both the average disability payments based on SSA's current FY 2026 data (Effect of COLA on Average Social Security Benefits), and the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

**We based this figure on the average combined FY 2026 wait times for field offices (22 minutes) and for teleservice centers (48 minutes which includes the average speed of answer of 7 minutes as well as the average 41-minute wait time for a call back from an SSA technician), based on SSA's current management information data. This figure reflects both data from our systems and the data posted on our public facing website (Social Security performance | SSA) on the date we drafted this document. As the figures fluctuate daily, the wait times may be different on the website than they appear here. We continue to monitor our website and management information data on call back times to ensure we report updated figures when possible.

***This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

3. Authorization to Obtain Earnings Data From the Social Security Administration—0960-0602. On occasion, public and private organizations and agencies need to obtain detailed earnings information about specific Social Security number (SSN) holding wage earners for business purposes (e.g. pension funds and State

agencies, etc.). Respondents use Form SSA-581 to identify the SSN holder whose information they are requesting, and provide authorization from the SSN holder, when applicable. SSA uses the information provided on Form SSA-581 to: (1) identify the wage earner; (2) establish the period of earnings information requested; (3) verify the

wage earner authorized SSA to release this information to the requesting party; and (4) produce the Itemized Statement of Earnings (SSA-1826). The respondents are private businesses, state or local agencies, and other federal agencies.

Type of Request: Revision of an OMB-approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
SSA-581	24,000	1	10	4,000	*\$39.86	**\$159,440

*We based this figure on the average Compensation, Benefits, and Job Analysis Specialists hourly wage data, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

**This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

4. Medicare Subsidy Quality Review Forms—20 CFR 418(b)(5)—0960-0707. The Medicare Modernization Act of 2003 mandated the creation of the Medicare Part D prescription drug coverage program and provides certain subsidies for eligible Medicare beneficiaries to help pay for the cost of

prescription drugs. As part of its stewardship duties of the Medicare Part D subsidy program, SSA conducts periodic quality review checks of the information Medicare beneficiaries report on their subsidy applications (Form SSA-1020). SSA uses the Medicare Quality Review program to

conduct these checks. The respondents are applicants for the Medicare Part D subsidy whom SSA chose to undergo a quality review.

Type of Request: Revision of an OMB-approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time telephone (minutes) **	Total annual opportunity cost (dollars) **
SSA-9301 (Medicare Subsidy Quality Review Case Analysis Form	3,500	1	30	1,750	*\$32.66	**48	***\$148,603
SSA-9302 (Notice of Quality Review Acknowledgment Form for those with Phones)	3,500	1	15	875	*32.66		***28,578
SSA-9303 (Notice of Quality Review Acknowledgment Form for those without Phones)	350	1	15	88	*32.66		***2,874
SSA-9308 (Request for Information)	7,000	1	15	1,750	*32.66		***57,155

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time telephone (minutes) **	Total annual opportunity cost (dollars) **
SSA-9310 (Request for Documents)	3,500	1	5	292	*32.66	.....	***9,537
SSA-9311 (Notice of Appointment—Denial Reviewer Will Call)	450	1	15	113	*32.66	.....	***3,691
SSA-9312 (Notice of Appointment—Denial—Please Call Reviewer)	50	1	15	13	*32.66	.....	***425
SSA-9313 (Notice of Quality Review acknowledgment Form for those with Phones)	2,500	1	15	625	*32.66	.....	***20,413
SSA-9314 (Notice of Quality Review acknowledgment Form for those without Phones)	500	1	15	125	*32.66	.....	***4,083
Total	21,350	.....	.....	5,631	.....	.....	**275,359

* We based this figure on average U.S. citizen's hourly salary, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

*** We based this figure on the FY 2026 wait times for the teleservice centers (48 minutes which includes the average speed of answer of 7 minutes as well as the average 41-minute wait time for a call back from an SSA technician), based on SSA's current management information data. As the figures fluctuate daily, the wait times may be different on the website than they appear here. We continue to monitor our website and management information data on call back times to ensure we report updated figures when possible.

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

5. *Electronic SSDI and SSI Wage Reporting: myWageReport, SSA Mobile Wage Reporting, and Supplemental Security Income Telephone Wage Reporting—20 CFR 404.1520(b), 404.1571–1576, 404.1584–1593, & 416.701–416.732—0960–0715.* SSA requires Social Security Disability Insurance (SSDI) beneficiaries or their representative payees to report changes when beneficiaries return to work, when their amount of work increases, or when their earnings increase. Similarly, SSA requires recipients of SSI, their deemors, and representative payees to report changes in work and monthly wages. SSA allows SSDI beneficiaries, SSI recipients, deemors, and representative payees to report earnings

via electronic means, though the methods available depend on the type of benefits received. SSDI users may report wages using an internet reporting system called myWageReport. myWageReport is a secure internet reporting tool within the mySSA portal that enables SSDI beneficiaries to submit pay stub information to SSA. In addition to myWageReport, SSI users have two other electronic options, the SSA Mobile Wage Reporting application (SSAMWR) and the SSI Telephone Wage Reporting System (SSITWR). The SSITWR allows callers to report their wages by speaking their responses through voice recognition technology, or by keying in responses using a telephone key pad. The SSAMWR

allows recipients to report their wages through the mobile wage reporting application on their smartphone. SSITWR and SSAMWR systems collect the same information and send it to SSA over secure channels. To ensure the security of the information provided, SSITWR and SSAMWR ask respondents to provide information SSA can compare against our records for authentication purposes. Once the system authenticates the identity of the respondents, they can report their wage data. The respondents are SSDI beneficiaries, SSI recipients, SSI deemors, or representative payees.

Type of Request: Revision of an OMB-approved information collection.

Method of completion	Number of respondents	Frequency of response	Number of responses	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) **	Total annual opportunity cost (dollars) ***
Training/Instruction*	129,032	1	129,032	35	75,269	*\$23.47	**\$1,766,563
myWageReport	37,425	12	449,100	22	164,670	*23.47	**3,864,805
SSITWR	8,678	12	104,136	20	34,712	*23.47	**814,691
SSAMWR	82,929	12	995,148	20	331,716	*23.47	**7,758,375
Totals	258,064	.....	1,667,416	.....	606,367	.....	**14,204,434

* SSI respondents complete training and a method of collection. SSA is not able to break down the number of new wage reporters who receive training and long-time wage reporters who did not receive training; therefore, the actual number may be less than the estimate we provided. SSA collects management information data based on the number of transactions; the number of respondents has been extrapolated from that number. We do not collect MI on unique reporters.

* We based this figure by averaging both the average disability payments based on SSA's current FY 2026 data (Effect of COLA on Average Social Security Benefits), and the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

6. Request for Evidence from Doctor and Request for Evidence from Hospital—20 CFR 404 Subpart P and 20 CFR 416 Subpart I—0960–0722. Sections 223(d)(5) and 1614(a)(3)(H)(i) of the Social Security Act require claimants to furnish medical evidence of their disability when filing a

disability claim. SSA uses Forms HA–66 and HA–67 to request evidence from medical sources, which claimants identify as having information relative to their impairments, or ability to do work-related activities. In addition to accepting manual paper responses, SSA sends a barcode with the HA–66 and

HA–67, allowing respondents to fax the information directly into the electronic claims folder rather than submitting it manually. SSA uses the information to determine eligibility for benefits, and to pay medical sources for furnishing the information. The respondents are

medical sources, doctors, and hospitals that evaluate the claimants.

Type of Request: Revision of an OMB-approved information collection.

Method of completion	Number of respondents	Frequency of response	Number of responses	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
HA-66—Paper Version	6,843	22	150,546	15	37,637	*\$103	** \$3,876,611
HA-66—Electronic Version (ERE or barcode)	12,708	22	279,576	15	69,894	* 103	** 7,199,082
HA-67—Paper Version	2,752	22	60,544	15	15,136	* 103	** 1,559,008
HA-67—Electronic Version (ERE or barcode)	5,111	22	112,442	15	28,111	* 103	** 2,895,433
Totals	27,414				150,778		** 15,530,134

* We based this figures on the average Physician's hourly salary, the average Psychiatrist's hourly salary, and the average Psychologist's hourly salary as reported by Bureau of Labor Statistics data (*Occupational Employment and Wage Statistics*).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

7. Government-to-Government Services Online Website Registration Form; Government-to-Government Services Online Website Account Modification/Deletion Form—20 CFR 401.45—0960-0757. The Government-to-Government Services Online (GSO) website allows various external organizations to submit files to a variety of SSA systems and, in some cases, receive files in return. The SSA systems that process data transferred via GSO

include, but are not limited to, systems responsible for disability processing and benefit determination or termination. SSA uses the information on Form SSA-159, Government-to-Government Online website Registration Form, to register the requestor to use the GSO website. Once we receive the SSA-159, SSA provides the user with account information and conducts a walkthrough of the GSO website as necessary. Established organizations

may submit Form SSA-159 to register additional users as well. The established requesting organizations can also complete Form SSA-160, Government-to-Government Online website Account Modification/Deletion Form, to modify their online accounts (*e.g.*, address change). Respondents are State and local government agencies, and some private sector business entities.

Type of Request: Revision of an OMB-approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
SSA-159	1,973	1	15	493	*\$21.44	** \$10,570
SSA-160	366	1	15	92	* 21.44	** 1,972
Totals	2,339			585		** 12,542

* We based these figures on average Information and Record Keeping Clerk's hourly salary, as reported by Bureau of Labor Statistics data (*Occupational Employment and Wage Statistics*).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

8. Request to Show Cause for Failure to Appear—20 CFR 404.938, 416.1438, and 404.957(b)(i) and (ii)—0960-0794. When claimants who requested a hearing before a judge fail to appear at their scheduled hearings, the judge may reschedule the hearings if the claimants establish good cause for missing the hearings. To establish good cause, respondents must demonstrate one of the following: (1) SSA did not properly notify the claimant of the hearing, or (2) an unexpected event occurred without sufficient time for the claimant to request a postponement. The claimants can use paper Form HA-L90 or HA-L90-OP1 to provide their reason for not appearing at their scheduled hearings; or the claimants' representatives can use Electronic Records Express (ERE), OMB Control No. 0960-0753, to submit the

HA-L90 online. SSA requires two versions of the paper form, as a judge follows different procedures when determining good cause for fraud or similar fault redetermination cases (cases that have a prior decision and evidence on file) compared to initial claims (where we have no evidence on file). SSA uses the HA-L90 for initial claims, and the HA-L90-OP1 for fraud or similar fault redeterminations cases. The ERE method automatically adjusts for the type of case, so we only need one version of the internet screens. If the judge in an initial claim finds that the claimant established good cause for failure to appear at the hearing, the judge will reschedule the hearing. However, if the judge does not find that good cause was established, they may dismiss the request for hearing. The

judge may also make a claims eligibility determination based on the evidence of record (if any exists). If the judge in a fraud or similar fault redetermination case finds that the claimant established good cause for the failure to appear at the hearing, the judge will reschedule the hearing. However, if the judge does not find that good cause was established, the judge will issue a determination based on the evidence of record. The respondents are individuals, and their representatives, who requested a hearing before a judge after SSA denied their application who are seeking to establish good cause for failure to appear at the scheduled hearing.

Type of Request: Revision of an OMB-approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
HA-L90	37,265	1	10	6,211	*\$23.47	**\$145,772.17
HA-L90-OP1	500	1	10	83	* 23.47	** 1,948.01
Totals	37,765	.....	.....	6,294	.....	** 147,720

*We based this figure on averaging both the average disability payments based on SSA's current FY 2026 data (Effect of COLA on Average Social Security Benefits), and the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

9. Vocational Resource Facilitator Demonstration—0960–0829. SSA administers the Vocational Resource Facilitator Demonstration (VRFD) under the Interventional Cooperative Agreement Program (ICAP). ICAP allows SSA to partner with various non-federal groups and organizations to advance interventional research connected to the SSI and SSDI programs. VRFD tests the Vocational Resource Facilitator (VRF) intervention, which helps newly injured spinal cord injury or disease (SCI) or brain injury (BI) patients in pursuing their employment goals. The VRFD provides empirical evidence on the impact of the intervention on patients in several critical areas: (1) employment and earnings; (2) SSI and SSDI benefit receipt; and (3) satisfaction and well-being. A rigorous evaluation of VRFD is critical to help SSA and other interested parties assess promising options to improve employment-related outcomes and decrease benefit receipt. The VRFD

evaluation uses a randomized control experimental design that includes one treatment group and one control group. Control group members receive a referral for services to the Division of Vocational Rehabilitation Services (DVRS), New Jersey's state Vocational Rehabilitation agency. The treatment group receives a referral to DVRS and employment services from a resource facilitator (RF). RFs are fully integrated members of clinical teams who engage with injured workers during inpatient rehabilitation about return to work. The central research questions include:

- Was the intervention implemented as planned?
- What are key considerations for scaling up or adopting the VRF model at other facilities?
- What were the impacts of VRF on outcomes of interest?
- Did treatment group members earn or work more than control group members?

- Were treatment group members relatively less likely to apply to or receive SSI or SSDI benefits?

- Did treatment group members experience greater satisfaction and well-being than control group members?

- What were the benefits and costs of the demonstration across key groups?

The proposed public survey data collections supports three components of the planned implementation, impact, and benefit-cost analyses. The data collection efforts provides information that is not available in SSA program records about the characteristics and outcomes of VRFD participants in the treatment and control groups. Respondents are newly injured SCI and BI patients, who will provide written consent before agreeing to participate in the study and are randomly assigned to one of the study groups.

Type of Request: Revision of an OMB-approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) **	Total annual opportunity cost (dollars) ***
12-month Follow-up Survey	90	1	25	38	*\$14.27	**\$542
Staff Interviews with Site Staff	12	1	66	13	* 32.66	** 425
Onsite Audit of sample of case files	1	1	30	1	* 32.66	** 32.66
Totals	103	.....	.....	52	.....	** 1,000

*We based this figure on disability payments, based on SSA's current management information data (Effect of COLA on Average Social Security Benefits) and on the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

Mark Steffensen,

General Counsel, Chief of Law, Policy and Legislative Affairs, Social Security Administration.

[FR Doc. 2026–10316 Filed 5–21–26; 8:45 am]

BILLING CODE 4191–02–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36928]

Unity Line, LLC d/b/a Manitowoc Port & Terminal Railway—Operation Exemption—Rail Lines in Manitowoc County, Wis.

Unity Line, LLC d/b/a Manitowoc Port & Terminal Railway LLC (MP&TR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to operate approximately 1.5 miles of existing track (the Line) in Manitowoc, Wis. The Line currently serves as

private switching track for MP&TR's affiliate, Briess Industries, Inc. (Briess). The Line has no mileposts.

According to the verified notice, MP&TR will be a new Class III carrier created to operate and provide common carrier railroad service over the Line. MP&TR states that the Line is connected to existing track owned by Wisconsin Central Ltd. (CN/WCL), which operates between Briess's industry track, and CN/WCL's nearby Manitowoc Yard. According to the verified notice, MP&TR expects to enter into an arrangement with CN/WCL to

interchange traffic from the Line and connect it with the national railroad system.

MP&TR certifies that its projected revenues as a result of the transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed \$5 million per year. MP&TR also certifies that the proposed transaction does not involve any agreement, including any provision that would limit future interchange, with a third-party connecting railroad.

The transaction may be consummated on or after June 5, 2026, the effective date of the exemption (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than May 29, 2026 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36928, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423-0001. In addition, a copy of each pleading must be served on MP&TR's representatives, Peter A. Pfohl, Slover & Loftus LLP, 1828 L Street NW, Suite 1000, Washington, DC 20036, and John Duncan Varda, DeWitt LLP, 25 West Main Street, Suite 800, Madison, WI 53703.

According to MP&TR, this transaction is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at www.stb.gov.

Decided: May 18, 2026.

By the Board, Anika S. Cooper, Chief Counsel, Office of Chief Counsel.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2026-10237 Filed 5-21-26; 8:45 am]

BILLING CODE 4915-01-P

SURFACE TRANSPORTATION BOARD

30-Day Notice of Intent To Seek Extension of Approval of Collection: Statutory Authority To Preserve Rail Service

AGENCY: Surface Transportation Board.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Surface Transportation Board (Board) gives notice of its intent to request from the Office of Management and Budget (OMB) approval without change of the existing collection, Preservation of Rail Service, OMB Control No. 2140-0022, as described below. The Board previously published a notice about this collection in the **Federal Register** on March 20, 2026. That notice allowed for a 60-day public review and comment period. No comments were received.

DATES: Comments on this information collection should be submitted by June 22, 2026.

ADDRESSES: Written comments should be identified as "Paperwork Reduction Act Comments, Statutory Authority to Preserve Rail Service." Written comments for the proposed information collection should be submitted via www.reginfo.gov/public/do/PRAMain. This information collection can be accessed by selecting "Currently under Review—Open for Public Comments" or by using the search function. As an alternative, written comments may be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Yasmine Di Giulio, Surface Transportation Board Desk Officer: by email at oira_submission@omb.eop.gov; by fax at

(202) 395-1743; or by mail to 725 17th Street NW, Washington, DC 20503.

Please also direct comments to Chris Oehrle, PRA Officer, Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001 and to PRA@stb.gov. For further information regarding this collection, contact Michael Higgins, Deputy Director, Office of Public Assistance, Governmental Affairs (OPAGAC), and Compliance, at (202) 245-0284 or michael.higgins@stb.gov. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION: Comments are requested concerning each collection as to (1) whether the particular collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has 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. Submitted comments will be included and summarized in the Board's request for OMB approval.

Subjects: In this notice, the Board is requesting comments on the extension of the following information collection:

Description of Collection

Title: Preservation of Rail Service.

OMB Control Number: 2140-0022.

STB Form Number: None.

Type of Review: Extension without change.

Respondents: Affected shippers, communities, or other interested persons seeking to preserve rail service over rail lines that are proposed or identified for abandonment, and railroads that are required to provide information to the offeror or applicant: Approximately 25.

Frequency: On occasion, as follows:

TABLE—NUMBER OF YEARLY RESPONSES

Type of filing	Estimated annual average number of filings (2023–2025)
Offer of Financial Assistance (and related filings)	2
Request for Public Use Condition	1
Feeder Line Application	1
Trail Use Request (with extensions)	23

Total Burden Hours (annually including all respondents): 281 hours (total of estimated hours per response ×

number of responses for each type of filing).

TABLE—ESTIMATED TOTAL BURDEN HOURS

Type of filing	Estimated annual average number of filings (2023–2025)	Number of hours per response	Total estimated burden hours
Offer of Financial Assistance (and related filings)	2	46	92
Request for Public Use Condition	1	4	4
Feeder Line Application	1	70	70
Trail Use Request (with extensions)	23	5	115
Total burden hours			281

Total “Non-hour Burden” Cost: Because Board collections are submitted electronically to the Board, there is no cost for filing with the Board. However, respondents are sometimes required to send consultation letters to various other governmental agencies. Copies of these letters are part of an environmental and historic report that must be filed with this collection (unless waived by the Board). Because some of these other agencies may require hard copy letters, there may be some limited mailing costs, which staff estimates in total to be approximately \$1,800.00.

Needs and Uses: The Surface Transportation Board is, by statute, responsible for the economic regulation of common carrier freight railroads and certain other carriers operating in the United States. Under the laws the Board administers, persons seeking to preserve rail service may file pleadings before the Board to acquire or subsidize a rail line for continued service, or to impose a trail use or public use condition.

When a line is proposed for abandonment, affected shippers, communities, or other interested persons may seek to preserve rail service by filing with the Board: an offer of financial assistance (OFA) to subsidize or purchase a rail line for which a railroad is seeking abandonment (49 U.S.C. 10904), including a request for the Board to set terms and conditions of the financial assistance; a request for a public use condition (§ 10905); or a trail use request (16 U.S.C. 1247(d)). Similarly, when a line is placed on a system diagram map identifying it as an anticipated or potential candidate for abandonment, affected shippers, communities, or other interested persons may seek to preserve rail service by filing with the Board a feeder line application to purchase the identified rail line (§ 10907). Additionally, the railroad owning the

rail line subject to abandonment must, in some circumstances, provide information to the applicant or offeror, as included above.

As to trail use, the STB will issue a CITU or NITU to a prospective trail sponsor who seeks an interim trail use agreement with the rail carrier of the rail line that is being abandoned if the rail carrier consents. The CITU/NITU permits parties to negotiate for an interim trail use agreement. The parties may also agree to an extension of the negotiating period. If parties reach a trail use agreement, then they must jointly notify the Board of that fact and of any modification or vacancy of the agreement. There is a one-year period for any initial interim trail use negotiating period (with potential extensions).

Under the PRA, a federal agency that conducts or sponsors a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Section 3507(b) of the PRA requires, concurrent with an agency’s submitting a collection to OMB for approval, a 30-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: May 20, 2026.

Jeffrey Herzig,
Clearance Clerk.

[FR Doc. 2026–10300 Filed 5–21–26; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36926]

Great Basin & Northern Railway, Inc.— Change in Operators Exemption—City of Ely and Nevada Northern Railway Foundation

Great Basin & Northern Railway, Inc. (Great Basin & Northern Railway), has filed a verified notice of exemption under 49 CFR 1150.31 to replace the Great Basin and Northern Railroad, Inc. (Great Basin and Northern Railroad), as the common carrier operator over approximately 156.6 miles of rail line (the Lines) owned by the City of Ely, Nev., and the Nevada Northern Railway Foundation, Inc. (the Foundation).¹ The Lines include a main line between milepost 0.0 at or near Cobre, Nev., and milepost 146.1 at or near Keystone, Nev.; a branch line between milepost 127.9 at McGill Junction and milepost MB 2.5 at McGill, Nev.; and a branch line between milepost 135.3 at Hilene, Nev., and milepost H–8 at Adverse, Nev., all in Elko and White Pine Counties, Nev.

Great Basin & Northern Railway states it expects to enter an agreement with the Lines’ owners on or about when the notice becomes effective, giving it rights to provide common carrier service on the Lines. The current operator of the Lines, Great Basin and Northern Railroad, has authorized Great Basin & Northern Railway to represent that Great Basin and Northern Railroad does not object to the proposed change in operators.²

¹ Great Basin & Northern Railway filed a supplement to its verified notice on May 8, 2026. The date of its supplement, May 8, 2026, is therefore considered the filing date of the verified notice.

² According to the verified notice, both the future operator (Great Basin & Northern Railway) and the current operator (Great Basin and Northern Railroad) are subsidiaries of the Foundation. Great Basin & Northern Railway states that the change in operators will not cause the Foundation to control

Great Basin & Northern Railway certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier and will not exceed \$5 million. Great Basin & Northern Railway also certifies that the proposed transaction does not involve any provision or agreement that may limit future interchange of traffic with a third-party connecting carrier. Under 49 CFR 1150.32(b), a change in operators exemption requires that notice be given to shippers. Great Basin & Northern Railway states there are no shippers on the Lines.

The transaction may be consummated on or after June 7, 2026, the effective date of the exemption (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed by May 29, 2026 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36926, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Great Basin & Northern Railway's representative, Jason Tutrone, Thompson Hine LLP, 1919 M Street NW, Suite 700, Washington, DC 20036.

According to Great Basin & Northern Railway, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at www.stb.gov.

Decided: May 19, 2026.

By the Board, Anika S. Cooper, Chief Counsel, Office of Chief Counsel.

Kenyatta Clay,
Clearance Clerk.

[FR Doc. 2026-10255 Filed 5-21-26; 8:45 am]

BILLING CODE 4915-01-P

multiple rail carriers concurrently, because Great Basin and Northern Railroad will stop providing all common carrier services, and its common carrier obligation concerning the Lines will terminate, upon consummation of the transaction.

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2012-0332; FMCSA-2013-0124; FMCSA-2014-0103; FMCSA-2014-0387; FMCSA-2017-0057; FMCSA-2020-0024; FMCSA-2022-0032; FMCSA-2023-0019]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for 14 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these hard of hearing and deaf individuals to continue to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on May 15, 2026. The exemptions expire on May 15, 2028. Comments must be received on or before June 22, 2026.

ADDRESSES: You may submit comments identified by Docket No. FMCSA-2012-0332, FMCSA-2013-0124, FMCSA-2013-0125, FMCSA-2014-0103, FMCSA-2014-0387, FMCSA-2017-0057, FMCSA-2020-0024, FMCSA-2021-0017, FMCSA-2022-0032, or FMCSA-2023-0019, as appropriate, using any of the following methods:

- **Federal eRulemaking Portal:** Go to www.regulations.gov, insert the docket number (FMCSA-2012-0332, FMCSA-2013-0124, FMCSA-2013-0125, FMCSA-2014-0103, FMCSA-2014-0387, FMCSA-2017-0057, FMCSA-2020-0024, FMCSA-2021-0017, FMCSA-2022-0032, or FMCSA-2023-0019, as appropriate) in the keyword box and click "Search." Next, sort the results by "Posted (Newer-Older)," choose the first notice listed, and click on the "Comment" button. Follow the online instructions for submitting comments.

- **Mail:** Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W58-213, Washington, DC 20590-0001.

- **Hand Delivery or Courier:** Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W58-213, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

To avoid duplication, please use only one of these four methods. See the "Public Participation" portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Washington, DC 20590-0001; (202) 366-4001; fmcamedical@dot.gov. Office hours are 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2012-0332, FMCSA-2013-0124, FMCSA-2013-0125, FMCSA-2014-0103, FMCSA-2014-0387, FMCSA-2017-0057, FMCSA-2020-0024, FMCSA-2021-0017, FMCSA-2022-0032, or FMCSA-2023-0019), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to www.regulations.gov, insert the docket number (FMCSA-2012-0332, FMCSA-2013-0124, FMCSA-2013-0125,

FMCSA-2014-0103, FMCSA-2014-0387, FMCSA-2017-0057, FMCSA-2020-0024, FMCSA-2021-0017, FMCSA-2022-0032, or FMCSA-2023-0019) in the keyword box and click "Search." Next, sort the results by "Posted (Newer-Older)," choose the first notice listed, click the "Comment" button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. FMCSA will consider all comments and material received during the comment period.

B. Confidential Business Information (CBI)

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to the notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to the notice, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as "PROPIN" to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket of the notice. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001 or via email at brian.g.dahlin@dot.gov. At this time, you need not send a duplicate hardcopy of your electronic CBI submissions to FMCSA headquarters. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this notice.

C. Viewing Comments

To view comments, go to www.regulations.gov. Insert the docket number (FMCSA-2012-0332, FMCSA-2013-0124, FMCSA-2013-0125, FMCSA-2014-0103, FMCSA-2014-0387, FMCSA-2017-0057, FMCSA-2020-0024, FMCSA-2021-0017, FMCSA-2022-0032, or FMCSA-2023-0019) in the keyword box and click "Search." Next, sort the results by "Posted (Newer-Older)," choose the first notice listed, and click "Browse Comments." If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in room W58-213 of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

D. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption requests. DOT posts these comments, including any personal information the

commenter provides, to www.regulations.gov, as described in the system of records notice DOT/ALL-14 FDMS (Federal Docket Management System), which can be reviewed under the "Department Wide System of Records Notices" link at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>. The comments are posted without edit and are searchable by the name of the submitter.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the FMCSRs. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision from which the applicant will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)). FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

III. Background

The physical qualification standard for drivers regarding hearing, found in 49 CFR 391.41(b)(11), states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5-1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid (35 FR 6458, 6463 (Apr. 22, 1970) and 36 FR 12857 (July 8, 1971)).

The 14 individuals listed in this notice have requested renewal of their exemptions from the hearing standard in 49 CFR 391.41(b)(11), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

IV. Request for Comments

Interested parties or organizations possessing information that would show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if the person has failed to comply with the terms and conditions of the exemption, or if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of Title 49, chapter 313 or section 31136, FMCSA will take immediate steps to revoke the exemption of a driver.

V. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315(b), each of the 14 applicants have satisfied the renewal conditions for obtaining an exemption from the hearing requirement. The 14 drivers in this notice remain in good standing with the Agency. In addition, the Agency has reviewed each applicant's certified driving record from their State Driver's Licensing Agency (SDLA). The information obtained from each applicant's driving record provides the Agency with details regarding any moving violations or reported crash data, which demonstrates whether the driver has a safe driving history and is an indicator of future driving performance. If the driving record revealed a crash, FMCSA requested and reviewed the related police reports and other relevant documents, such as the citation and conviction information. These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce. Accordingly, FMCSA concludes that extending the exemption for each of these drivers for a period of 2 years is likely to achieve a level of safety equivalent to, or greater than, the level that would be achieved without the exemption.

In accordance with 49 U.S.C. 31136(e) and 31315(b), the following 14

individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers:

Charles Armand (TX)
Dustin Bemdeserfer (FL)
Marion Bennett (MD)
Nathaniel Borton (WI)
Marquarius Boyd (MS)
Brett Garner (OK)
Stephen Gensmer (MN)
Leonie Hall (NV)
William Larson (NC)
Michael Paasch (NE)
Jonathan Ramirez (CA)
Tami Richardson-Nelson (IA)
Charles Whitworth (LA)
Aldale Williamson (IL)

The drivers were included in docket numbers FMCSA–2012–0332, FMCSA–2013–0124, FMCSA–2013–0125, FMCSA–2014–0103, FMCSA–2014–0387, FMCSA–2017–0057, FMCSA–2020–0024, FMCSA–2021–0017, FMCSA–2022–0032, or FMCSA–2023–0019. Their exemptions were applicable as of May 15, 2026, and will expire on May 15, 2028.

VI. Terms and Conditions

The exemptions are extended subject to the following conditions: each driver (1) must report to FMCSA any crashes, as defined in 49 CFR 390.5T, within 7 days of the crash; (2) must report to FMCSA any citations and convictions for disqualifying offenses under 49 CFR parts 383 and 391, within 7 days of the citation and conviction; (3) must submit to FMCSA annual certified driving records from their SDLA; and (4) is prohibited from operating a motorcoach or bus with passengers in interstate commerce. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local law enforcement official. In addition, the driver must meet all the applicable commercial driver's license testing requirements. Each exemption will be valid for 2 years unless rescinded earlier by FMCSA.

VII. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VIII. Conclusion

Based upon its evaluation of the 14 exemption renewal applications, FMCSA renews the exemptions of the above-named drivers from the hearing requirement in 49 CFR 391.41(b)(11). In accordance with 49 U.S.C. 31315(b), and FMCSA's policy of issuing medical exemptions for a 2-year period to

correspond with the medical certificate, each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of Title 49, chapter 313 or section 31136.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2026–10341 Filed 5–21–26; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2026–0051]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from 12 individuals for an exemption from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions would enable these hard of hearing and deaf individuals to operate CMVs in interstate commerce.

DATES: Comments must be received on or before June 22, 2026.

ADDRESSES: You may submit comments identified by Docket No. FMCSA–2026–0051 using any of the following methods:

- *Federal eRulemaking Portal:* Go to www.regulations.gov, insert the docket number (FMCSA–2026–0051) in the keyword box and click “Search.” Next, choose the only notice listed, and click on the “Comment” button. Follow the online instructions for submitting comments.

- *Mail:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W58–213, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W58–213, Washington, DC 20590–0001, between 9 a.m. and 5 p.m.,

Monday through Friday, except Federal holidays.

- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the “Public Participation” portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (202) 366–4001; fmcsamedical@dot.gov. Office hours are 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2026–0051), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <https://www.regulations.gov/docket/FMCSA-2026-0051>. Next, choose the only notice listed, click the “Comment” button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. FMCSA will consider all comments and material received during the comment period.

B. Confidential Business Information (CBI)

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to the notice contain commercial or financial information that is customarily treated as private,

that you actually treat as private, and that is relevant or responsive to the notice, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as "PROPIN" to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket of the notice. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001 or via email at brian.g.dahlin@dot.gov. At this time, you need not send a duplicate hardcopy of your electronic CBI submissions to FMCSA headquarters. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this notice.

C. Viewing Comments

To view comments, go to www.regulations.gov, insert the docket number (FMCSA-2026-0051) in the keyword box and click "Search." Next, choose the only notice listed, and click "Browse Comments." If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in room W58-213 of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

D. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. DOT posts these comments, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice DOT/ALL-14 FDMS (Federal Docket Management System), which can be reviewed under the "Department Wide System of Records Notices" link at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>. The comments are posted without edit and are searchable by the name of the submitter.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the FMCSRs. FMCSA must publish a notice of each exemption

request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level of safety that would be achieved absent such exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision from which the applicant will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)). FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

III. Background

The physical qualification standard for drivers regarding hearing, found in 49 CFR 391.41(b)(11), states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5-1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid (35 FR 6458, 6463 (Apr. 22, 1970) and 36 FR 12857 (July 8, 1971)). In 2008, FMCSA published Evidence Report, "Executive Summary on Hearing, Vestibular Function and Commercial Motor Driving Safety."¹ The evidence report reached two conclusions regarding the matter of hearing loss and CMV driver safety: (1) no studies were identified that examined the relationship between hearing loss and crash risk exclusively

among CMV drivers; and (2) evidence from studies of the private driver's license holder population does not support the contention that individuals with hearing impairment are at an increased risk for a crash.

On February 1, 2013, FMCSA began granting exemptions, on a case-by-case basis, to individual drivers from the physical qualification standard regarding hearing in 49 CFR 391.41(b)(11) (78 FR 7479 (Feb. 1, 2013)). The Agency considers relevant scientific information and literature, the 2008 Evidence Report, "Executive Summary on Hearing, Vestibular Function and Commercial Motor Driving Safety," any public comments received, and each individual's driving record in deciding whether to grant the exemption.

The 12 individuals listed in this notice have requested an exemption from the hearing standard in 49 CFR 391.41(b)(11). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

IV. Qualifications of Applicants

Devione Beasley

Mr. Beasley, 30, holds a class C driver's license in Georgia.

Brando Hernandez Blandon

Mr. Blandon, 33, holds a class A commercial driver's license (CDL) in Nevada.

Zachary Brown

Mr. Brown, 40, holds a class A CDL in Pennsylvania.

Natasha Greenler

Ms. Greenler, 41, holds a regular driver's license in Indiana.

Darren James

Mr. James, 46, holds a class D driver's license in Alabama.

Travis Kayhart

Mr. Kayhart, 50, holds a class driver's license in Utah.

Austin Latin

Mr. Latin, 27, holds a class CM driver's license in Maryland.

Maxwell Latin

Mr. Latin, 34, holds a class CM driver's license in Maryland.

Darnel Phinazee

Mr. Phinazee, 42, holds a class C driver's license in North Carolina.

Esteban Simon

Mr. Simon, 31, holds a class D driver's license in New Jersey.

¹ <https://www.fmcsa.dot.gov/regulations/medical/hearing-vestibular-function-and-commercial-motor-vehicle-driver-safety-executive>

Herbert Tackett

Mr. Tackett, 45, holds a class D driver's license in Illinois.

Travis Walton

Mr. Walton, 40, holds a class D driver's license in Alabama.

V. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b), FMCSA requests public comment from all interested persons on the exemption applications described in this notice. FMCSA will consider all comments received before the close of business on the closing date indicated under the **DATES** section of the notice.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2026-10345 Filed 5-21-26; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration**

[Docket Number FRA-2015-0078]

Notice of Petition for Extension of Waiver of Compliance

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

ACTION: Notice.

SUMMARY: This document provides the public notice that the National Railroad Passenger Corporation (Amtrak) petitioned FRA for an extension of relief from certain regulations concerning ECP brake systems on passenger trains.

DATES: FRA must receive comments on the petition by July 21, 2026. FRA will consider comments received after that date to the extent practicable.

ADDRESSES:

Comments: Comments related to this docket may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> and follow the

online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT:

Steven Zuiderveen, Railroad Safety Specialist, FRA Motive Power & Equipment Division, telephone: 202-493-6337, email: steven.zuiderveen@dot.gov.

SUPPLEMENTARY INFORMATION: Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by letter dated April 1, 2026, Amtrak petitioned FRA for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR parts 229¹ (Railroad Locomotive Safety Standards) and 238 (Passenger Equipment Safety Standards). FRA assigned the petition Docket Number FRA-2015-0078.

Amtrak requests extended relief from 49 CFR 238.109, *Training, qualification, and designation program* and § 238.311, *Single car test*. This relief permits Amtrak to continue operating four Amfleet I coach cars with ECP control valves beyond the 1,476-day clean, oil, test, and stencil interval per § 238.309(d)(2), *Periodic brake equipment maintenance—Passenger coaches and other unpowered devices*. Further, Amtrak requests modifications to several of the conditions in the June 14, 2019 decision letter related to geographic limitations, applicable brake rules, and reporting requirements.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

Communications received by July 21, 2026 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

¹ Although Amtrak requests relief from part 229 generally, it also states that it "no longer requires relief from . . . 49 CFR Section []229.315, *Operation and maintenance manual*; 49 CFR Section []229.317, *Training and qualification program*; and 49 CFR Section []229.319, *Operating Personnel Training*."

Privacy Act

Anyone can search the electronic form of any written communications and comments received into any of FRA's dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of [regulations.gov](https://www.regulations.gov).

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2026-10308 Filed 5-21-26; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration**

[Docket Number FRA-2011-0048]

Notice of Petition for Extension of Waiver of Compliance

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

ACTION: Notice.

SUMMARY: This document provides the public notice that Tri-County Metropolitan Transportation District of Oregon (TriMet) petitioned FRA for an extension of relief from certain regulations related to its shared use property.

DATES: FRA must receive comments on the petition by July 21, 2026. FRA will consider comments received after that date to the extent practicable.

ADDRESSES:

Comments: Comments related to this docket may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act

information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: John Mardente, Railroad Safety Specialist, FRA Engineering & Technology Division, telephone: 202-493-1335, email: john.mardente@dot.gov.

SUPPLEMENTARY INFORMATION: Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by letter dated April 6, 2026, TriMet petitioned FRA for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 219 (Control of Alcohol and Drug Use) and part 229 (Railroad Locomotive Safety Standards). FRA assigned the petition Docket Number FRA-2011-0048.

Specifically, TriMet requests extended relief from all of part 219 and from § 229.125(d)(2), *Headlights and auxiliary lights*, related to its Orange Line, a 7.3-mile rail fixed guideway urban rapid transit line that connects downtown Portland to Milwaukie, Oregon. Two segments of the line share a common corridor with Union Pacific Railroad and Pacific & Western Railroad at nine limited connections. In support of its requests, TriMet states that use of a single drug and alcohol program for all employees provides consistency throughout the system, and the light rail vehicles' auxiliary lights provide an equivalent level of safety.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

Communications received by July 21, 2026 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Privacy Act

Anyone can search the electronic form of any written communications and comments received into any of FRA's dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of [regulations.gov](https://www.regulations.gov).

Issued in Washington, DC.

John Karl Alexy,
Associate Administrator for Railroad Safety,
Chief Safety Officer.

[FR Doc. 2026-10306 Filed 5-21-26; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2012-0068]

Notice of Petition for Extension of Waiver of Compliance

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

ACTION: Notice.

SUMMARY: This document provides the public notice that The Housatonic Railroad Company (HRRC) petitioned FRA for an extension of relief from certain regulations concerning hours of service.

DATES: FRA must receive comments on the petition by July 21, 2026. FRA will consider comments received after that date to the extent practicable.

ADDRESSES:

Comments: Comments related to this docket may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act

information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Bill Smith, Railroad Safety Specialist, FRA Operating Practices Division, telephone: 682-305-6709, email: william.smith@dot.gov.

SUPPLEMENTARY INFORMATION: Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by letter dated March 30, 2026, HRRC petitioned FRA for an extension of a waiver of compliance from certain provisions of the hours of service laws contained at title 49 United States Code (U.S.C.) section 21103(a). The relevant Docket Number is FRA-2012-0068.

Specifically, HRRC seeks an extension of relief from the provisions of 49 U.S.C. 21103(a)(4), which in part, provides that a train employee may not be required or allowed to remain or go on duty after that employee has initiated an on-duty period each day for 6 consecutive days, unless that employee has had at least 48 hours off duty at the employee's home terminal. HRRC seeks to continue to allow a train employee to initiate an on-duty period for 6 consecutive days followed by 24 hours off duty. HRRC states that the waiver allows more flexible employee work schedules, minimizes employee fatigue, and enables better service for HRRC customers.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

Communications received by July 21, 2026 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Privacy Act

Anyone can search the electronic form of any written communications

and comments received into any of FRA's dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of [regulations.gov](https://www.regulations.gov).

Issued in Washington, DC.

John Karl Alexy,

*Associate Administrator for Railroad Safety,
Chief Safety Officer.*

[FR Doc. 2026-10307 Filed 5-21-26; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2026-0829]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, M/V BLACK PAPAYA

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before June 22, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2026-0829 by any one of the following methods:

- **Federal eRulemaking Portal:** Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- **Mail or Hand Delivery:** Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation. **FOR FURTHER INFORMATION CONTACT:** Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR-620, Washington, DC 20590. Telephone: (202) 366-5400. Email: smallvessels@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation

How do I submit comments?

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

The docket online is located at <https://www.regulations.gov>, keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to SmallVessels@dot.gov. Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.
T. Mitchell Hudson, Jr.,
Secretary, Maritime Administration.

[FR Doc. 2026-10326 Filed 5-21-26; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2026-0793]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, S/V SONG OF DAVID

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before June 22, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2026-0793 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West

Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR-620, Washington, DC 20590. Telephone: (202) 366-5400. Email: smallvessels@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade

businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation

How do I submit comments?

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

The docket online is located at <https://www.regulations.gov>, keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to SmallVessels@dot.gov. Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026-10338 Filed 5-21-26; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2026-0827]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, M/V AMORE

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before June 22, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2026-0827 by any one of the following methods:

- **Federal eRulemaking Portal:** Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- **Mail or Hand Delivery:** Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12-

140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR-620, Washington, DC 20590. Telephone: (202) 366-5400. Email: smallvessels@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue

adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation

How do I submit comments?

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

The docket online is located at <https://www.regulations.gov>, keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to SmallVessels@dot.gov. Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026–10325 Filed 5–21–26; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2026–0797]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, M/V MADIGALE

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before June 22, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2026–0797 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include

the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR–620, Washington, DC 20590. Telephone: (202) 366–5400. Email: smallvessels@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

Public Participation

How do I submit comments?

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

The docket online is located at <https://www.regulations.gov>, keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to SmallVessels@dot.gov. Include in the email subject heading “Contains Confidential Commercial Information” or “Contains CCI” and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.
T. Mitchell Hudson, Jr.,
Secretary, Maritime Administration.
 [FR Doc. 2026–10334 Filed 5–21–26; 8:45 am]
BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2026–0830]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, S/V JERSEY GIRL

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before June 22, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2026–0830 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a

mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR–620, Washington, DC 20590. Telephone: (202) 366–5400. Email: smallvessels@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation

How do I submit comments?

Please submit comments, including the attachments, following the

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

The docket online is located at <https://www.regulations.gov>, keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to SmallVessels@dot.gov. Include in the email subject heading “Contains Confidential Commercial Information” or “Contains CCI” and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.
T. Mitchell Hudson, Jr.,
Secretary, Maritime Administration.

[FR Doc. 2026–10332 Filed 5–21–26; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION**Maritime Administration****[Docket No. MARAD–2026–0831]****Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, M/V SEA FALCON****AGENCY:** Maritime Administration (MARAD), U.S. Department of Transportation (DOT).**ACTION:** Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before June 22, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2026–0831 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All

comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR–620, Washington, DC 20590. Telephone: (202) 366–5400. Email: smallvessels@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation*How do I submit comments?*

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional

documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

The docket online is located at <https://www.regulations.gov>, keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to SmallVessels@dot.gov. Include in the email subject heading “Contains Confidential Commercial Information” or “Contains CCI” and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026–10336 Filed 5–21–26; 8:45 am]

BILLING CODE 4910–81–P

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

DEPARTMENT OF TRANSPORTATION**Maritime Administration****[Docket No. MARAD–2026–0763]****Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, S/V LEARNING CURVES****AGENCY:** Maritime Administration (MARAD), U.S. Department of Transportation (DOT).**ACTION:** Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before June 22, 2026.**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2026–0763 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All comments received will be posted

without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR–620, Washington, DC 20590. Telephone: (202) 366–5400. Email: smallvessels@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation*How do I submit comments?*

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional documents as necessary. There is no limit on the length of the attachments.

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

Where do I go to read public comments, and find supporting information?

The docket online is located at <https://www.regulations.gov>, keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to SmallVessels@dot.gov. Include in the email subject heading “Contains Confidential Commercial Information” or “Contains CCI” and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026–10333 Filed 5–21–26; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION**Maritime Administration****[Docket No. MARAD–2026–0762]****Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, M/V CARPE DIEM****AGENCY:** Maritime Administration (MARAD), U.S. Department of Transportation (DOT).**ACTION:** Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before June 22, 2026.**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2026–0762 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All comments received will be posted

without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR–620, Washington, DC 20590. Telephone: (202) 366–5400. Email: smallvessels@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation*How do I submit comments?*

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional documents as necessary. There is no limit on the length of the attachments.

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

Where do I go to read public comments, and find supporting information?

The docket online is located at <https://www.regulations.gov>, keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to SmallVessels@dot.gov. Include in the email subject heading “Contains Confidential Commercial Information” or “Contains CCI” and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026–10328 Filed 5–21–26; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION**Maritime Administration****[Docket No. MARAD–2026–0760]****Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, M/V CHACHI****AGENCY:** Maritime Administration (MARAD), U.S. Department of Transportation (DOT).**ACTION:** Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before June 22, 2026.**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2026–0760 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All comments received will be posted

without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR–620, Washington, DC 20590. Telephone: (202) 366–5400. Email: smallvessels@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation*How do I submit comments?*

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional documents as necessary. There is no limit on the length of the attachments.

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

Where do I go to read public comments, and find supporting information?

The docket online is located at <https://www.regulations.gov>, keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to SmallVessels@dot.gov. Include in the email subject heading “Contains Confidential Commercial Information” or “Contains CCI” and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026–10329 Filed 5–21–26; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION**Maritime Administration****[Docket No. MARAD–2026–0796]****Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, M/V FELIX FELICIS****AGENCY:** Maritime Administration (MARAD), U.S. Department of Transportation (DOT).**ACTION:** Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before June 22, 2026.**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2026–0796 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All comments received will be posted

without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR–620, Washington, DC 20590. Telephone: (202) 366–5400. Email: smallvessels@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation*How do I submit comments?*

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional documents as necessary. There is no limit on the length of the attachments.

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

Where do I go to read public comments, and find supporting information?

The docket online is located at <https://www.regulations.gov>, keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to SmallVessels@dot.gov. Include in the email subject heading “Contains Confidential Commercial Information” or “Contains CCI” and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026–10331 Filed 5–21–26; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION**Maritime Administration****[Docket No. MARAD–2026–0832]****Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, S/V 6 LINES****AGENCY:** Maritime Administration (MARAD), U.S. Department of Transportation (DOT).**ACTION:** Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before June 22, 2026.**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2026–0832 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All comments received will be posted

without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR–620, Washington, DC 20590. Telephone: (202) 366–5400. Email: smallvessels@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation*How do I submit comments?*

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional documents as necessary. There is no limit on the length of the attachments.

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

Where do I go to read public comments, and find supporting information?

The docket online is located at <https://www.regulations.gov>, keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to SmallVessels@dot.gov. Include in the email subject heading “Contains Confidential Commercial Information” or “Contains CCI” and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026–10324 Filed 5–21–26; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION**Maritime Administration****[Docket No. MARAD–2026–0794]****Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, M/V BOAT HAMPTON****AGENCY:** Maritime Administration (MARAD), U.S. Department of Transportation (DOT).**ACTION:** Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before June 22, 2026.**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2026–0794 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All

comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR–620, Washington, DC 20590. Telephone: (202) 366–5400. Email: smallvessels@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation*How do I submit comments?*

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional

documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

The docket online is located at <https://www.regulations.gov>, keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to SmallVessels@dot.gov. Include in the email subject heading “Contains Confidential Commercial Information” or “Contains CCI” and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026–10327 Filed 5–21–26; 8:45 am]

BILLING CODE 4910–81–P

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

DEPARTMENT OF TRANSPORTATION**Maritime Administration****[Docket No. MARAD–2026–0761]****Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, M/V DIPLOMCY****AGENCY:** Maritime Administration (MARAD), U.S. Department of Transportation (DOT).**ACTION:** Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before June 22, 2026.**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2026–0761 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All

comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR–620, Washington, DC 20590. Telephone: (202) 366–5400. Email: smallvessels@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation*How do I submit comments?*

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional

documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

The docket online is located at <https://www.regulations.gov>, keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to SmallVessels@dot.gov. Include in the email subject heading “Contains Confidential Commercial Information” or “Contains CCI” and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026–10330 Filed 5–21–26; 8:45 am]

BILLING CODE 4910–81–P

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

DEPARTMENT OF TRANSPORTATION**Maritime Administration****[Docket No. MARAD–2026–0795]****Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, M/V SEA TRACK****AGENCY:** Maritime Administration (MARAD), U.S. Department of Transportation (DOT).**ACTION:** Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before June 22, 2026.**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2026–0795 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All

comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR–620, Washington, DC 20590. Telephone: (202) 366–5400. Email: smallvessels@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation*How do I submit comments?*

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional

documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

The docket online is located at <https://www.regulations.gov>, keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to SmallVessels@dot.gov. Include in the email subject heading “Contains Confidential Commercial Information” or “Contains CCI” and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026–10337 Filed 5–21–26; 8:45 am]

BILLING CODE 4910–81–P

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

DEPARTMENT OF TRANSPORTATION**Maritime Administration****[Docket No. MARAD–2026–0826]****Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, M/V MAMA JUANA****AGENCY:** Maritime Administration (MARAD), U.S. Department of Transportation (DOT).**ACTION:** Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before June 22, 2026.**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2026–0826 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All

comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR–620, Washington, DC 20590. Telephone: (202) 366–5400. Email: smallvessels@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation*How do I submit comments?*

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional

documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

The docket online is located at <https://www.regulations.gov>, keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to SmallVessels@dot.gov. Include in the email subject heading “Contains Confidential Commercial Information” or “Contains CCI” and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

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(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026–10335 Filed 5–21–26; 8:45 am]

BILLING CODE 4910–81–P

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

DEPARTMENT OF THE TREASURY**Office of Foreign Assets Control****Notice of OFAC Sanctions Action**

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons and vessels that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied.

All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them. The vessels placed on the SDN List have been identified as property in which a blocked person has an interest.

DATES: This action was issued on May 19, 2026. See **SUPPLEMENTARY INFORMATION** for relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, 202-622-2420; Assistant Director for Licensing, 202-622-2480; Assistant Director for Sanctions

Compliance, 202-622-2490; or <https://ofac.treasury.gov/contact-ofac>.

SUPPLEMENTARY INFORMATION:**Electronic Availability**

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website: <https://ofac.treasury.gov>.

Notice of OFAC Actions

On May 19, 2026, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons and vessels are blocked under the relevant sanctions authorities listed below.

BILLING CODE 4810-AL-P

Individuals:

1. CHAKHERLO, Ali Hazrati (Arabic: علی حضرتی چاخارلو) (a.k.a. CHAKHARLOO, Ali Hazrati; a.k.a. HAZRATI, Ali), Istanbul, Turkey; DOB 07 Jan 1993; POB Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 2870484119 (Iran); National Foreign ID Number 99390181000 (Turkey); Residency Number YAA 095363 (Turkey); alt. Residency Number YAB 253356 (Turkey) (individual) [IRAN-EO13902] (Linked To: EBRAHIMI AND ASSOCIATES PARTNERSHIP COMPANY).

Designated pursuant to section 1(a)(iv) of Executive Order 13902 of September 28, 2010, "Imposing Sanctions With Respect to Additional Sectors of Iran," 85 FR 2003, 3 CFR, 2020 Comp., p. 299 (E.O. 13902), for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, EBRAHIMI AND ASSOCIATES PARTNERSHIP COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13902.

2. EBRAHIMI, Yousef (Arabic: یوسف ابراهیمی) (a.k.a. IBRAHIMI, Yusuf), Iran; Turkey; DOB 16 Dec 1977; POB Ahar, Iran; nationality Iran; alt. nationality Turkey; alt. nationality Dominica; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; Passport V45786901 (Iran); alt. Passport U23890441 (Turkey) expires 22 Feb 2031; alt. Passport RA053188 (Dominica); National ID No. 1501300148 (Iran); alt. National ID No. 72376169360 (Turkey) (individual) [IRAN-EO13902] (Linked To: EBRAHIMI AND ASSOCIATES PARTNERSHIP COMPANY).

Designated pursuant to section 1(a)(iv) of E.O. 13902 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, EBRAHIMI AND ASSOCIATES PARTNERSHIP COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13902.

3. EBRAHIMI, Mahmoud (Arabic: محمود ابراهیمی) (a.k.a. IBRAHIMI, Mahmut), Turkey; DOB 31 Aug 1970; POB Iran; nationality Iran; alt. nationality Turkey; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; Passport U22267217 (Turkey); National ID No. 1501298658 (Iran); alt. National ID No. 25613728172 (Turkey) (individual) [IRAN-EO13902] (Linked To: EBRAHIMI AND ASSOCIATES PARTNERSHIP COMPANY).

Designated pursuant to section 1(a)(iv) of E.O. 13902 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, EBRAHIMI AND ASSOCIATES PARTNERSHIP COMPANY, a

person whose property and interests in property are blocked pursuant to E.O. 13902.

4. NEMATI, Samad (Arabic: *صمد نعمتی*), Iran; DOB 14 Feb 1982; POB Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 2754782796 (Iran) (individual) [IRAN-EO13902] (Linked To: EBRAHIMI AND ASSOCIATES PARTNERSHIP COMPANY).

Designated pursuant to section 1(a)(iv) of E.O. 13902 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, EBRAHIMI AND ASSOCIATES PARTNERSHIP COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13902.

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Entities

1. GLOBAL FORTUNE SHIPPING LIMITED, 7 Copperfield Road, West Midlands, Coventry CV2 4AQ, United Kingdom; Organization Established Date 29 Nov 2024; Identification Number IMO 0178209; Company Number 16109226 (United Kingdom) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petroleum sector of the Iranian economy.

2. GREAT SAIL SHIPPING LIMITED, Flat/Rm A 12/F Zj 300, 300 Lockhart Road, Wan Chai, Hong Kong, China; Organization Established Date 10 Mar 2022; Identification Number IMO 6302744; Company Number 3134167 (Hong Kong); Business Registration Number 73856666 (Hong Kong) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petrochemical sector of the Iranian economy.

3. OW MARITIME INCORPORATED, 80 Broad Street, Monrovia, Liberia; Organization Established Date 2024; Identification Number IMO 0095675 [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petroleum sector of the Iranian economy.

4. SPARKLING COURAGE LIMITED, Road Town, Tortola, Virgin Islands, British; Identification Number IMO 6380179 [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petrochemical sector of the Iranian economy.

5. MEKONG LINES INC., Trust Company Complex, Ajeltake Road,

Ajeltake Island, Majuro 96960, Marshall Islands; Organization Established Date 18 Jul 2022; Identification Number IMO 6337174; Business Registration Number 115421 (Marshall Islands) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petroleum sector of the Iranian economy.

6. MOZART MARITIME INC., Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro 96960, Marshall Islands; Organization Established Date 23 Dec 2025; Identification Number IMO 0421146; Business Registration Number 136015 (Marshall Islands) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petroleum sector of the Iranian economy.

7. ROMY LINES INCORPORATED, Cotton Ground, Nevis, Saint Kitts and Nevis; Organization Established Date 2025; Identification Number IMO 0351225 [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petroleum sector of the Iranian economy.

8. SPLENDID LEXY TRADING COMPANY LTD, Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro 96960, Marshall Islands; Organization Established Date 12 Sep 2025; Identification Number IMO 0385978; Business Registration Number 133830 (Marshall Islands) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petroleum sector of the Iranian economy.

9. AQUILA WORLDWIDE MARINE DEVELOPMENTS CORP., 21st Floor, Global Plaza, Calle 50, Panama City,

Panama; Organization Established Date 2025; RUC # 155774435-2-2025 (Panama); Identification Number IMO 0416503 [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petroleum sector of the Iranian economy.

10. AURORA BUSINESS COMPANY LIMITED, Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro 96960, Marshall Islands; Organization Established Date 16 Jan 2024; Identification Number IMO 0001777; Registration Number 123752 (Marshall Islands) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petroleum sector of the Iranian economy.

11. TAURUS GAS COMPANY LIMITED, Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro 96960, Marshall Islands; Organization Established Date 25 Aug 2023; Identification Number IMO 6485996; Registration Number 121525 (Marshall Islands) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petroleum sector of the Iranian economy.

12. VEINTO GLOBAL MARINE INC., 21st Floor, Global Plaza, Calle 50, Panama City, Panama; Organization Established Date 2025; RUC # 155774364-2-2025 (Panama); Identification Number IMO 0418694 [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petroleum sector of the Iranian economy.

13. EBRAHIMI AND ASSOCIATES PARTNERSHIP COMPANY

(Arabic: شرکت تضامنی ابراهیمی و شرکا) (a.k.a. AMIN EXCHANGE), No. 0, Ground Floor, 29 Bahman Boulevard, Bakhtar Street, South Valiasr, Tabriz County, Central District, Tabriz, East Azerbaijan Province 5167653533, Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 20 Feb 2007; National ID No. 10200266420 (Iran); Registration Number 21081 (Iran) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

14. GJADES SHIPPING COMPANY LIMITED, Flat C, 23rd Floor, Lucky Plaza, Lockhart Road, Wan Chai, Hong Kong, China; Organization Established Date 19 Apr 2024; Identification Number IMO 6493421; Registration Number 76464581 (Hong Kong) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petrochemical sector of the Iranian economy.

15. GS CHEMICAL TRANSPORTATION LIMITED, Hong Kong, China; Organization Established Date 07 Sep 2021; Identification Number IMO 6257827; Company Number 3083492 (Hong Kong); Registration Number 73344190 (Hong Kong) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petrochemical sector of the Iranian economy.

16. SCIENCE OBEDIENT INTERNATIONAL COMPANY LIMITED, Office 1, Ground Floor 41, Devonshire Street, London W1G7AJ, United Kingdom; Organization Established Date 29 Dec 2020; Identification Number IMO 6358303 [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petroleum sector of the Iranian economy.

17. SUN OCEAN SHIPPING INCORPORATED, 80 Broad Street, Monrovia, Liberia; Identification Number IMO 5696949 [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petroleum sector of the Iranian economy.

18. BESTFORTUNA COMPANY LIMITED, Unit 1021, Beverley Commercial Centre, 87–105 Chatham Road South, Tsim Sha Tsui, Kowloon, Hong Kong, China; Unit 32, 11/F, Li Ka Industrial Building, 8 Wu Fong Street, San Po Kong, Kowloon, Hong Kong, China; Organization Established Date 22 Oct 2021; Company Number 3095574 (Hong Kong); Business Registration Number 73466687 (Hong Kong) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

19. CHENG PAN CO., LIMITED (Chinese Traditional: 承攀有限公司)

(a.k.a. CHENG PAN CO LIMITED), Rm 5015, 5/F, Yau Lee Centre, 45 Hoi Yuen Road, Kwun Tong, Hong Kong, China; Room 401, 4F, Wanchai Central Building, 89 Lockhart Road, Wanchai, Hong Kong, China; Organization Established Date 03 Apr 2018; Company Number 2674522 (Hong Kong); Business Registration Number 69156505 (Hong Kong) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

20. ARDEN ANGEL SHIPPING COMPANY LIMITED, Room 1201, 12th Floor, Tai Sang Bank Building, 130–132, Des Voeux Road Central, Hong Kong, China; Organization Established Date 17 Jan 2022; Identification Number IMO

6283562; Registration Number 73730890 (Hong Kong) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petroleum sector of the Iranian economy.

21. OCEAN MARVEL SHIPPING COMPANY LIMITED, Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro 96960, Marshall Islands; Organization Established Date 08 Dec 2025; Identification Number IMO

0401979; Registration Number 135695 (Marshall Islands) [IRAN–EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petroleum sector of the Iranian economy.

22. VERDA GAS CO LTD, Unit D, 18th Floor, Golden Sun Centre, 59–67, Bonham Strand West, Sheung Wan, Hong Kong, China; Organization Established Date 15 Dec 2025; Identification Number IMO 0412196;

Company Number 79394971 (Hong Kong) [IRAN–EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petroleum sector of the Iranian economy.

BILLING CODE 4810–AL–P

23. ALIEEN GOODS WHOLESALERS LLC

(Arabic: العالين لتجارة السلع بالجملة ش ذ م م), Dubai, United Arab Emirates; Organization Established Date 20 Nov 2019; Organization Type: Wholesale and retail trade; License 863076 (United Arab Emirates); Chamber of Commerce Number 331418 (United Arab Emirates); Registration Number 1465829 (United Arab Emirates); Economic Register Number (CBLS) 11435861 (United Arab Emirates) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

24. BOLD TRADING FZE (Arabic: بولد تریدنگ م.م.ح), Ras Al Khaimah, United Arab Emirates; Organization Established Date 26 Jan 2012; License 5016667 (United Arab Emirates); Economic Register Number (CBLS) 11404029 (United Arab Emirates) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

25. NINGBO JIARUI TRADING CO., LTD. (Chinese Simplified: 宁波迦瑞贸易有限公司), No. 6, Yueshangzhi 1st Road, Dongshanghe Village, Henghe Town, Cixi, Ningbo, Zhejiang 315300, China; Organization Established Date 20 Oct 2020; Unified Social Credit Code (USCC) 91330282MA2H8QXU61 (China) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

26. MATERIUM GROUP FZE (Arabic: ماتريوم جروب م.م.ح), Umm Al Quwain, United Arab Emirates; Office No: 9F-A-26 Empire Heights, Business Bay, Dubai, United Arab Emirates; Organization Established Date 26 Jul 2024; Organization Type: Wholesale of construction materials, hardware, plumbing and heating equipment and supplies; License 10315 (United Arab Emirates) issued 26 Jul 2024 [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

27. STARSHINE PETROCHEMICAL CORPORATION LIMITED (Chinese Simplified: 星耀石化有限公司), 19th Floor, Ho King Commercial Centre, Hong Kong, China; Organization Established Date 15 Dec 2021; Company Number 3112795 (Hong Kong); Business Registration Number 73640655 (Hong Kong) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

28. VIGOROUS TRADING LIMITED (Chinese Traditional: 進盛貿易有限公司), Unit 305-306, 3/F, New East Ocean Centre No. 9, Science Museum Road, Kowloon, Hong Kong, China; Organization Established Date 28 Mar 2014; Company Number 2069752 (Hong Kong); Business Registration Number 63071561 (Hong Kong) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

BILLING CODE 4810-AL-C

Vessels

1. GALA ROSE (VROT2) Chemical/Oil Tanker Hong Kong flag; Other Vessel Flag China; Vessel Year of Build 1997; Vessel Registration Identification IMO 9126015; MMSI 477524600 (vessel) [IRAN-EO13902] (Linked To: SPARKLING COURAGE LIMITED).

Identified as property in which SPARKLING COURAGE LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

2. GREAT SAIL (8PW3) LPG Tanker Barbados flag; Vessel Year of Build 2000; Vessel Registration Identification IMO 9177583; MMSI 314001124 (vessel) [IRAN-EO13902] (Linked To: GREAT SAIL SHIPPING LIMITED).

Identified as property in which GREAT SAIL SHIPPING LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

3. LUNA LUSTER (9LS2181) Crude Oil Tanker Sierra Leone flag; Vessel Year of Build 2005; Vessel Registration Identification IMO 9292187; MMSI 667002478 (vessel) [IRAN-EO13902] (Linked To: GLOBAL FORTUNE SHIPPING LIMITED).

Identified as property in which GLOBAL FORTUNE SHIPPING LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

4. OCEAN WAVE (T8A5483) Products Tanker Palau flag; Vessel Year of Build 2007; Vessel Registration Identification IMO 9387152; MMSI 511101945 (vessel) [IRAN-EO13902] (Linked To: OW MARITIME INCORPORATED).

Identified as property in which OW MARITIME INCORPORATED, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

5. DAKUSH (E5U5359) Chemical/Products Tanker Cook Islands flag; Vessel Year of Build 2004; Vessel Registration Identification IMO

9278698; MMSI 518999378 (vessel) [IRAN-EO13902] (Linked To: MEKONG LINES INC.).

Identified as property in which MEKONG LINES INC., a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

6. FEADSHIP (YJRK9) Crude Oil Tanker Vanuatu flag; Vessel Year of Build 2007; Vessel Registration Identification IMO 9322279; MMSI 577697000 (vessel) [IRAN-EO13902] (Linked To: MOZART MARITIME INC.).

Identified as property in which MOZART MARITIME INC., a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

7. TEJAS (3E2257) Crude Oil Tanker Panama flag; Vessel Year of Build 2006; Vessel Registration Identification IMO 9326067; MMSI 352002323 (vessel) [IRAN-EO13902] (Linked To: ROMY LINES INCORPORATED).

Identified as property in which ROMY LINES INCORPORATED, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

8. VASLATI (TJMA15) Crude Oil Tanker Cameroon flag; Vessel Year of Build 2003; Vessel Registration Identification IMO 9252333 (vessel) [IRAN-EO13902] (Linked To: SPLENDID LEXY TRADING COMPANY LTD).

Identified as property in which SPLENDID LEXY TRADING COMPANY LTD, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

9. GAS ENDURANCE (TRBS7) LPG Tanker Gabon flag; Vessel Year of Build 2003; Vessel Registration Identification IMO 9240419; MMSI 626480000 (vessel) [IRAN-EO13902] (Linked To: AQUILA WORLDWIDE MARINE DEVELOPMENTS CORP.).

Identified as property in which AQUILA WORLDWIDE MARINE DEVELOPMENTS CORP., a person whose property and interests in

property are blocked pursuant to E.O. 13902, has an interest.

10. GAS STRENGTH (TRBP8) LPG Tanker Gabon flag; Vessel Year of Build 1999; Vessel Registration Identification IMO 9172636; MMSI 626457000 (vessel) [IRAN-EO13902] (Linked To: VEINTO GLOBAL MARINE INC.).

Identified as property in which VEINTO GLOBAL MARINE INC., a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

11. OCEAN RADIANCE (T8A4807) LPG Tanker Palau flag; Vessel Year of Build 2000; Vessel Registration Identification IMO 9194969; MMSI 511101444 (vessel) [IRAN-EO13902] (Linked To: AURORA BUSINESS COMPANY LIMITED).

Identified as property in which AURORA BUSINESS COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

12. QUANTUM STAR (3E5322) LPG Tanker Panama flag; Vessel Year of Build 2001; Vessel Registration Identification IMO 9225342; MMSI 352003912 (vessel) [IRAN-EO13902] (Linked To: TAURUS GAS COMPANY LIMITED).

Identified as property in which TAURUS GAS COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

13. BRIGHT GOLD (3EEC9) Chemical/Oil Tanker Panama flag; Vessel Year of Build 1999; Vessel Registration Identification IMO 9171503; MMSI 374670000 (vessel) [IRAN-EO13902] (Linked To: GS CHEMICAL TRANSPORTATION LIMITED).

Identified as property in which GS CHEMICAL TRANSPORTATION LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

14. DOUBLE IN (T7DJ2) LPG Tanker San Marino flag; Vessel Year of Build 1992; Vessel Registration Identification IMO 8917807; MMSI 268252804 (vessel)

[IRAN–EO13902] (Linked To: SCIENCE OBEDIENT INTERNATIONAL COMPANY LIMITED).

Identified as property in which SCIENCE OBEDIENT INTERNATIONAL COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

15. G JADES (D6A3797) LPG Tanker Comoros flag; Vessel Year of Build 1997; Vessel Registration Identification IMO 9131096; MMSI 620999798 (vessel) [IRAN–EO13902] (Linked To: GJADES SHIPPING COMPANY LIMITED).

Identified as property in which GJADES SHIPPING COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

16. NARSIS (TJM5238) Chemical/Oil Tanker Cameroon flag; Vessel Year of Build 2008; Vessel Registration Identification IMO 9408358; MMSI 613913606 (vessel) [IRAN–EO13902] (Linked To: SUN OCEAN SHIPPING INCORPORATED).

Identified as property in which SUN OCEAN SHIPPING INCORPORATED, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

17. MIDAS (3E8015) Crude Oil Tanker Panama flag; Vessel Year of Build 2003; Vessel Registration Identification IMO 9266841; MMSI 352006683 (vessel) [IRAN–EO13902] (Linked To: OCEAN MARVEL SHIPPING COMPANY LIMITED).

Identified as property in which OCEAN MARVEL SHIPPING COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

18. MIGHTY NAVIGATOR (VRXQ6) LPG Tanker Hong Kong flag; Other Vessel Flag China; Vessel Year of Build 2001; Vessel Registration Identification IMO 9206396; MMSI 477227800 (vessel) [IRAN–EO13902] (Linked To: VERDA GAS CO LTD).

Identified as property in which VERDA GAS CO LTD, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

19. SWIFT FALCON (3EMI9) Chemical/Oil Tanker Panama flag; Vessel Year of Build 2002; Vessel Registration Identification IMO 9246803; MMSI 374176000 (vessel) [IRAN–EO13902] (Linked To: ARDEN ANGEL SHIPPING COMPANY LIMITED).

Identified as property in which ARDEN ANGEL SHIPPING COMPANY LIMITED, a person whose property and

interests in property are blocked pursuant to E.O. 13902, has an interest. (Authority: E.O. 13902.)

Bradley T. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2026–10259 Filed 5–21–26; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities; Comment Request on Clean Vehicle Credits

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of information collection; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the IRS is inviting comments on the information collection request outlined in this notice.

DATES: Written comments should be received on or before July 21, 2026 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Include “OMB Control No. 1545–2137” in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Kerry Dennis, (202) 317–5751.

SUPPLEMENTARY INFORMATION: The IRS, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the IRS assess the impact and minimize the burden of its information collection requirements. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record, and viewable on relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimate of the burden of the

collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Title: Clean Vehicle Credits.

OMB Control Number: 1545–2137.

Revenue Procedure: 2022–42.

Abstract Revenue Procedure 2022–42 provides procedures for vehicle manufacturers to certify qualified clean vehicles and submit monthly reports to the IRS regarding vehicles eligible for the clean vehicle credits under sections 30D, 45W, and 25E. The collection of information is used by the IRS to verify manufacturer eligibility, determine whether vehicles satisfy statutory requirements, verify the amount of allowable credits, and support seller reporting obligations. This submission is limited to the collections associated with Form 15400, Clean Vehicle Seller Report, and the manufacturer monthly reporting requirements under Revenue Procedure 2022–42.

Current Actions: There has been a decrease in the number of respondents and overall burden due to statutory changes. The clean vehicle credits under sections 25E, 30D, and 45W, to which this collection relates, were terminated under the OBBBA for vehicles acquired after September 30, 2025. As a result of the statutory termination of the credits, the IRS expects a reduction in the volume of filings and associated burden associated with Revenue Procedure 2022–42, including Form 15400 and manufacturer monthly reporting requirements.

Type of Review: Revision of a currently approved collection.

Affected Public: Individual, Business or other for-profit organizations.

Rev. Proc. 2022–42, annual reports (Form 15400):

Estimated Number of Respondents: 100.

Estimated Number of Responses: 500.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 1,000 hours.

Rev. Proc. 2022–42, monthly reports:

Estimated Number of Respondents: 100.

Estimated Number of Responses: 500.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 125 hours.

Estimated Total Number of Respondents: 200.

Estimated Total Number of Responses: 1,000.

Estimated Total Annual Burden Hours: 1,125 hours.

Dated: May 19, 2026.

Kerry Dennis,

Tax Analyst.

[FR Doc. 2026–10279 Filed 5–21–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF THE TREASURY

Mandatory Survey of Foreign-Residents' Holdings of U.S. Securities

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice of reporting requirements.

SUMMARY: By this Notice the Department of the Treasury is informing the public that it is conducting a mandatory survey of foreign-residents' holdings of U.S. securities, including selected money market instruments, as of June 30, 2026. This mandatory survey is conducted under the authority of the International Investment and Trade in Services Survey Act. This Notice constitutes legal notification to all United States persons (defined below) who meet the reporting requirements set forth in this Notice that they must respond to, and comply with, this survey. Additional copies of the reporting forms SHLA (2025) (which remain applicable to this survey) and instructions may be printed from the internet at: <https://home.treasury.gov/data/treasury-international-capital-tic-system-home-page/tic-forms-instructions/forms-shl>.

SUPPLEMENTARY INFORMATION:

Definition: A U.S. person is any individual, branch, partnership, associated group, association, estate, trust, corporation, or other organization (whether or not organized under the laws of any State), and any government (including a foreign government, the United States Government, a State or local government, and any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government-sponsored agency), who resides in the United States or is subject to the jurisdiction of the United States.

Who Must Report: This mandatory survey is conducted under the authority of the International Investment and Trade in Services Survey Act (22 U.S.C. 3101 *et seq.*) and in accordance with 31 CFR 129. The panel for this survey is based primarily on the level of foreign residents' holdings of U.S. securities

reported on the June 2024 benchmark survey of foreign residents' holdings of U.S. securities, and on the Aggregate Holdings, Purchases and Sales, and Fair Value Changes Of Long-Term Securities by U.S. and Foreign Residents (TIC SLT) report as of December 2025, and will consist mostly of the largest reporters. Entities required to report will be contacted individually by the Federal Reserve Bank of New York. Entities not contacted by the Federal Reserve Bank of New York have no reporting responsibilities.

What to Report: This report will collect information on foreign resident holdings of U.S. securities, including equities, short-term debt securities (including selected money market instruments), and long-term debt securities.

How to Report: Copies of the survey forms and instructions, which contain complete information on reporting procedures and definitions, may be obtained at the website address given above in the Summary, or by contacting the survey staff of the Federal Reserve Bank of New York at (212) 720–6300, or by email: SHLA.help@ny.frb.org. The mailing address is: Federal Reserve Bank of New York, Data and Statistics Function, 6th Floor, 33 Liberty Street, New York, NY 10045–0001. Inquiries can also be made to Kurt Schuler at (202) 622–7527, or by email: comments2TIC@treasury.gov.

When to Report: Data should be submitted to the Federal Reserve Bank of New York, acting as fiscal agent for the Department of the Treasury, by August 31, 2026.

Paperwork Reduction Act Notice: This data collection has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act and assigned control number 1505–0123. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. The estimated average annual burden associated with this collection of information is 486 hours per report for the largest custodians of securities, and 110 hours per report for the largest issuers of securities that have data to report and are not custodians. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Department of the Treasury, Office of International Affairs, Attention: Administrator, International Portfolio Investment Data Reporting Systems, Room 1050, Washington, DC 20220, or by email: comments2TIC@treasury.gov,

and to OMB, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, or by email: OIRA_Submission@OMB.EOP.gov.

Kurt Schuler,

Administrator, International Portfolio Investment Data Reporting Systems.

[FR Doc. 2026–10302 Filed 5–21–26; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0176]

Agency Information Collection Activity Under OMB Review: Certification of Training Hours, Wages, and Progress

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent by June 22, 2026.

ADDRESSES: To submit comments and recommendations for the proposed information collection, please type the following link into your browser: www.reginfo.gov/public/do/PRAMain, select “Currently under Review—Open for Public Comments”, then search the list for the information collection by Title or “OMB Control No. 2900–0176.”

FOR FURTHER INFORMATION CONTACT: VA PRA information: Dorothy Glasgow, 202–461–1084, VAPRA@va.gov.

SUPPLEMENTARY INFORMATION:

Title: VA Form 28–1905c, Certification of Training Hours, Wages, and Progress.

OMB Control Number: 2900–0176
<https://www.reginfo.gov/public/do/PRASearch>.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 28–1905c is used to gather the necessary information to determine any changes in enrollment certification, monthly progression, and

attendance as outlined in the claimant's vocational rehabilitation plan. This information is essential to track the type and hours of training, as well as the rating of the claimant's performance toward the completion of his or her training program under 38 U.S.C. Chapter 31 and 38 U.S.C. Chapter 35. Without the information gathered on this form, benefits could be delayed under 38 U.S.C. 501(a).

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at insert citation date 91 FR 12486, March 13, 2026.

Affected Public: Individuals or Households.

Estimated Annual Burden: 264 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 791 per year.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dorothy Glasgow,

Acting VA PRA Clearance Officer, Office of Information Technology, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2026-10305 Filed 5-21-26; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0890]

Agency Information Collection Activity: Government-Sponsored Enterprise (GSE) Industry Appraisal Report

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent by June 22, 2026.

ADDRESSES: To submit comments and recommendations for the proposed information collection, please type the following link into your browser: www.reginfo.gov/public/do/PRAMain, select "Currently under Review—Open for Public Comments", then search the list for the information collection by Title or "OMB Control No. 2900-0890."

FOR FURTHER INFORMATION CONTACT: VA PRA information: Dorothy Glasgow, 202-461-1084, VAPRA@va.gov.

SUPPLEMENTARY INFORMATION:

Title: Government-Sponsored Enterprise (GSE) Industry Appraisal Report.

OMB Control Number: 2900-0890
<https://www.reginfo.gov/public/do/PRASearch>.

Type of Review: Revision of currently approved collection.

Abstract: The Government-Sponsored Enterprise (GSE) Industry Appraisal Report information collection is used by VA to support property valuation determinations for VA guaranteed loans. This collection seeks reapproval of VA's requirements that appraisers utilize certain industry-standard reports when completing an appraisal, as accurate and thorough appraisal reporting is critical

to the underwriting process. Authority for these requirements is provided under 38 U.S.C. 3731, which authorizes the VA Secretary to establish a panel of appraisers, prescribe qualifications, and determine reasonable value property for loan guaranty purposes. This collection provides accurate and complete appraisal of prospective VA-guaranteed properties, ensuring mortgages are acceptable for VA guarantee and protecting the interest of VA, taxpayers, and the Veterans Housing Benefit Program Fund. As part of this update, VA replaced prior listing of industry-standard appraisal forms (Fannie Mae 1004, 1004C, 1004D, 1025, 1075, 2055) into a consolidated single collection titled Government-Sponsored Enterprise (GSE) Industry Appraisal Report to reflect current industry practice. This is a technical renaming and does not change the information collected, respondents, or burden.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 91 FR 11374 on March 9, 2026.

Affected Public: Individuals or Households.

Estimated Annual Burden: 10,833 hours annually.

Estimated Average Burden per Respondent: 1 minute.

Frequency of Response: One-time.

Estimated Number of Respondents: 650,000.

(Authority: 44 U.S.C. 3501 *et seq.*)

Shunda Willis,

Alternate, VA PRA Clearance Officer, Office of Information Technology, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2026-10236 Filed 5-21-26; 8:45 am]

BILLING CODE 8320-01-P



FEDERAL REGISTER

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Part II

Department of Health and Human Services

Centers for Medicare & Medicaid Services

42 CFR Parts 438 and 447

Medicaid Program; Medicaid Managed Care State Directed Payments and
Medicaid Fee-for-Service Targeted Medicaid Practitioner Payments;
Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 438 and 447

[CMS-2449-P]

RIN 0938-AV69

Medicaid Program; Medicaid Managed Care State Directed Payments and Medicaid Fee-for-Service Targeted Medicaid Practitioner Payments

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Proposed rule.

SUMMARY: This proposed rule describes alternatives to modify the limit on the total payment rate and other requirements for State directed payments in Medicaid managed care. We propose these changes based on our authority to interpret and implement section 1902(a)(4) of the Social Security Act (the Act) with respect to prepaid inpatient health plans and prepaid ambulatory health plans, and section 1903(m)(2)(A)(iii) of the Act, which require that contracts between States and managed care organizations to provide payments under a risk-based contract for services and associated administrative costs that are actuarially sound. This rule also proposes to set a limit for certain targeted Medicaid payments in Medicaid fee-for-service. We propose this change based on our authority to interpret and implement section 1902(a)(30)(A) of the Act with respect to certain targeted Medicaid payments which require that payments be consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, by July 21, 2026.

ADDRESSES: In commenting, please refer to file code CMS-2449-P.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to <https://www.regulations.gov/docket/CMS-2026-1916>. Follow the “Submit a comment” instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-2449-P, P.O. Box 8016, Baltimore, MD 21244-8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-2449-P, Mail Stop C4-26-05, 7500 Security Boulevard, Baltimore, MD 21244-1850. For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: John Giles, (410) 786-5545, Medicaid Managed Care. Jocelyn Velez, (410) 786-2367, Medicaid Fee-for-Service Payments.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: <https://www.regulations.gov>. Follow the search instructions on that website to view public comments. CMS will not post on *Regulations.gov* public comments that make threats to individuals or institutions or suggest that the commenter will take actions to harm an individual. CMS continues to encourage individuals not to submit duplicative comments. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments.

Plain Language Summary: In accordance with 5 U.S.C. 553(b)(4), a plain language summary of this proposed rule may be found at <https://www.regulations.gov/>.

I. Background

Title XIX of the Social Security Act (the Act) established the Medicaid program as a Federal-State partnership for the purpose of providing and financing medical assistance to specified groups of eligible individuals.

States¹ have considerable flexibility in designing their programs but must abide by requirements specified in the Federal Medicaid statute and regulations. Each State is responsible for administering its Medicaid program in accordance with an approved State plan, which specifies the scope of covered services, groups of eligible individuals, payment methodologies, and all other information necessary to assure the State plan describes a comprehensive and sound structure for operating the Medicaid program, and ultimately, provides a clear basis for claiming Federal matching funds.

As of November 2025, the Medicaid program provided essential health care coverage to more than 76 million² individuals. In 2024, Medicaid had annual outlays of more than \$931.7 billion (total computable).³ The program covers a broad array of health benefits and services critical to many populations. For example, Medicaid pays for approximately 41 percent of all births in the United States,⁴ is the largest payer of long-term services and supports,⁵ and provides health coverage for more than half of all children in the United States.⁶

Depending on the State and its Medicaid program structure, beneficiaries access their health care services using fee-for-service (FFS) and/or managed care delivery systems. States also provide services through demonstrations and waiver programs under both delivery systems. In 2024, approximately 85 percent of Medicaid beneficiaries were enrolled in managed care;⁷ the remaining individuals

¹ The use of the term “State” refers to all 50 states, the District of Columbia and the territories unless otherwise noted.

² November 2025 Medicaid and CHIP Enrollment Snapshot. Accessed at <https://www.medicaid.gov/resources-for-states/downloads/eligib-oper-and-enrol-snap-nov2025.pdf>.

³ CMS National Health Expenditure Fact Sheet. Accessed at <https://www.cms.gov/data-research/statistics-trends-and-reports/national-health-expenditure-data/nhe-fact-sheet>.

⁴ National Center for Health Statistics. Key Birth Statistics (2024 Data.). Accessed at <https://www.cdc.gov/nchs/nvss/births.htm>.

⁵ Colello, Kirsten J. *Who Pays for Long-Term Services and Supports?* Congressional Research Service. Updated June 15, 2022. Accessed at <https://crsreports.congress.gov/product/pdf/IF/IF10343>.

⁶ Desilver, D. What the data says about Medicaid. June 2025. Pew Research Center. Accessed at <https://www.pewresearch.org/short-reads/2025/06/24/what-the-data-says-about-medicaid/#:~:text=blind%20or%20disabled,How%20many%20people%20have%20Medicaid%20coverage?,adult%20population%20as%20of%20January>.

⁷ <https://data.medicaid.gov/dataset/79692ea5-21e1-56bf-8149-97d437120c4b?conditions=property=year&conditionsvalue=2024&conditionsoperator=%3D>.

received all or some services through FFS.

On June 6, 2025, President Trump signed a Presidential Memorandum titled “Eliminating Waste, Fraud, and Abuse in Medicaid”⁸ (hereinafter referred to as “the Presidential Memorandum”). This memorandum directed the Secretary of Health and Human Services (the Secretary) to eliminate fraud, waste, and abuse in Medicaid, including by ensuring Medicaid payment rates are not higher than Medicare, to the extent permitted by applicable law. The memorandum noted the Administration’s concerns that certain State financing arrangements have, at times, been used to further waste, fraud, and abuse in Medicaid. It also noted that State directed payment (SDPs) have grown substantially in recent years, and that this trajectory threatens the Federal Treasury and Medicaid’s long-term stability. It also pointed to distortions created by the incentives in arrangements in which provider taxes or intergovernmental transfers (IGTs) are returned to the same providers through Medicaid payments, thereby absolving States of their obligation to share in the burden of financing the joint Federal and State Medicaid program. When States are relieved of these financial obligations through such arrangements, the memorandum stated that States’ incentives for prudent administration are reduced. The memorandum noted that both seniors on Medicare and Medicaid recipients deserve access to quality care in a system free from fraud, waste, and abuse. We are concerned that increased Medicaid payments that are not aligned with statutory objectives such as supporting access to care may instead reward providers primarily on the basis of their ability to supply the non-Federal share of their own payments, rather than on advancing access to or quality of care for Medicaid beneficiaries.

On July 4, 2025, Public Law (Pub. L.) 119–21 was enacted (which CMS refers to as the “Working Families Tax Cut” (WFTC) legislation). Section 71116(a) of the WFTC legislation directed the Secretary to revise § 438.6(c)(2)(iii) to limit the total payment rate for certain SDPs for inpatient hospital services, outpatient hospital services, nursing facility services, or qualified practitioner services at an academic medical center (AMC) (hereinafter referred to as the “four services”) effective with the first rating period

beginning on or after the date of enactment, July 4, 2025. Section 71116(b) of the WFTC legislation provides for the temporary grandfathering period for certain SDPs and requires a phase down beginning with the first rating period that starts on or after January 1, 2028.

To implement section 71116 of the WFTC legislation, the Secretary instructed us to develop and release this proposed rule. To aid State planning efforts until a final rule is issued, we issued a Dear Colleague Letter on February 2, 2026 with preliminary guidance on how we were interpreting certain provision in section 71116 of the WFTC legislation.^{9 10} We noted that the information was preliminary in nature and final policies would depend on the contents of the final rule. This letter also signaled that we were considering proposing changes to the limit for the total payment rate for SDPs for other services beyond the four services specified by section 71116 of the WFTC legislation as part of our broader effort to align this rulemaking with the Presidential Memorandum referenced in the letter.

SDPs have become a significant part of the Medicaid program. When designed and implemented with fiscal integrity, they can help States implement provider payment initiatives and delivery system reform efforts that further advance access to care and enhance quality of care in Medicaid managed care. However, as we have seen over time, they can also become vehicles for waste and abuse in the Medicaid program. For example, when these SDPs are not designed to improve care for beneficiaries and are instead designed to financially advantage a small number of providers and disincentivize States from investing in their own Medicaid programs by primarily relying on provider taxes or IGTs to fund the non-Federal share, these arrangements may contribute to inefficient or wasteful Medicaid spending. Through the issuance of the February 2, 2026 Dear Colleague Letter providing preliminary guidance on section 71116 of the WFTC legislation, and publication of the Preserving Medicaid Funding for Vulnerable Populations-Closing a Health Care-Related Tax Loophole Final Rule (91 FR 4794), we have taken steps to address fiscal integrity concerns in Medicaid. Reforming SDP requirements would

allow CMS and States to refocus on the original purpose of these arrangements, which is to permit States to direct certain managed care plan expenditures¹¹ within specified parameters to improve access and ultimately, quality of beneficiary care. We strongly believe that Medicaid beneficiaries deserve access to quality care in a system free from fraud, waste, and abuse and that promotes strong fiscal and program integrity.

A. Medicaid Managed Care Delivery Systems

The volume of Medicaid beneficiaries enrolled in Medicaid managed care has grown from 81 percent in 2016 to 85 percent in 2022.¹² States may implement a Medicaid managed care delivery system using four Federal authorities—sections 1915(a), 1915(b), 1932(a), and 1115(a) of the Act; each is briefly described later in this section.

Under section 1915(a) of the Act, States can implement a voluntary managed care program by executing a contract with organizations that the State has procured using a competitive procurement process; we review and approve these contracts in accordance with § 438.3(a). To require beneficiaries to enroll in a managed care program to receive services, a State must obtain approval from us under two primary authorities:

- Through a State plan amendment (SPA) that meets standards set forth in section 1932(a) of the Act, States can implement a mandatory managed care delivery system. This authority does not allow States to require beneficiaries who are dually eligible for Medicare and Medicaid (dually eligible beneficiaries), American Indians/Alaska Natives (except as permitted in section 1932(a)(2)(C) of the Act), or children with special health care needs to enroll in an applicable managed care program. State plans, once approved by us, remain in effect until modified by the State, with our approval.
- Through a waiver under section 1915(b) of the Act, States are permitted to require all Medicaid beneficiaries to enroll in a managed care delivery system, including dually eligible beneficiaries, American Indians/Alaska Natives, or children with special health care needs. After our approval, a State

¹¹ Throughout this document, the use of the term “managed care plan” includes MCOs, PIHPs, and PAHPs, and is only used when a reference applies to all three arrangements. An explicit reference is used if the provision applies to primary care case management (PCCM) or PCCM entities.

¹² CMCS Managed Care Enrollment Report. Accessed at <https://www.medicaid.gov/medicaid/managed-care/enrollment-report>.

⁹ <https://www.medicaid.gov/medicaid/managed-care/downloads/sdp-letter-02022026.pdf>.

¹⁰ CMS initially issued a Dear Colleague Letter on September 9, 2025; however, this letter was rescinded and replaced on February 2, 2026.

⁸ <https://www.whitehouse.gov/presidential-actions/2025/06/eliminating-waste-fraud-and-abuse-in-medicaid/>.

may operate a section 1915(b) waiver for a 2-year period before requesting renewal for an additional 2-year period. Section 1915(b) of the Act waivers may be approved for a 5-year initial period and renewed for additional 5-year periods if they include individuals who are dually eligible for Medicare and Medicaid.

- We may also authorize managed care programs as part of demonstration projects under section 1115(a) of the Act that include waivers permitting a State to require all Medicaid beneficiaries to enroll in a managed care delivery system, including dually eligible beneficiaries, American Indians/Alaska Natives, and children with special health care needs. Under this authority, States may seek additional flexibility to demonstrate and evaluate innovative policy approaches for delivering Medicaid benefits, as well as the option to provide services not typically covered by Medicaid. Such demonstrations are approvable only if it is determined that the demonstration would promote the objectives of the Medicaid statute and the demonstration is subject to an independent evaluation.

With the exception of section 1915(a) of the Act, the authorities discussed previously all permit States to operate their Medicaid managed care programs without complying with the following standards of the Medicaid statute outlined in section 1902 of the Act:

- *Stateness* (section 1902(a)(1) of the Act): States may implement a managed care delivery system in specific areas of the State (generally counties/parishes) rather than the whole State.

- *Comparability of Services* (section 1902(a)(10)(B) of the Act): States may provide different benefits to people enrolled in a managed care delivery system.

- *Freedom of Choice* (section 1902(a)(23)(A) of the Act): States may generally require individuals to receive their Medicaid services only from a managed care plan's network of providers or primary care provider, including through PCCMs and PCCM entities.

B. Relevant Medicaid Managed Care Rules

In the May 6, 2016 **Federal Register** (81 FR 27498), we published the “Medicaid and Children’s Health Insurance Program (CHIP) Programs; Medicaid Managed Care, CHIP Delivered in Managed Care, and Revisions Related to Third Party Liability” final rule (hereinafter referred

to as “the 2016 final rule”) that modernized the Medicaid and CHIP managed care regulations to reflect changes in the use of managed care delivery systems. The 2016 final rule aligned many of the rules governing Medicaid and CHIP managed care with those of other major sources of coverage; implemented applicable statutory provisions; strengthened actuarial soundness payment provisions to promote the accountability of managed care program rates; strengthened efforts to reform delivery systems that serve Medicaid and CHIP beneficiaries; and enhanced policies related to program integrity. The 2016 final rule applied many of the Medicaid managed care rules to separate CHIP programs, particularly in the areas of access, finance, and quality through cross-references at subpart L of 42 CFR part 457 to 42 CFR part 438. States may administer CHIP programs that are separate CHIP programs or as programs that are operated as an expansion of the State’s Medicaid program.

In the November 13, 2020 **Federal Register** (85 FR 72754), we published the “Medicaid Program; Medicaid and Children’s Health Insurance Program (CHIP) Managed Care” final rule (hereinafter referred to as the “2020 final rule”) which streamlined the Medicaid and CHIP managed care regulatory framework to relieve regulatory burdens; support State flexibility and local leadership; and promote transparency, flexibility, and innovation in the delivery of care. The rule was intended to ensure that the regulatory framework was efficient and feasible for States to implement in a cost-effective manner and ensure that States can implement and operate Medicaid and CHIP managed care programs without undue administrative burdens.

In the May 10, 2024 **Federal Register** (89 FR 41002), we published the “Medicaid Program; Medicaid and Children’s Health Insurance Program (CHIP) Managed Care Access, Finance, and Quality” final rule (hereinafter referred to as the “2024 final rule”) which established new standards to help States improve their monitoring of access to care and codified requirements for State use of in lieu of services and settings. The final rule also enhanced quality, fiscal and program integrity requirements for SDPs, addressed impermissible redistribution arrangements related to SDPs, and added clarity to the requirements related to medical loss ratio

calculations. The 2024 final rule also codified a limit to the total payment rate (often referred to as the “total payment rate limit”) for certain types of SDPs at the average commercial rate (ACR).

We note that SDPs authorized under § 438.6(c) do not apply to separate CHIP programs. SDPs can, however, be used in Medicaid programs that include Title XXI-funded Medicaid expansion CHIP beneficiaries; that is, programs in which a State receives Federal funding to expand Medicaid eligibility to optional targeted low-income children that meets the requirements of section 2103 of the Act. For purposes of this document, references to “Medicaid” mean = States’ programs operated under Title XIX, including those that cover Medicaid expansion CHIP populations, and do not include separate CHIP programs.

C. History of State Directed Payments

Section 1903(m)(2)(A)(iii) of the Act requires that contracts between States and managed care organizations (MCOs) provide for payments under a risk-based contract for services and associated administrative costs to be actuarially sound. Under section 1902(a)(4) of the Act, we also have authority to establish methods of administration for Medicaid that are necessary for the proper and efficient operation of the State plan. Under this authority in section 1902(a)(4) of the Act, we extended the requirement for actuarially sound capitation rates to prepaid inpatient health plans (PIHPs) and prepaid ambulatory health plans (PAHPs). The regulations addressing actuarially sound capitation rates are set forth in § 438.4 through 438.7, and require that such rates be projected to provide for all reasonable, appropriate, and attainable costs required under the terms of the contract and for the operation of the managed care plan during the specified time period and for the population covered under the terms of the contract.

In risk-based managed care programs, managed care plans have the responsibility to manage the financial risk of the contract, and one of the primary tools plans use is negotiating payment rates with providers. Unless there are specific Federal statutory or regulatory requirements or State contractual restrictions, the provider payment rates and conditions for payment between risk-bearing managed care plans and their network providers are subject to negotiation between the parties and may reflect overall private market conditions, as documented in a

network agreement. As long as managed care plans are meeting the requirements for ensuring access to care and network adequacy, States typically provide managed care plans latitude to develop a network of providers to ensure appropriate access to covered services under the contract for their enrollees and fulfill all of their contractual obligations while managing financial risk.

Subject to certain exceptions, States are generally not permitted to direct the expenditures of a Medicaid managed care plan under the contract between the State and the plan, or to make payments to providers for services covered under the contract between the State and the plan (§§ 438.6 and 438.60, respectively). However, there are circumstances in which a State may believe that requiring managed care plans to make specified payments to health care providers is an important tool in furthering the State's overall Medicaid program goals and objectives. For example, a State may direct managed care plan expenditures to ensure that certain minimum payments are made to safety net providers to ensure access to care, to enhance provider payment as mandated by State legislative directives, or to make quality payments to ensure providers are appropriately rewarded for meeting certain program goals. Because this type of State direction reduces the plan's ability to effectively manage costs, in the 2016 final rule, we established specific exceptions to the general rule prohibiting States from directing the expenditures of managed care plans under § 438.6(c)(1)(i) through (iii). These exceptions came to be known as SDPs.

The current regulations under § 438.6(c) specify the parameters for how and when States may direct the expenditures of their Medicaid managed care plans and the associated requirements and prohibitions on such arrangements. Permissible SDPs include directives that plans pay certain providers who participate in value-based purchasing (VBP) models, in multi-payer or Medicaid-specific delivery system reform or performance improvement initiatives, or that

managed care plans adhere to certain fee schedule requirements for provider payment (for example, minimum fee schedules, maximum fee schedules, and uniform dollar or percentage increases). Among other requirements, § 438.6(c) requires SDPs to be based on the utilization and delivery of services under the managed care contract and expected to advance at least one of the goals and objectives in the State's managed care quality strategy.

All SDPs must be included in all applicable managed care contract(s) and described in all applicable rate certification(s) as noted under §§ 438.6(c) and 438.7(b)(6), respectively. Further, § 438.6(c)(2)(i) requires that most SDPs be approved in writing by us prior to implementation.¹³ To obtain our written prior approval, States must submit a "preprint"¹⁴ to us to document how the SDP complies with the Federal requirements outlined under § 438.6(c). States must obtain written approval of certain SDPs for us to approve the corresponding Medicaid managed care contract(s) and rate certifications(s).

Each SDP preprint submitted to us is reviewed by a Federal review team to ensure the payments comply with the regulatory requirements under § 438.6(c) and other applicable laws. The Federal review team may consist of subject matter experts from various components and groups within CMS, which may include those representing managed care policy and operations, quality, and/or actuarial science. Over time, these reviews have expanded to include subject matter experts on financing of the non-Federal share and demonstration authorities, when needed. The CMS Federal review team works diligently to ensure a timely review and that standard operating procedures are followed for a consistent and thorough review of each preprint. Most preprints are submitted for renewal on an annual basis; SDPs that are for VBP arrangements, delivery system reform, or performance improvement initiatives and that meet additional criteria in § 438.6(c)(3)(i) are eligible for multi-year approval. States also have the option to submit preprint amendments when it is necessary to modify the payment arrangement. We

endeavor to complete the review of each SDP preprint submission within 90 days; however, there is no regulatory requirement that we approve or disapprove SDPs within a certain time period.

We issued guidance to States regarding SDPs on multiple occasions. In November 2017, we published the initial preprint along with guidance for States on the use of SDPs.¹⁵ In May 2020, we published guidance on managed care flexibilities to respond to the COVID-19 public health emergency (PHE), including how States could use SDPs in support of their COVID-19 response efforts.¹⁶ In January 2021, we published additional guidance for States to clarify existing policy, and also issued a revised preprint that States must use for rating periods beginning on or after July 1, 2021.¹⁷ The revised preprint¹⁸ is more comprehensive compared to the initial preprint, and it is designed to systematically collect the information that we identified as necessary as part of our review of SDPs to ensure compliance with the Federal regulatory requirements.¹⁹ This includes identification of the estimated total dollar amount for the SDP, an analysis of total provider payment rates for the class(es) of providers that the SDP is targeting, and information about the sources of the non-Federal share used to finance the SDP. In September 2025, we issued initial guidance regarding section 71116 of the WFTC legislation²⁰ and in the letter, acknowledged that the guidance therein was preliminary in nature and final policies would be implemented through a process of notice-and-comment rulemaking. We also published additional guidance on SDP quality evaluations²¹ in September, which detailed regulatory requirements and recommended best practices for state design and submission of SDP quality evaluation plans and findings.

Since § 438.6(c) was finalized in the 2016 final rule, States have requested approval for an increasing number of SDPs. The scope, size, and complexity of the SDP arrangements submitted by States for approval has also grown steadily and quickly as illustrated by Table 1.²²

¹³ SDPs that use minimum fee schedules for providers that provide a particular service under the contract using State plan approved rates as defined in § 438.6(a), or using a total published Medicare payment rate that was in effect no more than 3 years prior to the start of the rating period are not subject to the written prior approval requirement in § 438.6(c)(2)(i); however, they must comply with the requirements currently in § 438.6(c)(2)(ii)(A) through (J) (other than the requirement for written prior approval) and be

appropriately documented in the managed care contract(s) and rate certification(s).

¹⁴ The current version of the preprint is available online: <https://www.medicaid.gov/medicaid/managed-care/downloads/sdp-4386c-preprint-template.pdf>.

¹⁵ <https://www.medicaid.gov/sites/default/files/federal-policy-guidance/downloads/cib11022017.pdf>.

¹⁶ <https://www.medicaid.gov/sites/default/files/Federal-Policy-Guidance/Downloads/cib051420.pdf>.

¹⁷ <https://www.medicaid.gov/Federal-Policy-Guidance/Downloads/smd21001.pdf>.

¹⁸ CMS ID No: 10398, OMB No: 0938-1148, #52.

¹⁹ <https://www.medicaid.gov/medicaid/managed-care/downloads/sdp-4386c-preprint-template.pdf>.

²⁰ <https://www.medicaid.gov/medicaid/managed-care/downloads/sdp-ltr-09092025.pdf>.

²¹ <https://www.medicaid.gov/Federal-Policy-Guidance/Downloads/cib09102025.pdf>.

²² The number of preprints includes initial preprint submissions, renewals and amendments.

TABLE 1: TOTAL SDP SUBMISSIONS BY CY AND TOTAL NUMBER OF STATES

Calendar Year	Total Preprint Submissions	Number of States
2016	4	2
2017	41	16
2018	147	33
2019	176	37
2020	299	41
2021	244	39
2022	312	40
2023	362	40
2024	366	41
Grand Total	1,951	

SDPs also represent a notable amount of State and Federal spending. Based on an analysis of all SDP preprints by our Office of the Actuary (OACT), we estimate that absent any changes to existing regulations and before accounting for the impact of the WFTC legislation, SDP spending is projected to be \$97.8 billion in fiscal year (FY) 2024 (total computable) and projected to increase to approximately \$124.3 billion (total computable) for FY 2025 and \$144.6 billion for FY 2026. As total dollars flowing through SDPs have increased significantly even since publication of the 2024 final rule, we have grown increasingly concerned that additional fiscal guardrails are warranted. The proposed changes in this proposed rule are intended to ensure responsible fiscal stewardship of the Medicaid program, as required by section 71116 of the WFTC legislation and consistent with the Presidential Memo.

D. Historical SDP Payment Rate Limits

In the 2016 final rule, § 438.6(c)(2) specified that SDPs must be developed in accordance with § 438.4, and related actuarial standards specified in §§ 438.5, 438.7, and 438.8. Under the definition in § 438.4, actuarially sound capitation rates are “projected to provide for all reasonable, appropriate, and attainable costs that are required under the terms of the contract and for the operation of the MCO, PIHP, or PAHP for the time period and the population covered under the terms of the contract” Consistent with this definition in § 438.4, we noted in the State Medicaid Director Letter (SMDL) #21–001 published on January 8, 2021 that we require States to demonstrate that SDPs result in provider payment rates that are reasonable, appropriate,

and attainable as part of the preprint review process.²³

In applying these standards during early SDP reviews, we encountered situations where the absence of a clear quantitative limit on the total payment rate, such as a requirement that rates be no greater than Medicare rates or no greater than the ACR created uncertainty during the CMS review process. In late 2017, we received an SDP preprint to raise inpatient hospital payment rates such that the total payment rate exceeded 100 percent of the comparable Medicare rates, but the payments would remain below the ACR for that service and provider class in that State. We had concerns about whether the payment rates were still reasonable, appropriate, and attainable for purposes of our approval of the SDP as being consistent with the regulatory requirement at the time that all SDPs must be developed in accordance with § 438.4 and the standards specified in § 438.5. At the time, we realized that approving an SDP that exceeded 100 percent of Medicare payment rates would be precedent setting for CMS.

As we noted in the 2024 final rule, Medicare is a significant payer in the health insurance market, and Medicare reimbursement is a standardized benchmark used in the industry. Medicare reimbursement is also a benchmark used in Medicaid FFS, including the Upper Payment Limits (UPLs) that apply to classes of institutional providers, such as inpatient and outpatient hospitals, nursing facilities, and intermediate care facilities for individuals with intellectual disabilities (ICFs/IID), that are based on a reasonable estimate of the amount that Medicare would pay for Medicaid services. The UPLs apply an aggregate payment ceiling based on an estimate of how much Medicare would

have paid in total for the Medicaid services as a mechanism for determining economy and efficiency of payment for State plan services while allowing for facility-specific payments.

Generally, for inpatient and outpatient services, these FFS UPL requirements apply to three classes of facilities based on ownership status: (1) State government-owned or operated; (2) non-State government-owned or operated; and (3) private owned and operated. Hospitals within a class can be paid different amounts and facility-specific total payment rates can vary, sometimes widely, so long as in the aggregate, the total amount that Medicaid FFS paid across the class is no more than what Medicare would have paid to those providers for those services.

When originally considering the Medicaid FFS UPL methodologies, we had concerns that applying the same standards for the total payment rate under SDPs to three classes based on ownership status, would not be appropriate for implementing the SDP requirements. We stated in the 2024 final rule, that § 438.6(c)(2)(ii)(B) provides States with broader flexibility than what is required for FFS UPLs in defining the provider class for which States can implement SDPs. This flexibility has proven important for States to target their efforts to achieve their stated policy goals tied to their managed care quality strategy. For example, we have approved SDPs where States proposed and implemented SDPs that applied to provider classes defined as all providers that are certified to serve as a Patient-Centered Medical Home (PCMH) and therefore, provide increased care coordination compared to providers that are not certified as PCMHs. Not all providers providing a particular service in Medicaid managed care programs must be included in an SDP. Under § 438.6(c)(2)(ii)(B), States are required to direct expenditures

²³ <https://www.medicaid.gov/Federal-Policy-Guidance/Downloads/smd21001.pdf>.

equally, using the same terms of performance, for a class of providers furnishing services under the contract; however, they are not required to direct expenditures equally using the same terms of performance for all providers providing services under the contract. As we noted in the 2024 final rule, we could face challenges applying a similar UPL standard across provider classes under an SDP without some alignment between State defined classes and the FFS UPL framework.

In 2018, we ultimately interpreted § 438.6(c)(2)(i) to allow total payment rates in an SDP up to the ACR and required that States demonstrate, through a total payment rate comparison to the ACR, that total payment rates under the SDP would not exceed the ACR. We formalized this process in the revised preprint published in January 2021 and described it in the accompanying SMDL. Although we have collected this information for each SDP submitted for written prior approval, we historically requested the impact not only of the SDP under review, but any other payments made by the managed care plan (for example, other SDPs or pass-through payments) to any providers included in the provider class specified by the State for the same rating period.

When a State has not demonstrated that the total payment rate for each service and provider class included in each SDP arrangement is at or below either the Medicare or Medicaid FFS rate (when Medicare does not cover the service), we have generally requested documentation from the State to demonstrate that the total payment rate(s) that exceeds the Medicare or the Medicaid FFS rate do not exceed the ACR for the service and provider class. We have worked with States to collect documentation on the total payment rate, which has evolved over time.

With the growth of SDPs, oversight entities released reports focused on SDPs. In a December 2020 report,²⁴ the Government Accountability Office (GAO) raised concerns that States' reliance on provider taxes and local government funds used for IGTs effectively shifted responsibility for a larger portion of Medicaid payments to the Federal government and away from States. The Medicaid and CHIP Payment and Access Commission's (MACPAC) June 2022 Report to Congress on

Medicaid and CHIP²⁵ recommended that CMS improve monitoring, oversight and transparency of SDPs. In December 2023,²⁶ GAO echoed similar concerns regarding SDP transparency and weak fiscal guardrails in the absence of codified SDP payment limits. We published the 2024 final rule to address these concerns, among other goals.

The 2024 final rule codified the standard in § 438.6(c)(2)(ii)(I) that each SDP must ensure that the total payment rate for each service, and each provider class included in the SDP must be reasonable, appropriate, and attainable and, upon request from us, the State must provide documentation demonstrating the total payment rate for each service and provider class. We also finalized § 438.6(a) to define "total payment rate" as the aggregate for each managed care program of: (1) the average payment rate paid by all MCOs, PIHPs, or PAHPs to all providers included in the specified provider class for each service identified in the SDP; (2) the effect of the SDP on the average rate paid to providers included in the specified provider class for the same service for which the State is seeking written prior approval; (3) the effect of any and all other SDPs on the average rate paid to providers included in the specified provider class for the same service for which the State is seeking written prior approval; and (4) the effect of any and all allowable pass-through payments, as defined in § 438.6(a), to be paid to any and all providers in the provider class specified in the SDP for which the State is seeking written prior approval on the average rate paid to providers in the specified provider class. Under this definition, although the total payment rate is collected for each SDP, the information provided for each SDP must account for the effects of all payments from the managed care plan (for example, other SDPs or pass-through payments) to any providers included in the provider class specified by the State for the same rating period.

Although this proposed rule does not propose any provisions that pertain to Medicaid Disproportionate Share Hospital (DSH) payments, we nevertheless want to use this opportunity to remind States about the

interaction between SDPs and DSH. Under the statutory hospital-specific limits found in section 1923(g) of the Act, a hospital's DSH payments may not exceed the costs incurred by that hospital in furnishing inpatient and outpatient hospital services during the year to certain Medicaid beneficiaries and the uninsured, less payments received under Title XIX of the Act (other than section 1923 of the Act) and payments by uninsured patients. The 2008 Disproportionate Share Hospital Payments final rule (73 FR 77904) stated that Medicaid managed care payments are part of the calculation and reporting requirements for DSH. For purposes of Medicaid DSH, the 2008 final rule, defined "Medicaid MCO payments" as "payments from MCOs to hospitals for inpatient and outpatient services provided to Medicaid managed care enrollees" (73 FR 77920). In the 2016 final rule (81 FR 27498), we established SDPs, which we later characterized as payments made by the State directly to providers or at the direction of the State managed care plan for plan-covered services.²⁷ As such, SDPs paid to a hospital for inpatient or outpatient hospital services, when made in accordance with § 438.6(c), are regarded as payments for Medicaid services, and must be offset from costs when a State calculates the hospital-specific DSH limit.

The 2024 final rule also finalized § 438.6(c)(2)(i), which excludes SDPs that set a minimum fee schedule using Medicaid State plan approved rates for a particular service (specified in § 438.6(c)(1)(iii)(A)) from the written prior approval requirement. An SDP that sets a minimum fee schedule at exactly 100 percent of the total published Medicare payment rate that was in effect no more than 3 years prior to the start of the applicable rating period for a particular service (specified in § 438.6(c)(1)(iii)(B)) also does not require written prior approval by us, as specified in § 438.6(c)(2)(i). We believe that both specific payment rates meet the requirement for reasonable, appropriate, and attainable total payment rates because we have reviewed and determined these payment rates to be appropriate under the applicable statute and implementing regulations for Medicare and Medicaid, respectively. However, for other SDP arrangements, we believed at the time of rulemaking that additional analysis and consideration was necessary to ensure that the payment rates directed by the

²⁵ Medicaid and CHIP Payment and Access Commission, "Report to Congress on Medicaid and CHIP," June 2022, available at https://www.macpac.gov/wp-content/uploads/2022/06/MACPAC_June2022-WEB-Full-Booklet_FINAL-508-1.pdf.

²⁶ U.S. Government Accountability Office, "Medicaid Managed Care: Rapid Spending Growth in State Directed Payments Needs Enhanced Oversight and Transparency," December 14, 2023, available at <https://www.gao.gov/assets/gao-24/106202.pdf>.

²⁴ U.S. Government Accountability Office, "CMS Needs More Information on States' Financing and Payment Arrangements to Improve Oversight," December 7, 2020, available at <https://www.gao.gov/assets/gao-21-98.pdf>.

²⁷ SMDL #21-001, Additional Guidance on State Directed Payments in Medicaid Managed Care, January 8, 2021.

State meet the standard of reasonable, appropriate, and attainable.

To codify a payment limit for the service types that represented the largest proportion of SDP spending, the 2024 final rule also finalized § 438.6(c)(2)(iii) to establish a limit of 100 percent of the ACR for the total payment rate for each SDP for which written prior approval is required for inpatient hospital services, outpatient hospital service, nursing facility services, and qualified practitioner services at an AMC. In addition to this limit, we established specific standards for the data and documentation requirements necessary to demonstrate compliance with this limit. The 2024 final rule also finalized a definition of the ACR in § 438.6(a) to mean the average rate paid for services by the highest claiming third-party payers for specific services as measured by claims volume. Furthermore, we stated throughout the 2024 final rule that we were establishing a regulatory limit at 100 percent of the ACR for the total payment rate for each SDP for

which written prior approval is required for these four service types, and would continue to use the ACR as the fiscal benchmark by which we would evaluate whether all SDP total payment rates are reasonable, appropriate, and attainable as specified in § 438.6(c)(2)(ii)(I) (89 FR 41065).

Beginning with the first rating period beginning on or after July 9, 2024, States were required to demonstrate compliance with these regulatory requirements, for SDPs for one or more of the four services by submitting both a total payment rate comparison using the ACR (that is, Table 2 in the currently published preprint) and an ACR demonstration that meets all of the requirements outlined under § 438.6(c)(2)(iii)(A). We require that the total payment rate comparison specified in § 438.6(c)(2)(iii)(B) be updated with each preprint renewal submission or amendment while the ACR demonstration must be updated at least once every 3 years thereafter, as specified in § 438.6(c)(2)(iii)(C).

Operationally, this aligns with our historical practices but the data standards and regulatory definition of the ACR further refine the requirements for the commercial data to be used to demonstrate compliance with the ACR-based payment limit.

Both the volume of SDP preprints being submitted by States for approval and the total dollars flowing through SDPs have grown quickly since § 438.6(c) was established in the 2016 final rule. The number of States utilizing SDPs has increased from two States in 2016 to 41 States, in 2024. Currently, 83 percent of States with risk-based managed care delivery systems utilize SDPs. In 2024, over 80 percent of SDP preprint submissions were for hospitals, including inpatient and outpatient hospital services. Table 2 illustrates SDP total computable spending (Federal and non-Federal share) by service type from 2021 through 2024.

TABLE 2: TOTAL COMPUTABLE SDP SPENDING BY SERVICE TYPE AND CALENDAR YEAR

Service Type*	2021	2022	2023	2024
Hospital	46.7%	52.0%	48.0%	53.3%
Multiple providers including hospitals	33.4%	27.1%	28.4%	28.2%
AMC	4.6%	3.9%	5.0%	3.2%
Multiple providers including Professional Services at AMCs that do not include hospitals	2.9%	2.0%	1.1%	1.3%
Primary Care/Specialty Physicians	0.2%	0.3%	2.6%	1.1%
Nursing facilities	3.8%	2.5%	7.5%	8.0%
Home and Community-Based Services (HCBS)	1.0%	0.8%	0.7%	0.7%
Other	6.4%	5.9%	3.1%	2.8%
Multiple provider classes not including hospitals or professional services at AMCs	1.0%	5.6%	3.5%	1.5%

*States provide the total estimated dollars for each SDP but do not break out estimated spending by service type in each SDP. When an SDP includes more than one service type and those service types are all reflected in the estimated total dollar amount for the SDP, we have denoted this in the table by referencing “multiple provider classes.”

SDPs account for a significant portion of managed care spending; they are estimated to be 26.4 percent of the total Medicaid managed care spending in FY 2025 and 28.1 percent by FY 2034, without any changes to the existing regulations.²⁸ The recent estimates for SDP spending developed by OACT project total computable spending to increase from \$107.3 billion in FY 2024 to \$295.9 billion in FY 2034 under current SDP regulatory requirements.

Through our review process of SDP preprints since publication of the 2024 final rule in May 2024, we have become increasingly concerned with the growth in the percentage of total Medicaid managed care expenditures made

through SDPs. The source of the non-Federal share also plays an important role in our concerns regarding SDPs that utilize an ACR payment rate. The significant increase in SDP spending since the 2024 final rule has demonstrated that States are increasingly relying on SDPs as a mechanism for increasing Federal funding for their Medicaid programs, including those where the non-Federal share is funded via IGTs and provider taxes, in other words, by the providers themselves rather than the State. See section II.A. of this proposed rule for discussion on SDPs and the source of the non-Federal share. As SDP spending continues to increase and given the total payment rate limit for certain SDPs mandated in section 71116 of the WFTC

legislation, we believe it is appropriate to propose additional regulatory requirements with respect to the totality of provider payment rates under SDPs to ensure proper fiscal and programmatic oversight in Medicaid managed care programs. These proposed changes would also be consistent with the Presidential Memorandum issued on June 6, 2025.

We are issuing this proposed rule, including the requirements that implement section 71116(a) of the WFTC legislation, based on our authority to interpret and implement section 1903(m)(2)(A)(iii) of the Act, which requires contracts between States and MCOs to provide payment under a risk-based contract for services and associated administrative costs that are

²⁸ Based on CMS’ Office of the Actuary (OACT) estimates as of March 2026.

actuarially sound, and our authority under section 1902(a)(4) of the Act to establish methods of administration for Medicaid that are necessary for the proper and efficient operation of the State plan. As explained in the 2016 final rule, regulation of SDPs is necessary to ensure that Medicaid managed care plans have sufficient discretion to manage the risk of covering the benefits specified in their contracts, which is integral to ensuring that capitation rates are actuarially sound as defined at § 438.4 (81 FR 27582). We have historically relied on section 1902(a)(4) of the Act to extend PIHPs and PAHPs the same requirements adopted in section 1903(m)(2)(A)(iii) of the Act for MCOs related to actuarially sound capitation rates.

E. Fee-for-Service Supplemental Payments

Section 1902(a)(30)(A) of the Act requires States to “assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area.” States are responsible for developing FFS rates to pay providers for furnishing health care services to beneficiaries who receive covered services through the FFS delivery system. In recognition of the States’ front-line responsibility, the statute affords States considerable flexibility by not prescribing any particular rate-setting approach or method for most Medicaid services, but instead allows States to develop their own approaches unique to their local circumstances so long as they are consistent with applicable statutory requirements and provide the public and interested parties an opportunity to comment and offer input (84 FR 63723).

Generally, a State that operates its Medicaid program using a FFS delivery system establishes a Medicaid State plan that comprehensively describes the nature and scope of a State’s Medicaid program and assures conformity with Title XIX of the Act, to serve as a basis for Federal financial participation (FFP). The Medicaid State plan includes a description of the payments the State will make to enrolled Medicaid providers, which are generally comprised of base and supplemental payments. We have previously discussed base and supplemental payments in SMDL #21–006²⁹ and a proposed rule (84 FR 62722). In that

SMDL, we described base payments as State payment methodologies that typically provide for a standard payment to all Medicaid providers on a per claim basis for services rendered to a Medicaid beneficiary in a FFS environment, including any payment adjustments, add-ons, or other additional payments made to a provider that can be attributed to services identifiable as having been provided to an individual beneficiary. Operationally, in a FFS delivery system, base payments are generally predetermined rates that States pay providers for specific services according to their Medicaid fee schedule. We note that per the Ensuring Access to Medicaid Services final rule, these fee schedules must be publicly available by July 1, 2026 (89 FR 40550).

Supplemental payments are defined in section 1903(bb)(2) of the Act generally as payments made to providers that are in addition to the base payment the provider receives. Supplemental payments are generally understood to mean amounts other than the previously described base payment amount, and as such, may include payment for additional costs associated with Medicaid services. Because the term supplemental payments may refer to different types of payments in different contexts, within this proposed rule, we use the term supplemental payments when discussing payments that are in addition to base payments. However, we have not included this term in the specific provisions proposed later in this rule to ensure clarity of our intended scope and impact. We further note that while supplemental payments may seem like the FFS equivalent of managed care SDPs, and can serve similar functions, they should be viewed as separate concepts and discussions in this rulemaking and its proposed policies. We have endeavored to keep these discussions distinct to aid in ensuring a reader can fully understand the proposals for a particular delivery system.

For a number of years, States have been making FFS supplemental payments under the Medicaid State plan that are targeted to certain practitioners, such as physicians, dentists, emergency and non-emergency medical transportation providers (for example, ground emergency medical transportation (GEMT) providers, air emergency transportation providers, and non-emergency medical transportation (NEMT) providers) and other licensed professionals. We generally utilize the term provider when referring to an entity, such as a transportation provider or Certified Community Behavioral

Health Clinic (CCBHC) provider, and the term practitioner when referring to an individual, such as a physician. Because our current guidance³⁰ for ACR payments uses the term practitioner broadly to include physicians and transportation providers, we have generally maintained that terminology in this rule. However, as discussed later in this proposed rule, some providers, such as transportation providers, are also included in the scope of this rule.

Most commonly for physicians and dentists, States have targeted supplemental payments to practitioners affiliated with and furnishing services in AMCs and safety net hospitals. For transportation providers and other licensed professionals, States often have targeted supplemental payments to State or non-State government owned or operated entities, such as a county fire station, that fund the non-Federal share of the supplemental payment with an IGT. For these payments, States have used what is commonly described as an ACR calculation to establish an upper limit for these practitioner supplemental payments. The ACR is the average rate paid by commercial third-party payers for specific medical service codes (usually current procedural terminology (CPT) codes) to practitioners or providers, which is multiplied in the ACR calculation by the Medicaid claims for each code to establish an upper limit for these supplemental payments. For FFS supplemental payments, States can also calculate the Medicare equivalent of the ACR, discussed in more detail later.

We first approved ACR-based supplemental payments for physician services in the early 2000s. Since then, States have proposed and received our approval for supplemental payments calculated using the ACR for physicians, dentists, providers of medical transportation, and other practitioners under State plan authority. Like all FFS payments made under State plan authority, ACR-based supplemental payments are subject to section 1902(a)(30)(A) of the Act, which requires payments to be consistent with efficiency, economy, and quality of care, and sufficient to enlist enough providers. We interpret section 1902(a)(30)(A) of the Act as requiring a balanced approach to Medicaid rate-setting and we encourage States to use appropriate information and program experience to develop rates to meet all of the statute’s requirements. Further, we expect States to document that

²⁹ <https://www.medicaid.gov/federal-policy-guidance/downloads/smd21006.pdf>.

³⁰ <https://www.medicaid.gov/medicaid/financial-management/downloads/upl-guidnce-qualified-practitioner-services-2022.pdf>.

Medicaid rates are economic and efficient when the State submits changes to payment methodologies through a SPA. To support States proposing supplemental payments calculated using the ACR, we previously issued sub-regulatory guidance regarding three payment methodologies generally utilized for payments made to physicians and practitioners—(1) payment up to the Medicare Physician Fee Schedule (MPFS) rate; (2) calculation of the ACR; and (3) calculation of the Medicare equivalent of the ACR (calculating the average payment amount allowed by commercial payers as a percentage of Medicare to determine an upper limit).³¹

For States that propose a supplemental payment up to the MPFS rate, the State Plan must comprehensively describe the payment methodology the State uses to calculate the supplemental payment in accordance with § 430.10. This includes, but is not limited to, the percentage (for example, 100 percent) of the MPFS the State will pay, the version (for example, the January 2025 fee schedule) of the MPFS the State will implement, whether the State will apply geographic practice cost indexes (GPCIs) that reflect geographic cost differences as defined by Medicare, and which site of service rate (facility or non-facility) the State will utilize. CMS verifies this information is included in SPAs proposing supplemental payments up to the MPFS rate.

For States that propose a supplemental payment and opt to calculate an ACR or Medicare equivalent of the ACR, States must calculate and submit a UPL demonstration of the proposed supplemental payment for compliance with section 1902(a)(30)(A) of the Act, in addition to comprehensively describing in the State Plan the payment methodology the State uses to calculate the supplemental payment in accordance with § 430.10. For States that calculate an ACR, CMS expects States to recalculate the UPL annually and submit this demonstration to CMS

for review. For States that calculate the Medicare equivalent of the ACR, States are expected to recalculate at least every 3 years and submit this demonstration to CMS for review.

When States propose to utilize an ACR methodology (payment up to the ACR or Medicare equivalent of the ACR) to target payments to physicians or other practitioners, States submit data to CMS from each practitioner's top (generally five) commercial payers and provide an explanation of the data that was extracted from the practitioners' accounts receivable systems. The State compares the Medicaid payment for each billing code directly to either: (1) the average payment amount allowed by commercial payers for the same services, or (2) the Medicare equivalent of the commercial payers' average payment amount for the same services. The submitted ACR calculation includes data from each of the practitioners, group practices, or hospital-based practitioner groups eligible to receive the supplemental payment.

We issued SMDL #13–003 on March 18, 2013 to reaffirm mutual obligations and accountability on the part of the State and Federal governments for the integrity of the Medicaid program and the development, application, and improvement of program safeguards necessary to ensure proper and appropriate use of both Federal and State dollars.³² In SMDL #13–003, we stated our expectation that States submit annual UPL demonstrations for targeted physician³³ supplemental payments beginning in 2014. Beginning in 2019, and modified in 2022, States began submitting UPL demonstrations using the OMB-approved templates for Qualified Practitioner Services. In 2021, we issued guidance for Medicaid Qualified Practitioner Services to support States in developing their UPL demonstrations for demonstrating compliance with section 1902(a)(30)(A) of the Act.³⁴ We revised this guidance to align with the most current UPL template for Qualified Practitioner Services in 2022.³⁵ Apart from this information provided in guidance, our regulations have been silent regarding

payment limits for these types of providers.

In 2019, we issued a proposed rule with many financial provisions, one of which proposed to limit these types of supplemental payments (84 FR 63722),³⁶ which would have implemented a UPL regulation like those that already existed for other payments. We proposed this change based on concerns that States were making practitioner payments that were not economic and efficient, consistent with section 1902(a)(30)(A) of the Act, and that they presented an oversight risk because they were based on proprietary commercial payment data and thus not readily verifiable or auditable. The 2019 proposed rule was much broader in scope in terms of the number of financial and payment topics than this proposed rule. While the entirety of the 2019 proposed rule was subsequently withdrawn in January 2021, we indicated at the time that the withdrawal action did not limit our prerogative to make new regulatory proposals in the areas addressed by the withdrawn proposed rule, including new proposals that may be substantially identical or similar to those described therein (86 FR 5105).

The Consolidated Appropriations Act, 2021 (CAA) was enacted on December 27, 2020.³⁷ It established a number of new requirements for State Medicaid programs, including the addition of section 1903(bb) of the Act to specify new reporting requirements for supplemental payments. We issued guidance in SMDL #21–006, “New Supplemental Payment Reporting and Medicaid Disproportionate Share Hospital Requirements under the Consolidated Appropriations Act, 2021,”³⁸ to address the new requirements, and since 2022, we have received more detailed supplemental payment data from States reported in the CMS–64. Table 3 shows the total reported supplemental payments since this requirement was implemented for physicians, other licensed practitioners (OLP), and GEMT.

³¹ <https://www.medicaid.gov/medicaid/downloads/upl-instructions-qualified-practitioner-services-replacement-new.pdf>.

³² <https://www.medicaid.gov/sites/default/files/Federal-Policy-Guidance/Downloads/SMD-13-003-02.pdf>. Note that in this SMDL, we used the terminology “physician,” but have since adopted the terminology “practitioner” for the relevant supplemental payments, as they can apply to individuals that may not be physicians, such as other licensed practitioners.

³³ We initially referred to physicians specifically but later expanded to “practitioners” to account for the practitioners other than physicians that provide professional services.

³⁴ See <https://www.medicaid.gov/medicaid/financial-management/downloads/upl-instructions-qualified-practitioner-services-06012021.pdf> and also <https://www.medicaid.gov/medicaid/downloads/upl-guidance-qualified-practitioner-services-replacement-new.pdf>.

³⁵ <https://www.medicaid.gov/medicaid/financial-management/downloads/upl-guidance-qualified-practitioner-services-2022.pdf>.

³⁶ <https://www.federalregister.gov/documents/2019/11/18/2019-24763/medicaid-program-medicare-fiscal-accountability-regulation>.

³⁷ Public Law 116–260.

³⁸ <https://www.medicaid.gov/federal-policy-guidance/downloads/smd21006.pdf>.

**TABLE 3: TOTAL SUPPLEMENTAL PAYMENTS
FOR FISCAL YEARS 2022 TO 2024**

	2022	2023	2024	Total
Physician	\$917,932,237	\$1,486,041,740	\$1,606,847,262	\$4,010,821,239
OLP	\$2,308,499,229	\$1,126,461,549	\$947,815,536	\$4,382,776,314
GEMT	\$2,732,316	\$44,848,063	\$78,999,035	\$126,579,414
Total	\$3,229,163,782	\$2,657,351,352	\$2,633,661,833	\$8,520,176,967

As reported on the Form CMS–64 data (the quarterly Medicaid statement of expenditures), States claimed approximately \$2.63 billion (total computable) in expenditures for supplemental payments (including ACR-based payments but excluding DSH and any Medicare UPL payments) made to physicians, other licensed practitioners, and ground emergency medical transportation providers for FFY 2024. Over 60 percent of total supplemental payments (\$1.6 billion total computable) were made to just 1,975 physicians or physician practices across 24 States that make supplemental payments to physicians. Currently approved ACR-based supplemental payments in States using the Medicare equivalent of the ACR average 207 percent of the Medicare rate for physicians and 153 percent for other licensed practitioners (for example, dentists and GEMT providers). While an outlier, one State currently pays ACR-based supplemental payments at 530 percent of Medicare equivalent of the ACR for physicians. Based on our analysis of State expenditure data, as further discussed in section II.B of this proposed rule, these targeted payments present clear oversight risks to Federal taxpayer dollars for which CMS is a financial steward. We recognize this is an opportune time to consider changes to our policies to address a similar problem across both delivery systems, FFS and managed care, in light of the changes made to SDPs by section 71116 of the WFTC legislation.

II. Provisions of the Proposed Regulations

We intend that if any provision in this proposed rule, if finalized, is held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, or stayed pending further agency action, it shall be severable from the final rule (if and once finalized) and not affect the remainder thereof or the application of the provision to other persons not similarly situated or to other, dissimilar circumstances. This notice proposes provisions that are meant to and would operate

independently of each other, even if each serves the same general purpose or policy goal. Where a provision is necessarily dependent on another, the context generally makes that clear (such as by a cross-reference to apply the same standards or requirements).

A. State Directed Payments in Medicaid Managed Care (§ 438.6)

Since publication of the 2024 final rule, we have received over 400 SDP preprint submissions from 41 States. Some of these submissions represent brand new SDPs or renewals of existing SDPs for which the total dollar amount attributable to the SDP has increased significantly. Many of these proposed SDPs bring provider payment rates up to 100 percent of the ACR or, in some cases, in excess of 100 percent.³⁹ Recent State SDP submissions include:

- A new \$3.2 billion SDP for all inpatient and outpatient hospital services within the State that directs managed care plans to make an 186 percent uniform increase payment to bring average provider payments up to 100 percent of the ACR.
- A \$13 billion renewal SDP for inpatient and outpatient hospital services provided at all private hospitals in the State that would require managed care plans to make uniform dollar increase payments up to \$5,146 per hospital service. This is the highest dollar amount SDP CMS has received to date and represents an 80 percent increase in the total SDP dollar amount requested compared to the prior rating period.
- A new \$1.3 billion SDP for physician services that would require managed care plans to make uniform percentage increases of up to 634 percent per physician service to bring average payments up to 142 percent of the ACR.
- One State submitted 16 new SDPs for hospital services and qualified practitioner services at AMCs, each limited to a single hospital, totaling

³⁹ These examples include preprints submitted by States to CMS but do not necessarily represent approved SDPs; CMS does not approve SDPs that exceed 100 percent of the ACR.

nearly \$1.5 billion across the 16 SDPs. Each SDP would require different uniform increases that would bring each hospital up to between 27 percent and 100 percent of the ACR. Based on information submitted in the preprints, the SDPs appear to be designed to reward providers that finance the non-Federal share, rather than to meet the goals and objectives of the State's Medicaid program, including improving access to care, and enhancing quality of care in Medicaid managed care.

The 2024 final rule included projections that under the new regulatory requirements, including the ACR limit for certain services, SDP spending would increase to \$74.9 billion in FY 2024 and up to \$115.1 billion in FY 2028. However, more recent estimates developed by OACT based on SDP submissions approved through December 2024, project SDP spending to increase to \$97.8 billion in FY 2024 and \$246 billion in FY 2034 under current SDP regulatory requirements. These updated estimates indicate a substantial increase from the projections in the 2024 final rule and underscore the need to consider additional fiscal integrity protections to promote the long-term sustainability of the Medicaid program. The source of the non-Federal share also plays an important role in our concerns regarding SDPs that utilize an ACR payment rate. The significant increase in SDP spending since the 2024 final rule suggests that States are increasingly relying on SDPs as a mechanism for increasing Federal funding for their Medicaid programs, including those funded via IGTs and provider taxes without commensurate State general fund contributions toward the non-Federal share.

SDPs that result in total provider payment rates up to the ACR are most frequently funded by provider taxes and IGTs from local government sources or State university teaching hospitals and generally include only providers that have the ability to fund the non-Federal share of the ACR payments. It appears that, in some instances, these types of SDPs are often primarily developed

based on the amount of available funding from providers rather than to drive improvements in access to or quality of care for beneficiaries or to achieve other, similar programmatic goals. For SDPs that were projected to exceed 100 percent of Medicare up to 100 percent of the ACR, States financed the underlying non-Federal share as follows: 39.8 percent were funded in part or wholly by IGTs (but not provider taxes), 26.9 percent were funded in part or wholly with provider taxes (but not IGTs), and 14.2 percent were funded in part or wholly by both IGTs and provider taxes. In total, 80.8 percent of SDPs that exceeded Medicare payment rates, including those up to the ACR, were funded in part or wholly via IGTs and/or provider taxes.⁴⁰ When these IGTs or provider taxes are used, the State Medicaid agency does not contribute general funds for the non-Federal share of the associated payments because the funding comes from separate governmental entities (in the case of IGTs) or providers.

States have multiple methods to generate the non-Federal share (also known as the State share) to finance their Medicaid programs, including IGTs and health care-related taxes. These sources, while generally permissible, present the need for greater scrutiny, because the State is oftentimes collecting money to fund the non-Federal share for SDPs from the same entities that then receive those payments, resulting in higher provider payment rates than they would have received if they had not contributed funding via IGTs or provider taxes. We have taken recent steps to address impermissible arrangements related to financing sources but recognize the importance of examining the nature of the payments the State makes under these structures. SDPs and supplemental payments that reflect these financing patterns can result in payment levels that are not clearly aligned with Medicaid utilization, quality, health outcomes, or other program goals. These payments in turn drive significant Medicaid spending increases without a clear connection to quality or outcomes for Medicaid beneficiaries. Further, when the funds

to support the non-Federal share of increased payments originate from the same providers that receive enhanced payments, the resulting spending increases raise fiscal integrity concerns for the Medicaid program and increase the burden on the Federal treasury and taxpayers.

In the 2023 proposed rule, we considered a total payment rate limit at 100 percent of the total published Medicare payment rate instead of the ACR, noting that Medicare payment rates are a standardized benchmark used in the healthcare industry (88 FR 28124). Compared to proprietary commercial data, Medicare payment rate data may be more easily verified and audited because Medicare payment rates are published yearly and available to the public. We also acknowledged that setting the limit at Medicare would serve to limit the growth in Medicaid managed care spending relative to an ACR limit. Many of the public comments received on the 2023 proposed rule supported an SDP payment limit at the total published Medicare payment rate, citing payment transparency, payment comparability among the largest public payers in the nation, and concerns that a limit at the ACR could accelerate Federal Medicaid spending. We also received comments supportive of an SDP total payment limit at the ACR for four services. These commenters noted concerns with finalizing a limit lower than the ACR, asserting that would reduce the ability of managed care plans to compete with commercial plans for providers to participate in their networks and could result in a reduction of access, particularly for States that already have SDPs at ACR (89 FR 41066). In the 2024 final rule, we finalized the limit on the total payment rate at no greater than 100 percent of the ACR and reminded States that they are not required to utilize SDPs and that there are separate regulatory requirements that require States that contract with a managed care plan to deliver Medicaid services to address network adequacy and access to care, regardless of the use of SDPs (89 FR 41066).

On July 4, 2025, President Trump signed the WFTC legislation into law. Section 71116 of the WFTC legislation directed the Secretary to reduce the total payment rate limit for certain SDPs for inpatient hospital services, outpatient hospital services, nursing facility services, or qualified practitioner services at an AMC. Section 71116 of the WFTC legislation also included a provision allowing a temporary grandfathering period for certain SDPs until the rating period beginning on or

after January 1, 2028, at which point such SDPs would be required to gradually transition down to the new payment limit. Our proposals in this rule seek to implement these provisions and, if finalized, could slow the growth of SDP spending in the future.

1. Payment Limit for SDPs (§ 438.6 (a), 438.6(c)(2)(ii)(I) and 438.6(c)(8))

The WFTC legislation and the Presidential Memorandum reflect what our experience reviewing SDPs since the 2024 final rule has demonstrated: the total published Medicare payment rate or the Medicaid State Plan rate are reasonable payment limits for SDPs compared to the ACR. The WFTC legislation and the Presidential Memorandum are consistent with concerns we have identified through our experience reviewing SDPs since the 2024 final rule, including that an SDP total payment rate limit of 100 percent of the ACR can contribute to substantial growth in SDP expenditures. The current payment limit framework may also contribute to financing arrangements that raise fiscal integrity concerns and reduce incentives for shared State funding responsibility. Using Medicare or Medicaid State plan rates as the payment limit for SDPs would bring consistency and predictability and could help moderate the growth of SDP expenditures while providing States flexibility to pursue provider payment initiatives and delivery system reform efforts that further advance access to care and enhance quality of care in Medicaid managed care.

Medicare payment rates are developed under Title XVIII of the Act and there are annual rulemakings associated with Medicare payment for benefits available under Medicare Parts A and B in the Medicare FFS program. Medicare payment rates are consistently and rigorously developed and vetted by us and are subject to public notice and comment periods. In our experience, many managed care plans use Medicare FFS rates as a benchmark as part of their provider payment negotiations. They are the only complete and reliable set of provider payment rates published annually and are freely and easily accessible to CMS, providers, States, managed care plans, interested oversight bodies, and the general public. Additionally, published Medicare payment rates are often utilized in the Medicare managed care delivery system. For example, section 1852(a)(2) of the Act provides that Medicare

⁴⁰ This is based on an analysis conducted in June 2025 of 402 SDPs approved by CMS between January 1, 2022 and December 31, 2024 where the total payment rate was projected to exceed Medicare payment rates or up to the ACR. The analysis excludes (1) COVID-19 expedited reviews and (2) SDP arrangements related to HCBS covered by section 9817 of the American Rescue Plan Act of 2021 and (3) SDPs where the State projected the total payment rate to be less than or equal to Medicare and (4) that total payment rate was not compared to the Medicare or ACR.

Advantage⁴¹ plans pay out-of-network providers at least the amount payable under Medicare FFS for benefits available under Medicare Parts A and B, taking into account cost sharing and permitted balance billing.

There is precedent for Medicaid alignment with Medicare payment rates. Medicaid FFS delivery systems currently use Medicare payment rates for the majority of regulatory UPLs (for further discussion of the existing UPLs that use Medicare in FFS programs, see section II.B.1 of this proposed rule). In the 2024 final rule under § 438.6(c)(2)(i), we removed the requirement for our written prior approval for SDPs that use a minimum fee schedule at 100 percent of the total published Medicare payment rate in effect no more than 3 years prior to the start of the rating period. We did this to acknowledge that total published Medicare payment rates met our regulatory standard requiring all SDPs to result in provider payments that are reasonable, appropriate, and attainable. We believe that the total published Medicare payment rate or State plan approved rate represent a reasonable payment limit for Medicaid services when a State is directing payment via a SDP.

The proposed limits to Medicaid managed care expenditures in this proposed rule would only apply when providers receive payments through SDPs (that is, when States opt to direct Medicaid managed care expenditures as permitted under § 438.6(c)). Absent SDPs, Medicaid managed care plans may continue to negotiate provider payment rates that exceed this payment limit when necessary to ensure a sufficient provider network. We remind States that under § 438.6(c)(1), States are not permitted to direct managed care plan expenditures in any way, outside of the permissible regulatory options outlined in § 438.6(b) through (d) or as specified in statute; we are not proposing any revisions to this provision. To curtail the growth in Medicaid managed care spending as a result of SDPs, implement the mandate in the WFTC legislation, protect the fiscal integrity and future of the Medicaid program, and promote transparency, we propose revisions to § 438.6(a) and (c) as outlined in the next paragraph.

a. Regulatory Revisions Required by WFTC Legislation

Section 71116(a) of the WFTC legislation requires the Secretary to revise § 438.6(c)(2)(iii) to enact a new total payment rate limit with respect to a payment described in that section for all 50 States and DC, although it does not apply to the U.S. territories. Sections 71116(b) and (c) of the WFTC legislation establish transition and applicability rules for certain payments and States. This would establish a new regulatory limit for SDPs that require written prior approval and include any of the four services specified in § 438.6(c)(2)(iii).⁴² Section 71116(a) of the WFTC legislation also specifies that this new payment limit is to be applicable to services furnished during a rating period⁴³ beginning on or after the date of enactment of the WFTC legislation (July 4, 2025), unless the SDP is eligible for a temporary grandfathering period (see section II.A.2. of this proposed rule). The total payment rate limit specified in section 71116(a) of the WFTC legislation for SDPs that include any of the four services is 100 percent of the total published Medicare payment rate for an expansion State, or 110 percent of the total published Medicare payment rate for a non-expansion State with respect to a payment made for a service furnished during an applicable rating period. In the absence of a total published Medicare payment rate for the Medicaid covered service, section 71116(a) of the WFTC legislation specifies that the total payment rate is limited to the payment rate under the Medicaid State plan (or under a waiver of such plan). We propose to codify these provisions in § 438.6(a) and (c).

b. Regulatory Revisions for Other SDPs, Services and Territories

Section 1903(m)(2)(A) of the Act requires contracts between States and MCOs to provide payment under a risk-based contract for services and associated administrative costs that are actuarially sound. Under risk-based managed care arrangements with States, Medicaid managed care plans have the responsibility to negotiate payment rates with providers. Subject to certain exceptions, States are not permitted to direct the expenditures of a Medicaid managed care plan under the contract between the State and the plan or to

make direct payments to providers for services covered under the contract between the State and the plan (§§ 438.6 and 438.60, respectively). However, there are circumstances under which requiring managed care plans to make specified payments to health care providers is an important tool in furthering the State's overall Medicaid program goals and objectives. While this type of State direction reduces the plan's ability to effectively manage costs, it can be an important tool for States. In the 2016 final rule, we established specific exceptions to the general rule prohibiting States from directing the expenditures of MCOs, PIHPs and PAHPs in § 438.6(c)(1)(i) through (iii). These exceptions came to be known as State directed payments (SDPs). When SDPs are utilized, States are required to ensure that the capitation rates, inclusive of SDPs, under the risk-based contract for services covered under that contract and the associated administrative costs are actuarially sound. We use our authority under section 1902(a)(4) of the Act to apply the same requirements to contracts between States and PIHPs or PAHPs. Under our authority to interpret and implement sections 1902(a)(4) and 1903(m)(2)(A)(iii) of the Act we propose to extend these provisions and the payment limit to all SDPs and in all States, DC and the U.S. Territories. Our proposals are explained in greater detail further in this section.

a. Definitions

First, we address the existing definition of "total published Medicare payment rate" in § 438.6(a) which section 71116(d)(4) of the WFTC legislation adopts by reference. While the phrase "specified total published Medicare payment rate" is used in section 71116(a) of the WFTC legislation, we believe this phrase aligns with the existing definition of the total published Medicare payment rate to mean amounts calculated as payment for specific services that have been developed under title XVIII Part A and Part B of the Act. Since the regulatory definition already includes the word "specific" and we have always interpreted it to mean the exact total published Medicare payment rate for a specific service furnished to a Medicaid managed care enrollee, we do not believe it is necessary to revise our existing definition of "total published Medicare payment rate." We therefore interpret the existing definition to apply wherever section 71116 of the WFTC legislation uses the phrase "specified total published Medicare payment rate."

⁴¹ Medicare+Choice is the former name for Medicare Advantage, as it was renamed by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

⁴² Each service type is defined at § 438.6(a).

⁴³ "Rating period" is defined at § 438.2 as a period of 12 months selected by the State for which the actuarially sound capitation rates are developed and documented in the rate certification submitted to CMS as required by § 438.7(a).

In the absence of a total published Medicare payment rate for a Medicaid covered service, section 71116(a)(1) and (2) of the WFTC legislation specifies that the payment rate for each of the four service types is limited to the “payment rate under the Medicaid State plan (or under a waiver of such plan).” We believe that our existing definition of “State plan approved rates” under § 438.6(a) is aligned definitionally with “payment rate under the Medicaid State plan.” We have always interpreted the definition of State plan rates to include rates that are approved via a waiver of the State plan, such as through a waiver under section 1915(c) of the Act (see, for example, 81 FR 27537). As specified in § 438.6(a), State plan approved rates do not include supplemental payments, which are defined under § 438.6(a) as amounts paid in addition to State plan approved rates. We are proposing to revise the definition of “State plan approved rates” at § 438.6(a) to strike the phrase “CMS approved” and amend the latter part of the sentence to read “described under rate methodologies in the Medicaid State plan approved by CMS before the start of the rating period.” We believe this revision is necessary to address timing misalignment between the SPA approval process and the prospective nature of risk-based managed care. States are permitted to submit SPAs at any time during a State fiscal quarter which can then be approved by us for an effective date retroactive to the start of the quarter. The SPA review process is also lengthy and sometimes takes years to reach a conclusion. In an FFS delivery system, the State may choose to make payments under a submitted SPA prior to approval,⁴⁴ or, once the SPA is approved retroactive to the start of the State fiscal quarter in which it was submitted the State may make retroactive payments to FFS providers to account for the payment differential for services rendered when the SPA was retroactively in effect.

In a managed care environment if a State directs their plans to pay providers a minimum fee schedule SDP using State plan approved rates, the State’s actuaries will develop the capitation rates based on the State plan approved rates in effect for the applicable rating period, consistent with the actuarial soundness and prospective rate development requirements in §§ 438.4 and 438.7. If a SPA is not approved until the managed care rating period is underway or completed and the State wishes to direct plans to implement

those updated payment rates via an SDP retroactive to the effective date of the approved SPA, they must submit both contract amendments and rate certifications to effectuate those changes. We have observed that these types of retroactive revisions to SDPs can create inconsistencies between certified capitation rates and actual plan payment obligations, lead to inaccurate implementation, cause uncertainty for providers, and hamper post payment validation efforts. We believe that requiring States to use the State plan rates approved before the start of the rating period would be consistent with prospective rate-setting processes and would add stability and predictability to SDPs. This change does not alter SPA approval authority under title XIX of the Act, but instead specifies how approved State plan rates may be implemented as a minimum fee schedule SDP and used for prospective capitation rate development in managed care.

For SDPs that require written prior approval and include any of the four service types specified in section 71116(a) of the WFTC legislation in the 50 States and DC, the WFTC legislation requires different SDP payment limits depending on whether the State has implemented Medicaid expansion, specified in section 71116(a)(1) of the WFTC legislation as a State that provides coverage to all individuals described in section 1902(a)(10)(A)(i)(VIII) of the Act (42 U.S.C. 1396a(a)(10)(A)(i)(VIII)) that is equivalent to minimum essential coverage (as described in section 5000A(f)(1)(A) of the Internal Revenue Code of 1986 and determined in accordance with standards prescribed by the Secretary in regulations) under the State plan (or waiver of such plan) of such State under title XIX of such Act. In section 71116(a)(1) of the WFTC legislation, the total payment rate limit is 100 percent of the total published Medicare payment rate for States that meet this definition of “Expansion State.” Section 71116(a)(2) of the WFTC legislation cross-references section 71116(a)(1) to specify that in the case of a State other than a State described in section 71116(a)(1) of the WFTC legislation, the total payment rate limit is 110 percent of the total published Medicare payment rate. We propose to add the term “Expansion State” to § 438.6(a) and propose a streamlined version of the definition in section 71116(a)(1) of the WFTC legislation to mean a State that provides medical assistance to all individuals described in section 1902(a)(10)(A)(i)(VIII) of the Act under a State plan under title XIX

of such Act or under a waiver of such plan that provides minimum essential coverage as defined in section 5000A(f)(1)(A) of the Internal Revenue Code of 1986. We propose to also add the term “Non-Expansion State” that would mean a State that does not meet the definition of “Expansion State.”

Section 71116(d)(3) of the WFTC legislation defines “State” to mean 1 of the 50 States or DC. We have historically not differentiated between the 50 States, DC, or U.S. territories with regards to the regulatory requirements for SDPs. The Presidential Memorandum also did not differentiate or distinguish between States, DC, or U.S. territories. We believe it is prudent and necessary for the fiscal integrity of the Medicaid program that we apply the payment limit to all States, DC, and the territories, as we have historically done. Therefore, we propose to add the term “State” to § 438.6(a) to mean, as used in § 438.6(c)(8)(ii) only and only until the first rating period beginning on or after January 1, 2029, the Single State agency of one of the 50 States or DC. We also propose that the definition of “State” would, at other times and for other purposes in this section, unless otherwise specified, have the meaning given the term in § 438.2 of this part. This would have the effect of imposing the payment limit on SDPs for the U.S. territories with the first rating period on or after January 1, 2029, while retaining the applicability of all other SDP requirements to a State as defined in § 438.2, including the U.S. territories, before that date. See section II.A.1.B. of this proposed rule for discussion of proposed payment limits and applicability dates.

To streamline the regulatory text under § 438.6 and reduce redundancies, we propose to add the term “Payment limit” to § 438.6(a) as 100 percent of the total published Medicare payment rate for an Expansion State, 110 percent of the total published Medicare payment rate for a Non-Expansion State, and 100 percent of the State plan approved rate when there is no total published Medicare payment rate for the covered service. This definition would align with the SDP payment limits delineated in section 71116(a) of the WFTC legislation. We propose that the Medicare payment limit would differ for Expansion and Non-Expansion States as is required under section 71116(a) of the WFTC legislation for the 50 States and DC for SDPs that include any of the four services and require written prior approval. Section 71116(a)(1) and (2) of the WFTC legislation also provides that, in the absence of specified total published Medicare payment rate, the

⁴⁴ If the SPA is ultimately not approved, the State risks disallowance of the related FFP.

applicable payment rate is the payment rate under a Medicaid State plan (or under a waiver of such plan). Because the statute refers to “the payment rate under a Medicaid State plan” and does not modify that phrase to specify an applicable percentage for either an Expansion State or a Non-Expansion State, we interpret section 71116(a)(1) and (2) of the WFTC legislation to require that the exact rate(s) approved under the Medicaid State plan serve as the payment limit in the absence of a total published Medicare payment rate

for a covered service, regardless of whether the State is an Expansion State or a Non-Expansion State.⁴⁵ We believe this approach is appropriate and reasonable because State plan approved rates are reviewed and approved through the State plan amendment process, which includes State-specific review of each submission, as discussed further in this section of the rule.

Proposed FFS Medicare payment rates under Medicare Parts A and B are typically published via an annual notice of proposed rulemaking in late spring

and summer, are subject to an open comment period, and then published in a final rule in fall or winter of each year. The effective date of the total published Medicare payment rates varies by fee schedule but is typically tied to either the calendar year (CY) or Federal fiscal year (FFY). Table 4 outlines selected Medicare FFS payment systems through which these payment rates are established, and the periodicity of rule publication. The table is not inclusive of all total published Medicare payment rates.

TABLE 4: MEDICARE FFS PAYMENT RATES AND RULE PUBLICATION DATES⁴⁶

Type of Medicare Fee Schedule	Proposed Rule Publication	Final Rule Publication	Applicability
Medicare Physician Fee Schedule Payment (MPFS)	July to August	November	Calendar Year
Hospital Outpatient Prospective Payment System (OPPS)	July to August	November	Calendar Year
Hospital Inpatient Prospective Payment System (IPPS)	April to May	August	Federal Fiscal Year
Skilled Nursing Facility Prospective Payment System (SNF PPS)	April to May	August	Federal Fiscal Year

While States may choose to implement SDPs, including those that do not require prior approval, in alignment with the most recently released total published Medicare payment rate(s), during the period those rates are in effect, States are reminded that they are required to comply with existing requirements for SDP submission and contract documentation. Beginning with rating periods starting on or after July 9, 2026, States are required to comply with § 438.6(c)(2)(viii) and submit all SDP preprints prospectively; that is, before the start date of the applicable SDP arrangement. This provision is intended to facilitate more timely and accurate implementation of SDPs by managed care plans by ensuring that they have ample notice of each SDP they are being directed to implement. We noted in the 2024 final rule that requiring States to submit preprints in advance of the start date of the arrangement (89 FR 41054) and document them in plan contracts within 120 days of the SDP start date⁴⁷ would ensure efficient administration of contract and rate certification reviews (89 FR 41101 through 41102). This approach is also better aligned with the prospective nature of risk-based managed care. In addition, under § 438.7(c)(6), States are required to

submit the rate certification or retroactive adjustment to capitation rates resulting from an SDP no later than 120 days after the start date of the SDP.⁴⁸ States are required to meet all of these requirements when implementing any SDP, including when they seek to align an SDP, the associated contracts and certified capitation rates with updates to the total published Medicare payment rates that also serve as the basis of the applicable payment limit. This is especially important for periodic updates to Medicare fee schedules that are misaligned with States’ rating periods for Medicaid managed care programs.

We specifically propose to apply the payment limit to each service included under an SDP as section 71116(a) of the WFTC legislation references “the payment rate for such service” when addressing the applicability of the payment limit. We also believe that this interpretation is aligned with the Presidential Memorandum which directs the Secretary to ensure “Medicaid payments rates are not higher than Medicare . . .” We interpret the term “payment rate(s)” in both the WFTC legislation and the Presidential Memorandum to mean the specific payment rate for a service furnished by a provider. Under our proposed

definition of “Payment limit” in § 438.6(a), the total published Medicare payment rate would therefore serve as the basis of the payment limit for each service rendered to a Medicaid managed care enrollee when that service is included in an SDP. The SDP payment limit would not be calculated at an aggregate level, using a UPL-like approach that mirrors what is done to implement many existing payment limits in Medicaid FFS. Rather, the payment limit would be calculated at a service or discharge specific level, whether it be at the HCPCS code level or for Medicare Severity Diagnosis-Related Groups (MS-DRGs) as is used for Medicare IPPS. Neither section 71116 of the WFTC legislation nor the Presidential Memorandum references aggregate Medicare-equivalent payments or a UPL methodology. Therefore, we propose to implement the limit on a per service or per discharge basis.

We acknowledge that the “total published Medicare payment rate” as defined in § 438.6(a), may include applicable Medicare payment adjustments, including but not limited to geographic and quality adjustments. As discussed in the 2024 final rule (89 FR 41049), the total published Medicare payment rate is inclusive of all components included in the rate

⁴⁵ If Congress had intended instead to specify an alternative rate of 110 percent of the payment rate under the Medicaid State plan in the case of a Non-Expansion State, this could have been done, for example, by specifying “(or, in the absence of a total published Medicare payment rate, of the payment rate under a Medicaid State plan (or under

a waiver of such plan))” in section 71116(a)(2) of the WFTC legislation.

⁴⁶ <https://www.congress.gov/crs-product/R46797#~:text=%22The%20Secretary%20shall%20provide%20for,subsection%20for%20that%20fiscal%20year.%22>

⁴⁷ Finalized in § 438.6(c)(5)(v) beginning with the first rating period on or after July 9, 2028.

⁴⁸ States are required to comply with all of relevant regulatory requirements in § 438.7(c), including the requirements at §§ 438.7(c)(2) and 438.7(c)(5). These provisions outline the requirements for retroactive adjustments to the capitation rates.

developed by CMS for Medicare payment. In addition to the Medicare payment final rules, we also publish web pricers or fee schedules⁴⁹ for all total published Medicare payment rates and offer free, executable code for those web pricers.⁵⁰ We would expect States to use these Medicare tools, which are validated and inclusive of all the necessary Medicare components and adjustments that comprise the total published Medicare payment rate, when determining the applicable payment limit for payments to providers under an SDP.

While the vast majority of Medicare services are paid based on prospectively published payment rates, several hospital types are exempt from prospective payment systems, some providers are instead paid using a cost-based payment methodology.⁵¹ Medicare providers that are reimbursed by Medicare on a cost-basis include critical access hospitals (CAHs), certain cancer hospitals, and freestanding children's hospitals. Hospital payment rates determined using a cost-based methodology are not published nor are they subject to review and public comment. Hospitals reimbursed by Medicare on a cost basis are required to submit cost reports to CMS using Medicare approved cost reporting principles during the cost reporting period.⁵² Medicare contractors validate these cost reports and the providers are generally paid for the proportion of allowable costs attributed to Medicare FFS beneficiaries.⁵³ Typically, these providers receive interim payments based on estimated costs that are then reconciled to actual costs after the end of the cost reporting period.⁵⁴ This retrospective approach for annual cost reports poses operational and policy concerns for determining compliance with the applicable payment limit for SDPs under section 71116 of the WFTC legislation. In a Medicaid managed care delivery system, actuarially sound capitation rates are determined prospectively, and beginning with rating periods starting on or after July 9, 2026, States must submit SDP preprints to CMS prospectively under § 438.6(c)(2)(viii). The prospective nature of risk-based managed care makes it difficult to impose and monitor

a per service SDP payment limit when the SDP payment limit for a provider is tied to a retrospective cost report.

For providers paid under a cost-based methodology in Medicare, we believe it would be appropriate to consider the cost-based payment approach for applicable providers as the total published Medicare payment rate for the purpose of the SDP payment limit. However, we would need to publish specific instructions on allowable cost-reporting and cost allocation methodologies specific to Medicaid managed care. We could modify existing cost reporting instructions in Medicaid FFS that are based on Medicare cost reporting principles, for example disproportionate share hospital (DSH) cost reporting,⁵⁵ for this purpose and as part of our proposal under § 438.6(c)(9) to publish guidance as needed. Due to the prospective nature of risk based managed care, we propose to use the most recent and complete Medicare cost report, which would be submitted to us to validate, for the purpose of establishing the prospective SDP payment limit on a per service or discharge basis, including through appropriate cost allocation methodologies to derive service-level payment amounts. We believe this approach would ease administrative burden while still allowing States and these providers the flexibility to mirror the applicable Medicare payment approach.

In a scenario where a provider submitted a cost report for a cost reporting period ending in 2027, we would expect that report be submitted to us in alignment with the submission timing requirements at § 413.24(f)(2)(i) and, when applicable, as part of proposed § 438.6(c)(8)(ii)(C) and (iii)(C), which would require States to submit any additional documentation requested by CMS to demonstrate compliance with the payment limit. This cost report would serve as the basis for the total published Medicare payment rate and therefore, the applicable payment limit for a State with an SDP for a rating period starting on July 1, 2028. We propose that the provider specific cost report would be submitted to CMS, when applicable, to fulfill the proposed regulatory requirements under § 438.6(c)(8)(ii)(A) and (iii)(A) that the State submit “the total published Medicare payment rate or State plan approved rate (when no total published Medicare payment rate exists for the covered service) that serves as the basis

of the payment limit for each service covered under the State directed payment.” We believe this proposal is only appropriate in limited cases in which a provider covered under an SDP is not paid by Medicare and therefore does not utilize the Medicare PPS, fee schedule or cost report, and there is no total published Medicare payment rate. In this limited case only, we propose that the payment limit for the applicable SDP would be the applicable State plan approved rate.

As an alternative, we considered whether to revise the definition of total published Medicare payment rate to specifically exclude cost-based Medicare reimbursement methodologies. We considered this alternative because, while the cost-based Medicare reimbursement methodologies are publicly available, the provider specific reimbursement rates resulting from the application of these methodologies to the providers' cost reports are generally not publicly available, and may not meet the definition of a total published Medicare payment rate. If we finalized this option, the payment limit for providers paid by Medicare on a cost basis would default to the State plan approved rate. Another alternative we considered was requiring the State to use only total published Medicare payment rates that undergo the rule making process (for example, the Medicare IPPS rate or Medicare PFS rate) as the basis for the total published Medicare payment rate and therefore, the payment limit for all providers. This alternative would apply to providers reimbursed by Medicare on a cost basis, and the State would be required to use the equivalent total published Medicare payment rate for those providers as the basis for the SDP payment limit. This approach would ensure that all total published Medicare payment rates that serve as the basis for an SDP payment limit are transparent and prospectively established. We ultimately did not propose either of these alternatives because based on discussions and information provided by States and providers we understand that in many instances, the Medicare payment rate or State plan approved rate may be significantly lower than what these providers would be paid under a cost-based methodology.

We request public comment on the proposed approaches and the alternatives considered, and any additional considerations or mechanisms for determining compliance with the applicable payment limit for providers paid outside of the published Medicare fee schedules or Medicare PPS.

⁴⁹ For example, the Medicare Physician Fee Schedule can be found online: <https://www.cms.gov/medicare/physician-fee-schedule/search/overview>.

⁵⁰ <https://www.cms.gov/pricersource/codesoftware>.

⁵¹ § 412.23.

⁵² § 413.24.

⁵³ § 413.50.

⁵⁴ § 413.60.

⁵⁵ https://www.medicaid.gov/medicaid/downloads/general_dsh_audit_reporting_protocol.pdf.

In the absence of a total published Medicare payment rate for a Medicaid covered service included in an SDP, we propose a definition of payment limit under § 438.6(a) to specify that 100 percent of the State plan approved rate would be the payment limit for each service under an SDP. This is required under section 71116(a) of the WFTC legislation for the four service types, for the 50 States and DC, and we propose to apply this limit to all services covered under SDPs, for all States including DC and the Territories, when there is no total published Medicare payment rate under § 438.6(c)(8)(iii).

Although an increasing number of benefits are now covered under Medicare Parts A and B, such as opioid use disorder treatment and marriage and family counseling, many Medicaid benefits continue to lack a corresponding total published Medicare payment rate. Generally, Medicaid covers a broader array of services than Medicare and commercial payers, such as some treatments for mental health and substance use disorder, and long-term services and supports, including HCBS. As such, for some of these Medicaid services, there is no comparable payment rate under Medicare.

In those situations, consistent with section 71116 of the WFTC legislation, we believe that using State plan approved rates that have undergone the SPA review process provides the most appropriate benchmark for the payment limit in the absence of a Medicare payment rate. Compared to proprietary, non-standard, or non-existent commercial payment data (as could be relevant to SDPs in the Territories where there may be very low commercial health insurance penetration or for services other than the four services addressed in section 71116 of the WFTC legislation), using State plan approved rates would provide greater transparency, consistency, and validity to support the basis of a payment limit when States opt to direct managed care expenditures via an SDP. The SPA review process is a statutorily defined process that we believe would reduce ambiguity and provide operational ease for States and CMS in terms of implementing a payment limit for SDPs when there is no total published Medicare payment rate for the covered service. The State plan review and approval process ensures that Medicaid State plan approved FFS rates are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan, at least to the extent that

such care and services are available to the general population in the geographic area, as required under section 1902(a)(30) of the Act.

We also consider provider payment rates reviewed and approved by us as part of a section 1115 demonstration waiver or a waiver of the State plan (for example, a section 1915(c) waiver) to meet the definition of State plan approved rates for purposes of establishing the payment limit. Such rates would serve as the basis for the Payment limit when there is no total published Medicare payment rate for the covered service. Although these provider payment rates are not reviewed through the SPA process, they undergo a similarly rigorous review by our staff before they are approved as part of the broader demonstration or waiver authority. This circumstance most commonly arises with health related social needs (HRSN) services and HCBS, which are generally not benefits covered by the Medicare program and in some instances, only available in the Medicaid program via a section 1115 demonstration or other waiver authority. We believe this review process is robust and similar to the SPA review because both the underlying benefits and provider payment rates are subject to CMS review and approval, including to ensure consistency with section 1902(a)(30)(A) of the Act.

b. Payments Limits

To effectuate the proposed payment limit in § 438.6(a), we propose to revise § 438.6(c)(2)(ii)(I) and revise § 438.6(c)(8). First, we propose to replace the existing SDP standard at § 438.6(c)(2)(ii)(I) with new text that would require that all SDPs not exceed the payment limit set forth in revised § 438.6(c)(8). We also propose to revise existing paragraph (c)(8) as (c)(9) and add an introductory phrase “For rating periods beginning” to revised paragraph (c)(8); revise paragraph (c)(8)(i) to specify the applicability date for the requirements proposed in paragraphs (c)(8)(i)(A) and (B); and to incorporate the existing text from paragraph (c)(2)(ii)(I) into paragraphs (8)(i)(A) and (B). We believe these revisions would improve readability and make the applicability date clear. These proposed changes would maintain the existing regulatory requirements for SDPs that do not require written prior approval and ensure that such SDPs would not be subject to the proposed payment limit until the additional limits proposed in § 438.6(c)(8)(iii) are finalized.

Next, we propose to revise paragraph (c)(8)(ii) to require that States not exceed the payment limit for each

inpatient hospital service, outpatient hospital service, qualified practitioner service at an academic medical center, or a nursing facility service covered under an SDP described in § 438.6(c)(2)(i), for services furnished during a rating period beginning on or after July 4, 2025. As described in this section, we propose to define “State” at § 438.6(a), solely for the purposes of § 438.6(c)(8)(ii) and only until the first rating period beginning on or after January 1, 2029, to mean one of the 50 States or DC. For other purposes and time periods, “State” would also include the Territories. This proposal would apply the payment limits set forth under section 71116 the WFTC legislation to SDPs for the four services that require written prior approval. Under proposed § 438.6(c)(8)(ii), any SDP that requires written prior approval for one or more of the four services and that does not meet the definition of a grandfathered SDP would be subject to the payment limit beginning with the first rating period beginning on or after July 4, 2025. For example, a State that submitted a *new* SDP for hospital inpatient and outpatient services for a CY 2027 rating period would be subject to the payment limits beginning with that rating period because the SDP would not meet the definition of a grandfathered SDP. (See section II.A.2. of this proposed rule for discussion on grandfathered SDPs.)

We also propose to apply the payment limit, which differs for Expansion and Non-Expansion States to all services covered under SDPs via proposed § 438.6(c)(8)(iii). We believe that imposing the same payment limit on all SDPs would be a reasonable and appropriate approach to improve the fiscal integrity of the Medicaid program and would align with the directive in the Presidential Memorandum that Medicaid payment rates not exceed Medicare payment rates. Using consistent benchmarks for evaluating the proposed payment limits for all services within SDPs would help ensure that States do not engage in cost shifting, such as attempting to increase payments to providers for services other than the four services specified in section 71116 of the WFTC legislation to offset the loss of revenue reductions resulting from the payment limit on the four services. For example, hospitals could seek to mitigate the impact of the payment limit by consolidating with other healthcare provider entities, such as independent provider practices and clinics, and by shifting certain services from an outpatient hospital setting to a clinic setting, where SDP payments

would not be subject to the payment limit established in section 71116 of the WFTC legislation. Cost shifting practices of this nature are counter to our goal of greater fiscal integrity within the Medicaid program and could be used to obscure fraud, waste and abuse. We are also proposing § 438.6(c)(8)(iii) to extend the proposed payment limit to all services covered under SDPs in the U.S. territories as our fiscal integrity concerns noted above apply to all 50 States, DC, and U.S. territories.

To provide States sufficient time to redesign SDPs, work with interested parties and legislative bodies, and engage in technical consultation with CMS, we propose to apply the payment limit to all SDPs in the 50 States, DC, and the Territories effective with the first rating period beginning on or after January 1, 2029. We considered earlier effective dates, such as the first rating period beginning after the effective date of the final rule or, on or after January 1, 2027 or January 1, 2028, which could reduce incentives for cost shifting, and reduced SDP expenditures more expeditiously. However, we do not believe that those earlier effective dates would provide States sufficient time to complete the operational, technical, and administrative steps necessary to implement the proposed payment limit. We also considered whether a phase down period was necessary, as is required for grandfathered SDPs under section 71116 of the WFTC legislation. However, we do not believe that requiring a phase down period is necessary for these SDPs given the less complicated design most States have used in SDPs for services other than the four services specified in section 71116 of the WFTC legislation. SDPs for services other than the four specified in WFTC legislation also represent a significantly lower amount of Medicaid expenditures and we believe that a prospective compliance date with the payment limit already allows States sufficient time to transition and initiate their own phase down of implicated SDPs, if desired. We remind States that, regardless of the use of SDPs, Medicaid managed care capitation rates are subject to actuarial soundness requirements and States must comply with all regulatory requirements including network adequacy standards, and CMS contract oversight. These requirements ensure beneficiary access to providers and services, separate and apart from SDPs which are always optional for States.

We propose to prospectively apply, through new paragraph (c)(8)(iii), the same payment limits specified in section 71116 of the WFTC legislation to

all services, all States, and all SDPs, applicable with the first rating period beginning on or after January 1, 2029. This proposal would apply the Payment limit defined at § 438.6(a) to the U.S. territories, to SDPs that do not require written prior approval under paragraph (c)(1)(i), and to all other services covered under SDPs.

These proposals to impose payment limits aligned with but in excess of the requirements of section 71116 of the WFTC legislation are based on our authority to interpret and implement section 1903(m)(2)(A)(iii) of the Act, which requires contracts between States and MCOs to provide prospective payment under a risk-based contract for services and associated administrative costs that are actuarially sound and our authority under section 1902(a)(4) of the Act to establish methods of administration for Medicaid that are necessary for the proper and efficient operation of the State plan. These proposals would be extended to PIHPs and PAHPs through regulations based on our authority under section 1902(a)(4) of the Act. As noted in the 2016 final rule, regulation of SDPs is necessary to ensure that Medicaid managed care plans retain sufficient discretion to manage the financial risk associated with providing the benefits covered under their contracts, which is integral to ensuring that capitation rates are actuarially sound as defined in § 438.4 (81 FR 27582).

c. Payment Limit Monitoring and Compliance

To assess and monitor State compliance with the new payment limit, we propose in new § 438.6(c)(8)(ii)(A)(1) to require States to submit, for our review: a list of all providers eligible for the SDP and their National Provider Identifiers (NPIs), the total published Medicare payment rate or State plan approved rate (only when no total published Medicare payment rate exists for the covered service) that serves as the basis of the payment limit for each service covered under the SDP. We also propose in § 438.6(c)(8)(ii)(A)(2) that States would be required to provide a detailed description of how the State would ensure that payment to each provider for each furnished service would not exceed the payment limit. With these proposals, States would be aware of the payment limits and have a plan in place to ensure compliance. We would expect States to provide detailed information about the processes, systems, technology or other controls they would utilize to ensure that each payment under the SDP does not exceed the payment limit.

In addition, under proposed § 438.6(c)(8)(ii)(C), we would have authority to request additional documentation from States to assess compliance with the payment limit. We believe that this documentation would allow us to fully understand how a State would verify regulatory compliance and allow us or other oversight bodies to engage in robust post-implementation monitoring and oversight. For example, we or another oversight body could utilize the submitted NPI list to extract relevant Transformed Medicaid Statistical Information System (T-MSIS) data for each provider eligible for an SDP during a specific rating period, and then compare the actual paid amount in T-MSIS to the total published Medicare payment rate or State plan approved rate (only when no total published Medicare payment rate exists for the covered service) that serves as the basis of the payment limit for each service covered under the SDP to determine if payment for each service covered under an SDP has complied with the applicable payment limit.

For States implementing VBP SDPs as permitted under paragraphs (c)(1)(i) and (ii), we propose § 438.6(c)(8)(ii)(B) to require States to provide a detailed validation methodology to ensure that payments from VBP SDPs do not exceed the payment limit on a per service basis. For example, a State that opts to implement a population-based payment SDP under § 438.6(c)(2)(vi)(C) would be expected to reconcile prospective population-based payments to actual utilization occurring during the rating period to verify that the payment limit was not exceeded on a per service basis. States implementing performance-based payments under § 438.6(c)(2)(vi)(B) would need to account for the base payments paid to providers⁵⁶ and ensure through a detailed validation methodology that the per service payment limit was not exceeded. Providers that already receive base payments (that is, negotiated rates) from managed care plans that exceed the payment limit would not be eligible to receive additional SDP payments that would result in the per service payment limit being exceeded. We believe a validation methodology would be necessary for VBP SDPs specifically because there is greater risk of unintentionally exceeding the payment limit given how VBP SDP models are developed under § 438.6(c)(2)(vi)(C).

⁵⁶ We use the term “base payments” to mean the rates the MCO, PIHP, or PAHP negotiated with the providers. This is consistent with language used in the definition of “uniform increase” at § 438.6(a).

We considered several alternative proposals because we recognize that a per service payment limit may pose operational and logistical complexities, particularly in the context of population and condition-based SDP arrangements. VBP SDPs have been important tools for States to improve the value of and quality of care furnished to Medicaid managed care enrollees, and we are always available to provide technical assistance to States interested in implementing VBP SDPs. Because such arrangements are typically structured as prospective payments to providers (that is, per member per month (PMPM) payment) for an attributed population and defined set of services, we considered alternative proposals in recognition of the unique challenges that may arise for States when implementing VBP SDPs.

One alternative approach we have considered for VBP SDPs is requiring the State to work with its actuaries to develop the population or condition-based SDP using actuarial principles and have the State's actuary certify that the provider payment under the SDP (inclusive of any performance based payments and/or shared savings) was developed in such a way that payment to providers would not exceed the permissible applicable payment limit based on the services covered under the SDP. We seek public comment on this alternative and other operational or oversight approaches to ensure fiscal integrity with regards to the payment limit and VBP SDPs. We also seek potential ideas to operationalize alternative value-based arrangements in Medicaid, given that value-based care is a tool to support CMS priorities including holding providers accountable for health outcomes and reducing wasteful spending.

We remind States of certain existing regulatory requirements that are applicable to their monitoring and oversight of SDP implementation and compliance with the payment limit. The term "overpayment" is defined at § 438.2 to mean any payment made to a network provider by a managed care plan to which the network provider is not entitled to under Title XIX of the Act or any payment to a managed care plan by a State to which the plan is not entitled to under Title XIX of the Act. Payments under SDPs to providers in excess of the applicable payment limit would meet the definition of an overpayment. Part 438 subpart H outlines requirements with respect to overpayments, including both State and managed care plan obligations. Contracts with managed care plans must specify policies and procedures related

to reporting, documentation, and recovery of overpayments made by the managed care plan to the provider, as required at § 438.608(d). Given these requirements, States and plans should already have in place policies and procedures to address overpayments and should consider whether any refinements are necessary to address SDP-related overpayments. This level of oversight and monitoring should occur with regularity throughout the applicable rating period and at least on a quarterly basis.

While States may work with their managed care plans to implement upfront processes and system guardrails to avoid per service payments in excess of the SDP payment limit, such as automating a limit in the claims processing system, § 438.242(d) requires States to review and validate encounter data collected, maintained, and submitted by their managed care plans. Under § 438.242(c)(3), the encounter data must include allowed amounts and paid amounts. By regularly validating encounter data inclusive of the amount paid by the managed care plan, the State can ensure that any SDP overpayments are identified and addressed in a timely manner. In accordance with § 438.608(d)(4), the State must use that encounter data and information collected on overpayments identified or recovered for purposes of setting actuarially sound capitation rates for each managed care plan consistent with the requirements at § 438.4. States must work with their actuaries to ensure that assumptions related to overpayments are accounted for in capitation rate development.⁵⁷ We remind States that they must reimburse us for an amount equal to the Federal share of overpayments consistent with section 1903(d)(2) of the Act and § 433.312.

If States do not provide sufficient documentation of their monitoring approaches as required in proposed § 438.6(c)(8)(ii)(A) and (B), and to ensure that we would be able to require any additional documentation necessary to ensure compliance with the proposed payment limit, we propose § 438.6(c)(8)(ii)(C) that would require States to provide any additional documentation that we request to document compliance. In our experience reviewing and approving SDPs since 2017, we often must request additional materials or data as part of our SDP review to ensure State compliance with Federal requirements

and to mitigate fiscal and program integrity concerns. This proposal would formalize our authority to continue to request additional documentation when needed to ensure that States are complying with the applicable payment limit.

We propose to repeat the requirements proposed at § 438.6(c)(8)(ii)(A) through (C) in paragraphs (8)(iii)(A) through (C) but add "upon request" to the last phrase of the introductory text in paragraph (8)(iii). We believe it would be necessary to repeat these requirements to ensure that when the payment limit applies to all SDPs as proposed in § 438.6(c)(8)(iii), we are able to continue to request this information from States to assess compliance with the payment limit. This proposed revision would enable us to request this documentation from States with SDPs that do not require submission of a preprint for written prior approval by us. We propose that paragraph (c)(8)(iii) would be applicable beginning with the first rating period on or after January 1, 2029, to all 50 States, DC, and the U.S. territories.

Based on our experience reviewing and approving SDPs since 2016, States often request extensive technical assistance on SDP policies and regulatory requirements including guidance on key SDP policy, SDP design, the SDP quality evaluation, compliance with the applicable payment limit, associated documentation that must be submitted to CMS, and strategies for State monitoring and oversight of SDP implementation. We also acknowledge that as the Original Medicare program revises their payment rules and policies, States will have questions about the applicability of those changes to the SDP payment limit in Medicaid managed care. Under § 438.7(e), we issue additional guidance to States on a number of topics and elements relevant to requirements for rate certification submission; this guidance came to be known as the Medicaid Managed Care Rate Development Guide⁵⁸ and is published on an annual basis. We believe that similar published guidance is necessary for SDPs given the complexity of SDP policy and the new payment limit under the law. We propose new § 438.6(c)(9) which would require us to issue guidance, as needed, on topics including: Federal requirements and standards for the SDP, documentation required to determine that the SDP has been developed in

⁵⁷ The Medicaid Managed Care Rate Development Guide outlines documentation requirements for rate certifications related to overpayments (see section I, Item 3.B.ii.).

⁵⁸ <https://www.medicaid.gov/medicaid/managed-care/guidance/rate-review-and-rate-guides>.

accordance with the requirements of § 438.6(c), any considerations for applicability of the payment limit, the documentation required to demonstrate compliance with the payment limit, any updates or developments in the State directed payment review process to facilitate prompt CMS review, and any considerations for state monitoring, oversight, and evaluation of the SDP. We believe that this guidance will be necessary to provide more granular guidance to States than is possible under a regulation.

d. State Expansion Status

For States that begin providing expansion coverage on or after July 4, 2025 (the date of enactment of the WFTC legislation), section 71116(c) of the WFTC legislation specifies that the payment limit for SDPs described under current § 438.6(c)(2)(iii) would be the applicable payment limit for Expansion States as outlined in section 71116(a)(1) of the WFTC legislation. Section 71116(c) of the WFTC legislation states that this newly applicable SDP payment limit would apply to services furnished during the first rating period on or after the date of enactment. Because section 71116(c) of the WFTC legislation ties the applicability of the payment limit (see proposed definition of “payment limit” in section II.A.1.A. of this proposed rule) to the rating period in which the service is furnished, we interpret this to mean that the payment limit for an Expansion State (see proposed definitions of “Expansion State” and “Non-Expansion State” in section II.A.1.A. of this proposed rule) would apply beginning with the first rating period that begins on or after the date the State begins providing expansion coverage.

We also believe that the reverse would be true; that is, if a State were to transition from an Expansion State to a Non-Expansion State, that State’s SDPs would then be subject to the applicable payment limit for Non-Expansion States. Although this scenario is not delineated in section 71116(c) of the WFTC legislation, we believe that the payment limit for a State’s SDPs should be tied to its expansion status as explicitly defined in sections 71116(a)(1) and (2) of the WFTC legislation. We believe this would be necessary to implement the proposed payment limit equitably among States and with clarity for enforcement. We are not proposing any specific regulation text to address this policy; we believe our proposals to define and implement the payment limit (see sections II.A.1.A. and B. of this proposed rule) would permit us to enforce this interpretation,

if finalized as proposed. We seek public comments on all of our proposals.

2. Grandfathered SDPs (§ 438.6(a) and (c)(2)(iii))

Section 71116(b) of the WFTC legislation provides for delayed compliance with the payment limit (described in section II.A.1. of this proposed rule and in section 71116(a) of the WFTC legislation) for certain, eligible SDPs. In this proposed rule, we refer to section 71116(b) of the WFTC legislation as the “grandfathering provision” and SDPs that are described in and subject to the provision are referred to as “grandfathered SDPs.” We also refer to the period of delayed full compliance with the payment limit in section 71116(a) of the WFTC legislation for grandfathered SDPs as the “temporary grandfathering period.” The criteria for an SDP to qualify as a grandfathered SDP are specified in section 71116(b) of the WFTC legislation, including applicable types of services, the applicable rating periods, and status of the SDP preprint.

a. Definition of a Grandfathered SDP

The first criterion for an SDP to qualify to be grandfathered is that it be described under § 438.6(c)(2)(iii), which is limited to SDPs that require written prior approval and are for inpatient hospital services, outpatient hospital services, nursing facility services, or qualified practitioner services at an AMC. The current regulatory requirements in § 438.6(c)(2)(iii) specify that the total payment rate for each SDP for which written prior approval is required for the four services must not exceed the ACR. Because the grandfathering provision in section 71116(b) of the WFTC legislation allows delayed compliance with the payment limit in section 71116(a) of the WFTC, we propose to adopt these criteria pertaining to the four services and an SDP that requires written prior approval as part of the definition for “Grandfathered State directed payment” under § 438.6(a).

The second criterion is that the SDP must be for a “rating period occurring within 180 days of the date of enactment” of the WFTC legislation. We interpret “180 days” to refer to 180 business days. We believe this interpretation is appropriate because activity on SDP preprints, including our review and approval, occurs on business days and not on weekends or Federal holidays. To align with Federal practice, we propose to define “Business day” under § 438.2 to mean Monday through Friday, excluding Federal holidays as

set forth under 5 U.S.C. 6103.⁵⁹ Other government agencies, such as the Office of Personnel Management (OPM) rely on 5 U.S.C. 6103 to determine Federal holidays, and we believe aligning our definition with that framework provides clarity and administrative consistency.

Section 71116(b) of the WFTC legislation further specifies that the rating period must be “occurring within” the 180-day timeframe. A rating period is defined in § 438.2 as a period of 12 months selected by the State for which actuarially sound capitation rates are developed and documented in the rate certification submitted under § 438.7(a). States utilize different rating periods. For example, some States utilize a CY rating period while others use 12-month rating periods that begin in April, July, August or October. In some cases, these non-CY rating periods align with a State fiscal year (SFY). Given these variations, we interpret the phrase “occurring within 180 days of enactment” to encompass rating periods that begin within 180 business days before or within 180 business days after July 4, 2025, the date of enactment of the WFTC legislation. Under this proposed interpretation of this criterion, the grandfathering provision would apply to eligible SDPs in rating periods that include any business days between October 11, 2024 through July 3, 2025 or between July 5, 2025, and March 27, 2026. This would include rating periods for CY 2024, SFY 2025, CY 2025, SFY 2026, and CY 2026 which we refer to as “eligible rating periods” in this proposed rule. Rating periods that do not include any business days within those timeframes, including SFY 2027, would not qualify. We propose to incorporate this interpretation into the definition of a grandfathered SDP proposed at § 438.6(a).

The third criterion to determine whether an SDP is eligible for the grandfathering provision in section 71116(b) of the WFTC legislation pertains to the status of an eligible SDP preprint. Specifically, SDPs for an eligible rating period with one of the below statuses could qualify for the grandfathering provision, consistent with section 71116(b) of the WFTC legislation. We acknowledge that the terms “good faith effort” and

⁵⁹ Holidays include the 12 Federal holidays, including Inauguration Day, as recognized by OPM (<https://www.opm.gov/policy-data-oversight/pay-leave/federal-holidays>). Federal government closures by Executive Order are also applicable to this timeframe. Those known at the time of proposed rule publication include December 24, 2024, January 9, 2025, December 24, 2025 and December 26, 2025.

“completed preprint” are further described in this section.

- SDPs (other than for rural hospitals) for which written prior approval was made by us before May 1, 2025;

- SDPs (other than for rural hospitals) for which a good faith effort to receive our approval was made before May 1, 2025;

- SDPs for rural hospitals for which written prior approval was made by us before July 4, 2025;

- SDPs for rural hospitals for which a good faith effort to receive our approval was made before July 4, 2025; and

- SDPs for which a completed preprint was submitted to us prior to July 4, 2025.

The terms “rural hospital” and “written prior approval” utilized in section 71116(b) of the WFTC legislation are defined in section 71116(d) of the WFTC legislation. Rural hospital is defined in section 71116(d)(2) of the WFTC legislation to mean: (1) a section (d) hospital (as defined in paragraph (1)(B) of section 1886(d) of the Act (42 U.S.C. 1395ww(d))) that— (i) is located in a rural area (as defined in paragraph (2)(D) of such section); (ii) is treated as being located in a rural area under paragraph (8)(E) of such section; or (iii) is located in a rural census tract of a metropolitan statistical area (as determined under the most recent modification of the Goldsmith Modification, originally published in the **Federal Register** on February 27, 1992 (57 FR 6725)); (2) a critical access hospital (as defined in section 1861(mm)(1) of such Act (42 U.S.C. 1395x(mm)(1))); (3) a sole community hospital (as defined in section 1886(d)(5)(D)(iii) of such Act (42 U.S.C. 1395ww(d)(5)(D)(iii))); (4) a Medicare-dependent, small rural hospital (as defined in section 1886(d)(5)(G)(iv) of such Act (42 U.S.C. 1395ww(d)(5)(G)(iv))); (5) a low-volume hospital (as defined in section 1886(d)(12)(C) of such Act (42 U.S.C. 1395ww(d)(12)(C))); or (6) a rural emergency hospital (as defined in section 1861(kkk)(2) of such Act (42 U.S.C. 1395x(kkk)(2))). Section 71116(d) of the WFTC legislation specifies that the term “written prior approval” has the meaning reflected in its use in § 438.6(c)(2)(i) (or a successor regulation).

The term “completed preprint” as used in section 71116(b) of the WFTC legislation is not defined in section 71116(d) of the WFTC legislation or existing regulation. In the *CMCS Informational Bulletin (CIB)* published

on November 7, 2023,⁶⁰ we outlined guidance on the components of a complete submission for Medicaid managed care contracts, rate certifications, and SDP preprints. On page 6 of this CIB, we noted that “[a] complete State directed payment preprint submission requires a State directed payments preprint form as well as the preprint addendum tables in an Excel workbook, as necessary. . . . The preprint must be completed in full, and all information must be provided only in the fillable sections of the preprint and the addendum tables.” We believe it would be appropriate to define a “completed preprint” consistent with the definition in this guidance, as it is an accurate representation of the information necessary from States to begin review of an SDP preprint, and would ensure that States had adequate notice of this definition prior to enactment of the WFTC legislation. We propose the definition of “completed preprint” at § 438.6(a) to mean an SDP preprint with all relevant sections of the preprint filled out, and all information provided only in the fillable sections of the preprint and the published addendum tables, as applicable. Given the significance of a completed preprint for implementation of section 71116(b) of the WFTC legislation, we believe § 438.6(c) would be more comprehensive and clear if it included a definition of “preprint” and explicitly stated the requirement for submission to obtain written prior approval. Although preprint submission has been the only method by which a State could obtain written prior approval of an SDP since their inception, we believe § 438.6(c)(2)(i) would benefit from the addition of a definition of “preprint” in § 438.6(a) to reference the template published by us and an explicit requirement in § 438.6(c)(2)(i) that preprints would have to be submitted for all SDPs that require written prior approval.

The term “good faith effort” is also not defined in section 71116(d) of the WFTC legislation or in existing regulation. As noted in the CIB published on November 7, 2023, “[f]or those State directed payments that require written prior approval, we must receive a complete preprint before we will begin review.” Consistent with this guidance, we interpret a State’s submission of a completed SDP preprint prior to the applicable statutory date to constitute a good faith effort to receive our approval. Therefore, we believe the term “good faith effort” in status “2”

and status “4” to mean submission of a completed preprint. We believe this interpretation gives effect to the phrase “good faith effort” by recognizing States that took affirmative steps within the established SDP approval framework to seek written prior approval. Under the existing regulatory structure, submission of a completed preprint is the only objective action that initiates our review, and other actions short of submission of a completed preprint do not initiate review and therefore do not demonstrate a good faith effort to obtain our approval. We do not believe that adopting a broader interpretation of “good faith effort” would result in the inclusion of additional SDPs beyond those already encompassed within statuses “1” and “5”. We considered another interpretation of “good faith” to mean that the SDP had been documented in Medicaid managed care contracts and rate certifications by July 4, 2025. However, the SDPs under the purview of the statute are those that specifically require prior approval⁶¹ by us, meaning that the State must submit a preprint for our review and approval prior to implementation. In the absence of a completed SDP preprint submission, documentation in contracts and rate certifications does not sufficiently represent a good faith effort to receive our approval. The preprint submission is needed for us to complete our review and approval of an SDP that requires prior approval. We considered whether technical assistance calls or informal consultation might rise to level of a “good faith effort;” however, these activities do not provide sufficiently cogent or detailed information for us to reasonably initiate a SDP review.

Additionally, as a practical matter, SDPs for which a completed preprint has been submitted to us prior to July 4, 2025 (status “5”), would encompass all SDPs that would otherwise be eligible under statuses “1” through “4.” Under our existing review process, a State cannot obtain written prior approval without submitting a completed preprint. As a result, any State that received written prior approval from us before May 1, 2025 or July 4, 2025, would necessarily have submitted a completed preprint before July 4, 2025. Therefore, rather than repeatedly list all five statuses in this proposed rule, we propose that an SDP would be eligible under the third criterion if a completed preprint was submitted to us prior to July 4, 2025. We propose to adopt this criterion as part of the definition for a grandfathered SDP at § 438.6(a).

⁶⁰ <https://www.medicaid.gov/federal-policy-guidance/downloads/cib11072023.pdf>.

⁶¹ 42 CFR 438.6(c)(2)(i).

In addition, we propose that the grandfathering provisions apply only where an SDP exceeds the payment limit set forth in § 438.6(c)(8). In general, the statutory phase down framework applies to bring higher payment levels into compliance with the applicable limit. Where an SDP is already at or below the payment limit, application of the grandfathering framework would not have practical effect and could limit a State's ability to modify the SDP to increase payments up to the permissible payment limit. In summary, to more easily reference SDPs that meet these criteria for grandfathering in this proposed rule and in § 438.6, we propose to add the term "Grandfathered State directed payment" to the definitions under § 438.6(a). We propose to define "Grandfathered State directed payment" to mean an SDP for inpatient hospital services, outpatient hospital services, nursing facility services, or qualified practitioner services at academic medical centers that received written prior approval under paragraph (c)(2)(i); is for a rating period that includes at least 1 business day between October 11, 2024 and July 3, 2025 or July 5, 2025 and March 27, 2026; and for which a completed preprint with an eligible rating period and documented total dollar amount (as specified in item 4 of the current SDP preprint) was submitted to us prior to July 4, 2025. It is essential to require that the completed preprint submitted to us prior to July 4, 2025 contains an eligible rating period and documented total dollar amount as these elements are essential to establish eligibility for grandfathering. Under our proposed definition, States would not be permitted to revise a preprint submission after July 4, 2025 to change the rating period to qualify as a grandfathered SDP, or to increase the total dollar amount of a grandfathered SDP. The SDP would also need to exceed the payment limit set forth in paragraph (c)(8).

b. Temporary Grandfathering Period

Grandfathered SDPs are eligible for a temporary grandfathering period and subject to a phase down of the total amount of the SDP to the payment limit beginning with the first rating period on or after January 1, 2028, as specified in section 71116(b) of the WFTC legislation. Section 71116(b) of the WFTC legislation specifies that beginning with the rating period on or after January 1, 2028, a State must begin an annual phase down of the "total amount" of the Grandfathered SDP. We believe the specified "total amount" of the SDP refers to the total amount of the

SDP approved for the rating period for which the SDP qualified for grandfathered SDP status (for example, SFY 2025, CY 2025, CY 2026 or SFY 2026). For SDPs that require written prior approval, States are required to submit an SDP for written prior approval using the current CMS issued preprint.⁶²

Item 4 of the current SDP preprint captures the State's estimated total dollar amount associated with the SDP to provide transparency regarding the fiscal impact (Federal and non-Federal share) of the State's proposal and to aid our review for written prior approval required under § 438.6(c)(2)(i), including our assessment of whether the SDP complies with standards outlined in § 438.6(c)(2). Therefore, we believe the estimated total dollar amount listed in item 4 of the preprint would be the most reasonable, practical, and consistent way to interpret and implement "total amount" in section 71116(b) of the WFTC legislation. In the interest of controlling the rapid growth in SDP spending and consistent with section 71116 of the WFTC legislation and the Presidential Memorandum, we propose to utilize the total dollar amount documented in item 4 of the preprint approved by us for each grandfathered SDP as the maximum amount of expenditures that would be allowed for that SDP during the temporary grandfathering period prior to the start of the phase down that begins with rating periods on or after January 1, 2028. We propose to define "Grandfathered total dollar amount" under § 438.6(a) to mean the total dollar amount approved by us for a grandfathered SDP. When preprint submissions of the same SDP for different rating periods meet the definition of a grandfathered SDP, the highest total dollar amount approved by us is the maximum grandfathered total dollar amount. For example, if a State has a SFY 2025 preprint and a SFY 2026 preprint for the same SDP that both qualify as grandfathered SDPs, and the SFY 2025 preprint totals \$100 million (as specified in item 4 of the approved preprint) while the SFY 2026 preprint totals \$105 million (as specified in item 4 of the approved preprint), then \$105 million would be the grandfathered total dollar amount.

As described, the grandfathered total dollar amount identified in item 4 of the preprint represents the maximum total amount of expenditures for the SDP and is subject to the required phase down. This makes it more challenging to

incorporate a grandfathered SDP into capitation rates as an adjustment to the capitation rates because fixed aggregate funding amounts are generally not compatible with prospective capitation rate development and actuarial soundness in risk-based managed care. Capitation rates are generally paid on a PMPM basis and total spending in a managed care program can fluctuate with enrollment and utilization changes. When grandfathered SDPs are included in the PMPM as an adjustment to the capitation rates it presents the possibility that the grandfathered total dollar amount could be exceeded if enrollee utilization is higher than projected. It could also increase the administrative burden on States, which would need to monitor actual utilization and SDP spending, and submit SDP preprint amendments and/or rate amendments, as applicable to ensure that the grandfathered total dollar amount is not exceeded.

We have considered how best to ensure fiscal integrity of the grandfathered total dollar amount during the temporary grandfathering period and through the phase down period. One option we considered is to permit grandfathered SDPs to use separate payment terms on a time-limited basis. However, as we have stated in prior guidance, "[a]s CMS has reviewed State directed payments and the related rate certifications, CMS has identified a number of concerns around the use of separate payment terms. Frequently, while there is risk for the providers, there is often little or no risk for the plans related to the directed payment, which is contrary to the nature of risk-based managed care. This can also result in perverse incentives for plans that can result in shifting utilization to providers in ways that are not consistent with Medicaid program goals."⁶³ We further stated in the 2024 final rule that "some States are increasingly relying on this payment mechanism to circumvent risk-based payment to managed care plans. More specifically, it is a way to circumvent compliance with the requirement that SDPs be developed in accordance with §§ 438.4, 438.7, 438.8, and generally accepted actuarial principles and practices."⁶⁴

While we continue to have concerns with separate payment terms, we also acknowledge that, in this limited context resulting from the WFTC legislation, they may provide a more

⁶² <https://www.medicaid.gov/medicaid/managed-care/downloads/sdp-4386c-preprint-template.pdf>.

⁶³ <https://www.medicaid.gov/Federal-Policy-Guidance/Downloads/smd21001.pdf>.

⁶⁴ 89 FR 41109.

transparent and administratively feasible mechanism for Federal and State monitoring and oversight of compliance with the grandfathered total dollar amount and associated phase down requirements as a separate payment term can be directly targeted to the total dollar amount. For this reason, we are proposing and seek comment on a time-limited exemption to the prohibition on separate payment terms only in this limited circumstance. More specifically, we propose in § 438.6(c)(2)(iii)(F) to permit a State to delay compliance with the separate payment term prohibition in § 438.6(c)(6) and the preprint timing submission requirements in § 438.6(c)(2)(viii) for a grandfathered SDP until the first rating period in which the payment limit is met in accordance with § 438.6(c)(8). Beginning with the first rating period that the payment limit is met under § 438.6(c)(8), the State would be required to comply with the prohibition on separate payment terms and the prospective preprint submission requirements because, under the proposed definition of “Grandfathered State directed payment” in § 438.6(a), an SDP that no longer exceeds the payment limit would no longer qualify as a grandfathered SDP. This means that with the first rating period that the payment limit is met (as demonstrated by the total payment rate comparison in Table 2 of the preprint submission), the State would be required to incorporate the SDP as an adjustment to the capitation rates, submit the preprint prospectively (if applicable) and, if the SDP is for a rating period that starts on or after January 1, 2028, the State would be required to comply with the permissible types of SDPs (that is, minimum fee schedule, maximum fee schedule or value-based payment arrangement). We request public comment on this specific approach and if there are any other operational considerations we should take into account. States with grandfathered SDPs are required to ensure that the grandfathered total dollar amount is not exceeded in any rating period during the phase down period. We are not proposing to revisit these regulatory provisions for any other SDPs or scenarios and intend this as a time-limited exemption for eligible grandfathered SDPs only.

We reiterate that we continue to have concerns with separate payment terms and have considered several alternative proposals. An alternative we considered, and invite comment on, was to maintain the prohibition on the use

of separate payment terms, without exceptions, in § 438.6(c)(6) and the preprint timing submission requirements in § 438.6(c)(2)(viii). Under this alternative, all SDPs would be required to comply with the requirements finalized in the 2024 final rule. Another alternative we considered was to maintain the prohibition on the use of separate payment terms, require that all SDPs be incorporated into rates as adjustments to the base capitation rates and create narrow flexibilities to ease the administrative burden for States to monitor compliance with the grandfathered total dollar amount, including monitoring of actual utilization and SDP spending. We also considered waiving only the prospective preprint submission timing requirements in § 438.6(c)(2)(viii), without waiving the prohibition on separate payment terms in § 438.6(c)(6). This alternative would allow States to retroactively modify their SDP preprints once utilization is known to ensure that the grandfathered total dollar amount is not exceeded for a specific rating period. We recognize that this alternative would be less consistent with the prospective submission framework established in § 438.6(c)(2)(viii), but considered it as a potential means of reducing the risk that actual expenditures would exceed the grandfathered total dollar amount.

We also considered whether we should require States to use separate payment terms and uniform increase SDPs for all grandfathered SDPs. Separate payment terms are typically structured as predetermined, finite pools of funding, which aligns with our proposals for a grandfathered total dollar amount. In our experience, it is difficult to incorporate a minimum fee schedule or maximum fee schedule type SDP into the capitation rates as a separate payment term because a fee schedule by nature means that total provider payments that are based on the fee schedule will ultimately vary due to utilization. For this reason, if we were to require separate payment terms, we would likely also need to require that States utilize either a uniform increase type SDP or value-based payment SDP which can be more easily incorporated into the capitation rates as a separate payment term. However, we did not propose this alternative because of our longstanding concerns with the use of separate payment terms, including that they are utilized by States to circumvent risk-based payment to managed care plans (89 FR 41109). We are also concerned that such an alternative would remove the State’s ability to

determine the type of SDP that furthers the State’s overall Medicaid program goals and objectives and could be overly prescriptive.

In the 2023 proposed rule, we proposed a number of regulatory provisions related to separate payment terms and we consider their relevancy again given the new statutory requirements under the WFTC legislation. We also considered whether to amend § 438.6(a) to define “Separate payment term” as a pre-determined and finite funding pool that the State establishes and documents in the Medicaid managed care contract for a specific SDP. Payments made from this funding pool are made by the State to the managed care plan exclusively for SDPs and are made separately and in addition to the capitation rates identified in the contract as required under § 438.3(c)(1)(i).⁶⁵ Defining the term “separate payment term” could offer additional clarity to States regarding the nature and permissibility of a separate payment term. We seek public comment on this potential definition. We also consider whether it would be beneficial to again propose a regulatory revision that the separate payment term could not exceed the total dollar amount documented in the written prior approval for each SDP, for additional clarity regarding the hard limit on the grandfathered total dollar amount.⁶⁶ We seek public comments on all alternatives considered.

We propose to revise § 438.6(c)(2)(iii)(A) through (C) as § 438.6(c)(2)(iii)(C)(1) through (3) and to replace the existing text in § 438.6(c)(2)(iii) with proposed text stating that SDPs that meet the definition of a grandfathered SDP would be eligible for delayed compliance with the payment limit. We also propose new introductory text in § 438.6(c)(2)(iii) to make the requirements at § 438.6(c)(2)(iii)(A) through (F) applicable to all grandfathered SDPs.

To establish clear guardrails to ensure that the maximum total amount for a grandfathered SDP would not be exceeded during each rating period of the temporary grandfathering period, we propose in § 438.6(c)(2)(iii)(A) that subsequent renewals of or amendments to a grandfathered SDP must not exceed the grandfathered total dollar amount for each rating period beginning on or after July 4, 2025 but before January 1, 2028.

Under § 438.6(c)(2)(iii)(C), we propose that the total payment rate that would be effective under proposed paragraphs

⁶⁵ 88 FR 28146.

⁶⁶ 88 FR 28146.

(c)(2)(iii)(A) and (B) (that is, the limits on total amount and phase down applicable to a grandfathered SDP) must not exceed the ACR. We believe this would prevent States from redesigning grandfathered SDPs to result in total payment rate(s) that could exceed ACR without exceeding the maximum total amount permitted for a grandfathered SDP. For example, a State could choose to redesign a renewal of a uniform increase grandfathered SDP during the temporary grandfathering period. As part of that redesign, the State could redefine the eligible provider classes and modify the uniform increase for each provider class and service type such that the renewal SDP would not exceed the maximum total amount permitted in paragraph (c)(2)(iii)(A) for the SDP overall, but the total payment rate(s) by provider classes would exceed the ACR.

We believe it would be necessary to monitor for a time-limited period how the total payment rate under a grandfathered SDP would compare to the ACR so as not to create a loophole that would allow States to direct managed care plans to make payments to providers under a grandfathered SDP that exceed ACR. This loophole would run counter to Congressional intent to decrease SDP payment rates for the four services from rates up to the ACR as currently allowed under regulation to the new statutory payment rate limits based on the total published Medicare or Medicaid State plan payment rates, as well as our goals of fiscal integrity and more reasonable payment rates for Medicaid providers via SDPs. Monitoring how the total payment rate compares to ACR may only be necessary through the end of the first rating period of the phase down period for a grandfathered SDP, after which we anticipate that the general design of each SDP would remain relatively stable as States focus on the required phase down and a comparison to new payment limits, that is, the new limits based on the total published Medicare payment rate or Medicaid State plan approved rate.

We contemplated whether States should be required to continue demonstrating compliance with ACR demonstration and total payment rate comparison⁶⁷ to ACR for a longer period of time, given that States retain

flexibility to redesign grandfathered SDPs during the phase down period so long as they comply with the required phase down schedule. With this in mind, we considered extending the ACR requirements beyond the first rating period of the phase down, including a period of more than 1 year and up to 10 years. We believe that a 10-year requirement is likely unnecessary given the required phase down schedule (see section II.A.2.c. of this proposed rule for additional information about the phase down) which will significantly reduce the risk of exceeding the ACR as the total dollar amount associated with the SDP phases down over time. In addition, maintaining the ACR demonstration and total payment rate comparison to ACR for a longer period of time would increase the administrative burden for both us and the State as States with grandfathered SDPs would be required to calculate and submit additional annual total payment rate comparisons under our proposals. We request public comment on whether the ACR monitoring requirement should apply for 1 year, or for another whole numbers of years, up to 10 years to ensure that we have adequate oversight into how total payment rates compare to the ACR.

By redesignating the existing ACR demonstration and total payment rate comparison currently in § 438.6(c)(2)(iii)(A) through (C) as § 438.6(c)(2)(iii)(C)(1) through (3) and maintaining applicability of these provisions to the original applicability dates in the 2024 final rule, we propose that the State would continue to provide an ACR demonstration and total payment rate comparison using ACR for a grandfathered SDP until the first rating period beginning on or after January 1, 2029. We are not proposing to change any of the existing requirements for an ACR demonstration or total payment rate comparison.

We seek public comments on all of our proposals.

c. Phase Down of Grandfathered SDPs

Section 71116(b) of the WFTC legislation provides that grandfathered SDPs are subject to a temporary grandfathering period followed by a required phase down of the total amount of the grandfathered SDP to the allowable payment limit. Section 71116(b) of the WFTC legislation requires that beginning with the first rating period on or after January 1, 2028 for grandfathered SDPs, “the total amount of such payment shall be reduced by 10 percentage points each year until the total payment rate for such service is equal to the rate for such

service specified in section (a).” In section II.A.2.b. of this proposed rule, we explained our interpretation of the phrase “total amount” of such payment to mean the total amount of the SDP approved for the rating period for which the SDP qualified for grandfathered SDP status as identified in item 4 of the preprint approved by us for each grandfathered SDP. We also proposed a definition of “grandfathered total dollar amount” under § 438.6(a) to mean the total dollar amount approved by us for a grandfathered State directed payment. When preprint submissions of the same SDP for different rating periods meet the definition of a grandfathered State directed payment, the highest total dollar amount approved by us is the grandfathered total dollar amount.

Next, we consider the phrase “the total amount of such payment shall be reduced by 10 percentage points each year.” We interpret this provision to require an annual reduction equal to 10 percentage points of the grandfathered total dollar amount, calculated using the original grandfathered total dollar amount as the baseline, each year of the phase down period until the applicable payment limit is reached. We base this interpretation on the statutory language “10 percentage points each year,” which supports a fixed annual reduction from a constant baseline (that is, the grandfathered total dollar amount). Section 71116(b) of the WFTC legislation requires that the grandfathered SDP be phased down until “the total payment rate for such service is equal to the rate for such service specified in section (a).” In sections II.A.2.a. and 2.b. of this proposed rule, we explain our interpretation of section 71116(a) of the WFTC legislation and propose a definition of “Payment limit” under § 438.6(a) to mean, as applicable, one of the following: 100 percent of the total published Medicare payment rate for an Expansion State; 110 percent of the total published Medicare payment rate for a Non-Expansion State; and only in instances when there is no total published Medicare payment rate for the covered service, 100 percent of the State plan approved rate. See sections II.A.1.a. and 1.b. of this proposed rule for further discussion of the proposed definition of “Payment limit” in § 438.6(a) and applicability of the payment limit in § 438.6(c)(8).

We believe it is reasonable to interpret sections 71116(a) and (b) of the WFTC legislation to require that beginning with the first rating period on or after January 1, 2028, the grandfathered total dollar amount must be phased down by the amount that represents 10

⁶⁷ In accordance with § 438.6(c)(2)(iii)(C) the ACR demonstration must be included with the initial documentation submitted for a SDP, and then subsequently updated at least once every 3 years thereafter as long as the State continues to renew the SDP. The total payment rate comparison must be included and updated with each preprint amendment and subsequent renewal.

percentage points of that amount annually, unless a greater reduction is requested by the State, until the applicable payment limit is reached. As discussed in sections II.A.2.a and II.A.2.b. of this proposed rule, the payment limit is defined in proposed § 438.6(a) and reflects the limits specified in section 71116(a) of the WFTC legislation. To implement this phase down consistent with the statute, we propose to add § 438.6(c)(2)(iii)(B) which would require that beginning with the first rating period on or after January 1, 2028, the State would be required to decrease the total dollar amount of a grandfathered SDP by at least 10 percentage points annually, until the payment limit proposed in § 438.6(c)(8) is met. Under our proposal, the 10-percentage point phase down is based on the original grandfathered total dollar amount rather than an annually compounding reduction.

To illustrate our proposal, we outline a phase down example for a State with an SDP for a CY 2025 rating period that meets the definition of a grandfathered SDP. In this example, the grandfathered total dollar amount for CY 2025 is \$1 billion, as identified in item 4 of the approved preprint. Under our proposal, the State would be permitted to submit SDP renewals to maintain or reduce the Grandfathered total dollar amount (\$1 billion) for each of the two subsequent rating periods (CY 2026 and CY 2027). Beginning with the CY 2028 rating period (that is, the first rating period beginning on or after January 1, 2028), the State would be required to phase down the grandfathered total dollar amount by at least 10 percentage points annually (that is, \$100 million) until the applicable payment limit is reached. Under our proposal, that annual reduction amount would be at least

\$100 million, which is 10 percent of the Grandfathered total dollar amount of \$1 billion. In the event that a State opted to phase down by greater than the annual reduction amount for a year, we expect the following annual phase down reduction amount would still follow the prescribed schedule but the reduction could be pro-rated to reflect the cumulative reduction required under § 438.6(c)(2)(iii)(B), taking into account any excess reduction in the prior rating period. Using the \$1 billion grandfathered total dollar amount example, if the State chooses to phase down by \$150 million in the first rating period of the phase down, they would only need to phase down by an additional \$50 million in the subsequent rating period. The State would not be permitted to direct their managed care plans to expend amounts exceeding the applicable total dollar amount of the grandfathered SDP for each year of the grandfathering period or during the required phase down period. States would need to work closely with their managed care plans each year to monitor and ensure that the total dollar amount of projected and actual expenditures for the grandfathered SDP paid by managed care plans to providers for the rating period does not exceed the applicable total dollar amount under § 438.6(c)(2)(iii)(B) for each rating period during the grandfathering period and the phase down period.

We believe monitoring by both CMS and the State is necessary to ensure compliance and assess the State's progress toward the payment limit. We propose § 438.6(c)(2)(iii)(D) to require certain documentation annually in the form and manner prescribed by us for each grandfathered SDP beginning with the first rating period on or after January

1, 2027. We selected the first rating period beginning on or after January 1, 2027 as the start for our proposed documentation requirement because we believe baseline information is necessary before States would commence the required phase down beginning with the first rating period on or after January 1, 2028.

For the purposes of this required documentation, the State would need to annually monitor the total payment rate(s) for each grandfathered SDP and submit a total payment rate comparison demonstrating whether the payment limit proposed under paragraph (c)(8) has been met. For purposes of this comparison, States should calculate the total payment rate using the components defined in § 438.6(a) and compare that rate to the applicable payment limit under paragraph (c)(8). States currently perform a total payment rate comparison as part of SDP preprint submissions for approval, amendment, and renewal, using ACR as the benchmark. Under this proposal, States would instead be required to submit this comparison annually beginning with the first rating period on or after January 1, 2027, using Medicare or State plan approved rates as the point of comparison. In Table 5 of this section, we provide an illustrative example of how the total dollar amount phase down of the grandfathered total dollar amount for a Non-Expansion State might translate to the total payment rates for a Medicaid managed care program and a provider class (Provider Class A) covered under the illustrative grandfathered SDP. In this scenario, the State would reach the applicable payment limit (110 percent of the total published Medicare payment rate) by CY 2031.

TABLE 5: ILLUSTRATIVE EXAMPLE OF GRANDFATHERED TOTAL DOLLAR AMOUNT PHASE DOWN AND TOTAL PAYMENT RATE COMPARISON

Rating Period	Permissible Total Dollar Amount	Total Payment Rate Comparison to the Total Published Medicare Payment Rate
CY 2026	\$1,000,000,000*	Provider Class A: 130%
CY 2027	\$1,000,000,000*	Provider Class A: 130%
CY 2028	\$900,000,000	Provider Class A: 125%
CY 2029	\$800,000,000	Provider Class A: 120%
CY 2030	\$700,000,000	Provider Class A: 115%
CY 2031	\$600,000,000	Provider Class A: 110%

*This is the Grandfathered total dollar amount.

To monitor the phase down process and compliance with the payment limit, we propose § 438.6(c)(2)(iii)(D) to require that, beginning with the first rating period on or after January 1, 2027, the State submit a total payment rate comparison, certified by an actuary, for services included in the grandfathered SDP, expressed as a percentage of the most recent total published Medicare payment rate, or State plan approved rate only when no total published Medicare payment rate exists for the covered service. Under the proposed introductory text in § 438.6(c)(2)(iii)(D), this total payment rate comparison would be submitted annually in the form and manner prescribed by us. The term “Total payment rate” is defined under § 438.6(a) and lists the components for the total payment rate analysis; § 438.6(c)(2)(iii)(D) would require that the total payment rate comparison be conducted using Medicare or State plan approved rates as

the point of comparison for grandfathered SDPs. This total payment rate comparison may be captured in the preprint, as currently reflected in Table 2 of the preprint.

We considered whether to mandate specific methodologies or permissible methodologies and specify data sources for the proposed total payment rate comparison under § 438.6(c)(2)(iii)(D). Based on our experience, States currently use a myriad of different methodologies when completing the total payment rate comparison currently required in § 438.6(c)(2)(iii)(B), often reflecting differences in commercial data availability. We request public comment as to whether it would be more beneficial to require that States use specific methodologies or sources of data for the total payment rate comparison. The total payment rate comparison should be developed using the same assumptions utilized for the development of the related capitation

rates. For this reason, we believe it is appropriate to require that the total payment rate comparison proposed under § 438.6(c)(2)(iii)(D) be certified by an actuary.

Once the payment limit has been reached, the State would be required to comply with the proposed requirements under § 438.6(c)(1)(iii). See section II.A.3.c. of this proposed rule for discussion of our proposals regarding changes to uniform increase SDPs.

We also considered an alternative approach under which the phase down would apply to the total payment rate, rather than to the total dollar amount of the SDP. Under this alternative, the total payment rate (as a percentage of the total published Medicare payment rate) in the grandfathered SDP would be reduced by 10 percentage points each year until it reaches the applicable Medicare rate, as illustrated in the following table for a Non-Expansion State.

TABLE 6: ILLUSTRATIVE EXAMPLE OF GRANDFATHERED TOTAL PAYMENT RATE PHASE DOWN⁶⁸

Rating Period	Permissible Total Dollar Amount	Total Payment Rate Comparison to the Total Published Medicare Payment Rate
CY 2026	\$1,000,000,000	Provider Class A: 130%
CY 2027	\$1,000,000,000	Provider Class A: 130%
CY 2028	\$800,000,000	Provider Class A: 120%
CY 2029	\$600,000,000	Provider Class A: 110%

Because many States include multiple services, provider classes and/or managed care programs within a single SDP, this approach would require calculating and applying the phase down separately for each provider class, service and program. We believe this would impose a significant administrative burden on States. This alternative would also significantly increase our administrative burden to review and assess compliance with the phase down process. We invite public comment on this alternative proposal and on all proposals in this section.

These proposals implement section 71116(a) and (b) of the WFTC legislation, which establishes statutory payment limits for certain SDPs and provides a temporary grandfathering period followed by a phase down of the total amount of grandfathered payments.

They are also based on our authority to interpret and implement section 1903(m)(2)(A)(iii) of the Act, which requires contracts between States and MCOs to provide payment under a risk-based contract for services and associated administrative costs that are actuarially sound and our authority under section 1902(a)(4) of the Act to establish methods of administration for Medicaid that are necessary for the proper and efficient operation of the State plan. These requirements would be extended to PIHPs and PAHPs through regulations based on our authority under section 1902(a)(4) of the Act.

3. Types of Permissible SDPs and Provider Classes (§ 438.6(c)(1)(iii), (c)(2)(i), and (c)(2)(iii)(E))

a. Minimum Fee Schedule SDPs

payment limit. In the 2024 final rule, we finalized § 438.6(c)(1)(iii)(B), which allowed States to adopt a minimum fee schedule for providers that provide a particular service under the contract using a total published Medicare payment rate that was in effect no more than 3 years prior to the start of the rating period, and under which the minimum fee schedule to be used by the managed care plan is 100 percent of the total published Medicare payment rate. Through cross reference in § 438.6(c)(2)(i), States are not required to submit these SDPs to us for written prior approval via the current CMS issued preprint, but as is the case with all SDPs, these SDPs must be documented in the applicable managed care contracts and rate certifications and must comply with the requirements currently at § 438.6(c)(2)(ii).⁶⁹ When we finalized those provisions, we relied on the rationale that allowing States to utilize a total published Medicare

⁶⁸ In this example, the total dollar amount of managed care plan base payments (before the SDP) is \$1,600,000,000 per year, and the total dollar amount of Medicare payments according to published rates is \$2,000,000,000 per year.

⁶⁹ 42 CFR 438.7(b)(6).

payment rate in effect no more than 3 years prior to the start of the rating period would be consistent with how § 438.6(c)(2) requires use of base data that is at least that recent for Medicaid managed care rate development. However, considering the proposed changes in this proposed rule in § 438.6(c)(2)(iii)(B)(1), we believe aligning the minimum fee schedules that States would be able to use for SDPs more closely with our proposed payment limit would be prudent to facilitate accurate implementation and validation.

We also have similar concerns with SDPs that use minimum fee schedules tied to State plan approved rates for services that have a published Medicare rate. SDPs that use minimum fee schedules tied to State plan approved rates are permitted in existing § 438.6(c)(1)(iii)(A) and do not require written prior approval, as specified in § 438.6(c)(2)(i). As discussed in section II.A.1. of this proposed rule, the new proposed payment limit for all SDPs for rating periods beginning on or after January 1, 2029 would be 100 percent of the total published Medicare payment rate for Expansion States, 110 percent of the total published Medicare payment rate for Non-Expansion States, and only when there is no total published Medicare payment rate for the Medicaid covered service, would the limit be 100 percent of State plan approved rates. We are concerned that if we continue to permit SDPs that use minimum fee schedules tied to State plan approved rates for services that have a published Medicare rate, there would be greater risk of States implementing SDPs using minimum fee schedules that could exceed the total published Medicare payment rate since States set their own State plan rates within broad Federal parameters including the requirements under section 1902(a)(30)(A) of the Act. Because such SDPs currently do not require written prior approval, we might only be able to identify if a State had exceeded, or was at risk of exceeding, the total published Medicare payment rate as part of a targeted SDP and Medicaid managed care contract audit.

To address our concerns related to minimum fee schedule SDPs and organize § 438.6(c)(1)(iii) for improved readability, we first propose to move current § 438.6(c)(1)(iii)(A) through (E) to § 438.6(c)(1)(iii)(A)(1) through (5), and to revise the introductory text in § 438.6(c)(1)(iii)(A) which would establish that the types of SDPs proposed in paragraphs (1) through (5) would be limited to rating periods beginning from July 9, 2024, but before January 1, 2028. This would limit the

use of the existing minimum and maximum fee schedule arrangements in current § 438.6(c)(1)(iii)(A) through (E), as redesignated as § 438.6(c)(1)(iii)(A)(1) through (5) in this proposed rule, to rating periods beginning from July 9, 2024, but before January 1, 2028. This proposed time period would precede our proposed effective date for the applicability of the payment limit to all SDPs and States.

Next, we propose to revise § 438.6(c)(1)(iii)(B) to add introductory text that would specify the applicability date as beginning with the first rating period on or after January 1, 2028 for the proposed payment arrangements at § 438.6(c)(1)(iii)(B)(1) through (2). Since we are proposing these changes to ensure that States would not exceed the payment limit, we believe it would be reasonable that our proposed revisions to the types of allowable fee schedules would precede the proposed applicability date for the payment limit to all SDPs outlined in section II.A.1. of this proposed rule.

In lieu of listing the three types of minimum fee schedules currently permitted at § 438.6(c)(1)(iii)(A) through (C) separately, we propose to combine them into one type and revise the wording in § 438.6(c)(1)(iii)(B)(1) for improved readability and clarity. Specifically, we propose in § 438.6(c)(1)(iii)(B)(1) that States would be permitted to direct managed care plans to adopt a minimum fee schedule for providers that provide a particular service under the contract and that minimum fee schedule is no greater than the payment limit. This would provide States the flexibility to direct managed care plans to implement an SDP using a minimum fee schedule up to the proposed payment limit. Under our proposal, States would also have flexibility to design their own fee schedules for services that have a published Medicare rate as is permitted under current § 438.6(c)(1)(iii)(C), as long as that fee schedule on a per service basis would not exceed the applicable payment limit. Since our proposed revisions in § 438.6(c)(1)(iii)(B)(1) would explicitly prohibit fee schedules selected for SDPs that use a minimum fee schedule from exceeding the proposed payment limit, we believe this would substantially reduce the risk that States would breach the payment limit. Therefore, we believe it would be appropriate not to require written prior approval by CMS for such SDPs using minimum fee schedules, consistent with the current treatment of SDPs specified under § 438.6(c)(1)(iii)(A) through (B). We again remind States that SDPs that do

not require written prior approval must still be documented in the relevant Medicaid managed care contracts and rate certifications, comply with the requirements at § 438.6(c)(2)(ii), and comply with all applicable Federal requirements.

b. Maximum Fee Schedule SDPs

Section 438.6(c)(1)(iii)(E) permits States to direct managed care plans to implement maximum fee schedules for providers so long as the plan retains the ability to reasonably manage risk and has discretion in accomplishing the goals of the contract. We believe that maximum fee schedule SDPs still represent an important tool that States may use to control Medicaid managed care expenditures for providers. We propose to revise the existing language in § 438.6(c)(1)(iii)(E) and move to newly proposed § 438.6(c)(1)(iii)(B)(2). Proposed § 438.6(c)(1)(iii)(B)(2) would allow States to require managed care plans to adopt a maximum fee schedule for providers that provide a particular service under the contract and the maximum fee schedule would be no greater than the payment limit, so long as the MCO, PIHP, or PAHP retains the ability to reasonably manage risk and has discretion in accomplishing the goals of the contract. Retaining the phrase beginning with “so long” is important to ensure that a State would not direct a managed care plan to adopt a maximum fee schedule that is so low it could jeopardize the basic tenets of a risk-based managed care delivery system by preventing the development of adequate provider networks. As noted earlier, we propose to revise § 438.6(c)(1)(iii)(B) to add introductory text that would permit the payment arrangements proposed at § 438.6(c)(1)(iii)(B)(1) through (2) applicable beginning with the first rating period on or after January 1, 2029. To ensure that States do not exceed the proposed payment limit for SDPs that use a maximum fee schedule, we propose that § 438.6(c)(1)(iii)(B) would be applicable for rating periods beginning on or after January 1, 2029, to align with the applicability of the payment limit to all SDPs (see section II.A.1. of this proposed rule).

c. Uniform Increase SDPs

We are increasingly concerned that States are inappropriately using SDPs that require managed care plans to pay “uniform increases,” as permitted in existing § 438.6(c)(1)(iii)(D), and that make a tenuous or overly broad connection between the SDP and what is actually needed to advance the goals and objectives in the State’s Medicaid

managed care quality strategy as required under § 438.6(c)(2)(ii)(C). Uniform increases are the most common type of SDP, and in our experience reviewing SDPs, are increasingly designed to ensure that managed care plans expend a specific amount on payments to a provider class and that providers receive that specific aggregate amount. States almost exclusively fund uniform dollar or percentage increase SDPs with IGTs or provider taxes and then design the SDP in such a way that the uniform increase will change depending on utilization during the rating period to ensure that the entire funding amount collected from the IGT or tax, plus at least a portion of the Federal matching funds are expended via the SDP. In our years reviewing and approving SDPs, we have seen States amend an SDP to direct a higher dollar increase when utilization is lower than projected, effectively, retrospectively rewarding providers with higher payments on a per-service basis for furnishing fewer services to Medicaid beneficiaries.

To illustrate how States may structure these arrangements, consider an example drawn from our experience reviewing uniform increase SDPs. In this scenario, a State receives a total of \$10 million in IGTs from two AMCs (\$5 million each) to fund the State's share of the SDP. Applying the minimum 50 percent Federal match rate, the State uses the \$10 million IGT as the non-Federal share for the SDP and obtains \$10 million in Federal matching funds, bringing the combined total available for the SDP to \$20 million. With the \$20 million in hand, the State designs an SDP totaling \$20 million benefiting a provider class comprised of the two IGT-contributing AMCs so that they are the only entities receiving SDP dollars. The State then determines a uniform dollar amount to be added to each claim payment by dividing the total available dollar amount (\$20 million total computable) by the projected number of visits that Medicaid enrollees in managed care plans are expected to make to the two AMCs during the rating period. Throughout the rating period, the State actively monitors actual utilization against those projections. Should the total number of Medicaid enrollee visits to the two AMCs fall below the original estimate, the State adjusts the uniform dollar amount upward. This ensures that both AMCs ultimately receive their full expected share—\$10 million each—through claims payments for services rendered during the rating period, regardless of fluctuations in patient volume. In this

example, the State contributes no non-IGT funds to the SDP other than those provided by the AMCs. As a result, the AMCs net \$10 million in SDP payments that are effectively financed through Federal matching funds.

It is difficult to see how structuring a SDP in this manner furthers the specific goals and objectives in the State's Medicaid managed care quality strategy, and it appears, based on our review of these arrangements, that they operate primarily as a financing mechanism that spares State budgets and rewards providers that are positioned to participate in IGTs or that bear higher tax burdens. (See section II.B. of this proposed rule for discussion on SDPs and the source of non-Federal financing.) While these sources of the non-Federal share generally can be permissible, we do not believe that SDPs should be designed solely with the intent of ensuring that an entire pool of Medicaid payments is returned to certain providers that have been able to supply the non-Federal share of those payments. These types of scenarios also raise concerns about potential compliance issues with section 1903(w) of the Act and are not aligned with the prospective, risk-based nature of Medicaid managed care. Ideally, the State would instead direct plans to pay a prospectively established uniform increase that the State has carefully analyzed and determined is necessary to increase provider payments above the negotiated provider payment rates to effectuate improvement in quality and/or access to care. Total aggregate provider payments would then vary depending on actual utilization during the applicable rating period.

SDPs were created to give States flexibility to pursue provider payment initiatives and delivery system reform efforts that further advance access to care, enhance quality of care in Medicaid managed care, and to help reach the goals they defined in their quality strategy. In explaining why we created SDPs as a payment mechanism in the 2016 final rule, we noted the Federal and State interest in strengthening delivery systems to improve access, quality, and efficiency throughout the health care system and in the Medicaid program (81 FR 27582). For uniform increase SDPs, we believed they would be used to help ensure that additional funding was directed toward a class of providers to enhance services and ensure access, rather than benefiting only particular providers (81 FR 27583). However, in recent years, we have observed a trend in which States revise the amount of the uniform increase to adjust for lower-than-

expected utilization simply to expend the full amount collected to a few specific providers. This trend leaves us concerned that these payments are not, in practice, being used to enhance services and ensure access for Medicaid beneficiaries, but rather to reward providers based on their ability to provide non-Federal share.

As we have seen the trend of repayment to specific providers increasing among States, we believe we need to address this issue in this proposed rule. This is consistent with the Presidential Memorandum, which highlighted that when States use financing arrangements in which funds collected from providers are returned to those same providers through Medicaid payments, the State lacks an incentive to be prudent in the amount of payment provided.

States' use of uniform increase SDPs has increased over time. Prior to the 2024 final rule, States were designing SDPs that sought to require managed care plans to pay providers in ways that resulted in specific, predetermined total aggregate payments. At times, these were characterized as either minimum fee schedules or, more frequently, as uniform increase SDPs. These uniform increase SDPs utilized uniform methodologies in which States were not directing a specific dollar amount or a specific percentage increase, but rather directing the use of a consistent methodology that would result in a specific aggregate pool amount paid per provider, again usually commensurate with the provider's contributions to the non-Federal share financing the SDPs. In our reviews of these submissions, these uniform increase SDPs appeared, at first, to look similar to UPL methodologies approved in Medicaid State plans—intended to bring total aggregate payments up to what Medicare was projected to have paid across a class of providers. But over time, States started to take this further and design uniform increase SDPs using uniform methodologies in more complex arrangements.

We sought to clarify the original intent of permitting States to implement uniform increase SDPs in the 2024 final rule by defining “uniform increase” at § 438.6(a) as any SDP that directs the managed care plan to pay the same amount (the same dollar amount or the same percentage increase) per Medicaid covered service(s) in addition to the rates the managed care plan negotiated with the providers included in the specified provider class for the service(s) identified in the SDP. We also adopted definitions for other types of SDPs, including minimum fee schedules

and maximum fee schedule. Since adopting the definition for “uniform increase,” we have grown increasingly concerned with States’ inability to prospectively establish a specific uniform dollar or percentage increase. We now routinely require States to document the specific uniform increase per provider class in the preprint. Our operational experience indicates that many SDPs prior to the 2024 final rule used uniform increase methodologies that were intended to provide the difference between the base payment rate received by providers from managed care plans and a specific amount, such as the Medicare rate or the ACR. In such instances, there is no uniform dollar or percentage increase paid uniformly across the State’s originally defined provider class. Instead, the amount of the SDP can vary among providers due to the base rates negotiated by the managed care plans varying among providers. While such States could choose to revise their SDPs to adopt a minimum fee schedule tied to the Medicare rate, some States have instead elected to maintain a uniform increase methodology, determine all the different increase amounts by provider, and then revise their SDP to further subdivide the original provider class(es) to ensure the desired results of ensuring specific providers or provider classes receive a pre-determined pool of funding, regardless of actual utilization and services delivered during the applicable rating period. To effectuate changes to the uniform methodology to ensure the full pool is paid out, States will often submit SDP amendments after the end of the rating period when utilization is known. Such complex SDPs make monitoring exceptionally challenging and increase the possibility of fraud, waste and abuse.

Finally, uniform increases also raise concerns with ensuring compliance with the new proposed payment limit, which we have proposed would apply to each service rendered by a provider receiving payment that includes an SDP. Uniform increases, by definition, are uniform dollar or percentages paid *in addition to the rates the plan negotiated* with the providers included in the specified provider class. While States may be able to estimate current provider payment rates by analyzing historical encounter data submitted by managed care plans, States are often not privy to the rates that managed care plans negotiate with providers prospectively. If managed care plans and providers negotiate a rate that varies significantly from historical rates, States could unintentionally require managed care

plans to pay uniform increases that would result in total payment rates that exceed the payment limit on a per service basis. We believe that States could reasonably achieve their program goals using SDPs requiring minimum and/or maximum fee schedules that do not exceed the proposed payment limit. As an example, a State that wished to improve access to care and prohibit potentially wasteful spending for durable medical equipment could establish minimum and maximum fee schedules at exactly the payment limit which would require managed care plans to pay the exact payment limit. This approach would avoid the risk that a uniform increase applied to an unknown negotiated rate could exceed the payment limit. It would also remove the incentive for States to structure uniform increase SDPs so that a predetermined aggregate amount of Medicaid payments is provided to certain providers over the course of the rating period. Therefore, we propose that beginning with the first rating period on or after January 1, 2028, new uniform increase type SDPs and renewals of non-grandfathered uniform increase type SDPs would no longer be permitted. We reflect this in proposed § 438.6(c)(1)(iii)(B) for rating periods beginning on or after January 1, 2028 by only specifying minimum and maximum fee schedule SDPs as options. Additionally, we propose to update cross-references to § 438.6(c)(1) that are included in § 438.6(c)(3)(ii) and (c)(5)(iii) for accuracy to address the proposed changes to § 438.6(c)(1) noted throughout section II.A.3. of this proposed rule. We believe this would be sufficient time for States to redesign SDPs and to account for the SDPs in their managed care contracts and rate certifications; the vast majority of SDPs are submitted on an annual basis and States regularly revise their SDPs from year to year.

Together, the temporary grandfathering framework and the proposed applicability date are intended to provide States sufficient time to transition away from uniform increase SDPs, including redesigning SDPs, amending managed care contracts, and adjusting associated financing arrangements. We recognize that some States may have structured SDPs and associated financing arrangements in reliance on prior policy permitting uniform increase SDPs; however, we believe the proposed applicability date provides sufficient time for States to redesign SDPs, amend contracts, and adjust associated financing mechanisms as needed. We are always available for

technical assistance, should States need additional guidance on permissible SDP designs, managed care contracts or rate certifications.

We believe a limited exception to this prohibition is warranted for grandfathered SDPs, only during the temporary grandfathering period, as many of the grandfathered SDPs are uniform increase SDPs approved as permitted in § 438.6(c)(1)(iii)(D). In section II.A.2. of this proposed rule, we describe our proposals for grandfathered SDPs and our proposed interpretation of the grandfathered total dollar amount. For SDPs designated as grandfathered, which would be limited to the approved total dollar amount of the grandfathered SDP until the first rating period beginning on or after January 1, 2028, we believe that States would need to retain some flexibility to redesign their grandfathered SDPs and to adjust their uniform increases to different provider classes to ensure that the total dollar amount of a subsequent renewal of a grandfathered SDP is not exceeded. To permit uniform increase SDPs only for grandfathered SDPs and only until the first rating period in which the payment limit is reached for the grandfathered SDP, we propose to add § 438.6(c)(2)(iii)(E). We also propose in § 438.6(c)(2)(iii)(E) to clearly require that once the payment limit is met, the State must comply with paragraph (c)(1)(iii) of this section. In practice this would mean that a State with a grandfathered SDP at the payment limit would be required to modify their SDP design to comply with the requirements for types of SDPs under paragraph (c)(1)(iii); the State would no longer be permitted to operationalize the SDP as a uniform increase.

We seek public comments on all of our proposals.

d. Grey Area Payments and Other Prohibited Practices

Under § 438.6(c)(1), States are not permitted to direct in any way the expenditures of a Medicaid managed care plan under the contract between the State and the plan except when the direction is: (1) an SDP that complies with § 438.6(c); (2) permissible under a specific Federal legal authority under Title XIX of the Act and its implementing regulation related to payments to providers and applicable to managed care; or (3) a permissible pass-through payment that meets requirements in § 438.6(d). States are also not permitted to make payments directly to providers for services covered under the contract between the State and a managed care plan as specified in § 438.60.

As States consider the SDP proposals outlined in this rule, we are concerned that some States may attempt to circumvent the proposed or existing requirements by including general or vague contract requirements for provider payment, known as “grey area payments”, which are not subject to approval as an SDP under § 438.6(c) nor as a pass-through payment under § 438.6(d). As we explained in the 2023 proposed rule (88 FR 28112 through 28113) and 2024 final rule (89 FR 41044), building on prior guidance including the November 2017 CMCS Informational Bulletin and SMDL #21–001, these types of arrangements took advantage of an unintended loophole in regulatory oversight and are not permissible since any direction of payment must comply with § 438.6(c) or (d), or be permissible under a specific Federal legal authority under Title XIX of the Act and its implementing regulation. We have worked diligently since the 2024 final rule (89 FR 41045) to ensure that any of these types of payment arrangements were eliminated, and we want to be clear in this proposed rule that grey area payments remain impermissible.

As States consider the proposals under this rule and how best to ensure compliance with applicable regulations, we remind States that absent the exceptions in § 438.6(c)(1), States may not in any way direct managed care plan expenditures under the contract (see 89 FR 41083 through 41085 for further details). States should not implement any payment arrangements that could be considered grey area payments nor submit SDP preprints that do not comply with SDP requirements. To aid States in their planning and development of future SDPs, we describe several new scenarios that are generally impermissible or would either be considered grey area payments or unallowable practices, and therefore not eligible for approval under § 438.6(c).

To explain our concerns, we offer a few examples. First, we want to address limitations related to incentive arrangements and withhold arrangements, as we have received questions from States indicating confusion about how SDPs may interact with these arrangements. Some States seem to conflate incentive and withhold arrangements with SDPs while other States appear to be calling certain practices incentive and withhold arrangements to direct provider payments outside the requirements of § 438.6(c). States are permitted under § 438.6(b)(2) and (3) to implement a managed care plan level incentive arrangement or withhold arrangement

provided the State complies with all Federal regulatory requirements, including establishing the specified activities, targets, performance measures or quality-based outcomes that are necessary for the plan to receive payment under the arrangement. However, incentive arrangements and withhold arrangements specified at § 438.6(b) are payments only to managed care plans and cannot be used as substitutes for SDPs, which are payments to providers. States are not permitted to direct a managed care plan’s expenditures under the terms of an incentive arrangement or withhold arrangement by requiring some or all of the funding in the incentive or withhold arrangement to be paid to providers. Such direction constitutes impermissible State direction of plan expenditures unless it complies with § 438.6(c) or (d). Second, we have encountered documentation in managed care contracts between States and plans that requires actuaries to develop the associated capitation rates using certain assumptions about provider payment rates. In one instance, a State included a contractual requirement that the actuaries develop the capitation rates using a maximum payment rate for a certain type of provider. In another instance, the State legislature appropriated a certain amount of funding for enhanced provider payment rates and the State required the actuaries to include that appropriation as an assumption for increased provider payment rates for rate development. Both of these scenarios constitute SDPs because the State is directing assumptions about provider payment levels through rate development assumptions. Further, both of these scenarios involve rate setting practices that are not based on historical experience or actual plan-level obligations under the managed care contract. In these instances, the State must comply with the regulatory requirements under § 438.6(c). The State must also submit a preprint for written prior approval by us, as applicable under § 438.6(c)(2)(i). When such contractual requirements are not subject to prior written approval under § 438.6(c)(2)(i), they must still comply with other applicable requirements under § 438.6(c) because they constitute SDPs.

Finally, we have become aware of instances in which States are attempting to direct managed care plans, including by imposing requirements on providers through plan contract provisions or SDP conditions, to pay a portion of SDP expenditures to specific entities for

activities not based on the utilization and delivery of services, as required under § 438.6(c)(2)(ii)(A). These entities have included private consultants and provider associations. Such arrangements are typically implemented through the State’s managed care plan contracts or through the SDP preprint where the State requires the third-party arrangement as part of the eligibility criteria for an SDP provider class. In one example, a State requires that providers under an SDP pay a portion of received SDP reimbursement to a specific entity chosen by the State to collect provider taxes as well as process, redistribute, and track the SDP payments made to providers. As another example, a State requires that a portion of the SDP be allocated to pay the managed care plan for its administrative activities related to the SDP.

These practices are either impermissible or, when an SDP is involved, not consistent with the intent of SDPs to improve access to or quality of care for Medicaid beneficiaries. SDPs must comply with the requirements in § 438.6(c)(2)(ii), including that payments must be based on the utilization and delivery of services, advance the goals and objectives of the State’s quality strategy, and result in achievement of the stated goals and objectives in alignment with the State’s SDP evaluation plan. SDP arrangements under § 438.6(c)(1)(i) through (iii) permit States to direct managed care plan expenditures to providers that furnish a particular service under the contract and are not intended to be utilized to direct expenditures to entities other than the furnishing provider. Section 438.6(c)(1) does not permit States to direct distribution of SDP funds to a third-party entity and any such State direction to a managed care plan or provider is impermissible. Further, we are concerned that these arrangements could be designed to circumvent requirements on financing of the non-Federal share, rather than advancing access to or quality of care for Medicaid beneficiaries. Such arrangements are typically implemented through State direction to managed care plans, including requirements incorporated into plan contracts or SDP conditions that are imposed on participating providers.

It is impermissible for a State to require that a portion of the SDP payments be allocated to the managed care plan for administrative activities associated with the SDP, as capitation rates already include a non-benefit component to cover reasonable administrative costs, consistent with § 438.5(e).

We reiterate States are not permitted to direct managed care plans and/or providers to pay a portion of SDP expenditures to entities for activities not based on the utilization and delivery of services to Medicaid managed care beneficiaries. Such arrangements are not consistent with § 438.6(c) and will not be approved. We also reiterate grey area payments are not permissible and we will not approve managed care contracts or SDPs that contain this type of provision. To clarify this requirement, we propose to clarify and affirm these longstanding requirements by revising § 438.6(c)(2)(ii)(A) to specify that SDPs must be based only on the utilization and delivery of services furnished by a provider. States cannot condition provider participation in an SDP on paying any portion of an SDP to an entity other than the furnishing provider. We consider this proposal a clarification of longstanding SDP requirements.

e. Provider Classes

One of the standards for all SDPs in § 438.6(c)(2)(ii)(B) is that a State must direct expenditures equally and using the same terms of performance for a class of providers (hereafter referred to as a “provider class”) providing the service under the contract. This means that when a State defines an eligible provider class under an SDP, all providers within that provider class must be treated equally with regard to payment and performance under the SDP. For example, if a State established two eligible provider classes under a minimum fee schedule type SDP, it would need to ensure that the specific minimum fee schedule that the managed care plan is directed to pay is the same for each provider included in a specified provider class. As an illustrative example, if a State directs their managed care plans to pay two classes of dental providers, such as urban and rural, a minimum fee schedule for certain dental services, the State might direct that each provider in Provider Class A (urban dental provider) would receive a minimum payment of \$100 for a pediatric dental cleaning, while each provider in Provider Class B (rural dental provider) would receive a minimum payment of \$200 for a pediatric dental cleaning.

Another current SDP standard in § 438.6(c)(2)(ii)(I) is that the State must provide documentation demonstrating the total payment rate for each service and provider class. This ties the State’s defined provider classes to the total payment rate comparison that we request for all SDPs that require written prior approval. The documentation

demonstrating the total payment rate, as defined in § 438.6(a), is completed for each specified provider class for each service type covered in the SDP. In current § 438.6(c)(2)(iii), we further require that the total payment rate for each SDP for the four services (inpatient hospital services, outpatient hospital services, qualified practitioner services at AMCs and nursing facility services) not exceed the ACR, meaning that payment under an SDP for each provider class and service type for a managed care program could not exceed ACR. In practice, we have observed that some States define provider classes in ways that result in maximizing the total payment rate received by each provider in a provider class under an SDP while remaining below or at the ACR. In some instances, States have submitted individual preprints⁷⁰ with the provider class so narrowly defined that the SDP applies to a single provider. We have observed that these arrangements are often associated with the source of the non-Federal share of payments, and in nearly all such cases, the SDP is financed through an IGT.

We have historically granted States significant latitude in how they define a class of providers and noted this in both the May 2020 CIB: *Medicaid Managed Care Options in Responding to COVID-19*⁷¹ and January 2021 SMDL #21–001: *Additional Guidance on State Directed Payments in Medicaid Managed Care*.⁷² In the 2024 final rule, we affirmed this flexibility and finalized several regulatory revisions that permitted States to include non-network providers as provider classes too (89 FR 41050). We thought that this flexibility with the provider class definition was necessary for States to be able to achieve their stated policy goals tied to their managed care quality strategy. For example, we have approved SDPs where States proposed and implemented SDPs that applied to provider classes defined by criteria such as participation in State health information systems. In other SDPs, the eligible provider class was established by participation in learning collaboratives that focused on best practices for quality improvement or data collection and reporting.

At § 438.6(c)(2)(ii)(B), States are required to direct expenditures equally, using the same terms of performance,

for a *class* of providers furnishing services under the contract; however, they are not required to direct expenditures equally using the same terms of performance for *all providers* providing services under the contract (89 FR 41057). However, in our experience since the 2024 final rule, we have witnessed States increasingly designing SDPs with provider classes defined so narrowly that they appear to be correlated with the source of non-Federal share financing or to achieve other policy goals and objectives that may be less germane to the goals and objectives of their Medicaid managed care quality strategy. In one instance, a State designed an SDP that established multiple hospital provider classes with differing uniform increase amounts for those provider classes depending on whether the hospitals had committed to a certain medical debt policy. Another State submitted 16 single hospital provider class SDP preprints. In these instances, defining a provider class to include a single provider may effectively operate as a provider-specific payment arrangement, ensuring that a particular provider receives a specified aggregate payment amount, often tied to the source of the non-Federal share of financing, rather than advancing common performance objectives or the goals and objectives of the State’s managed care quality strategy under § 438.6(c)(2)(ii)(C). These provider classes may only be tenuously connected, if at all, to specific elements in the State’s managed care strategy. We recognize why States design such policies and are concerned that SDPs designed with goals and objectives outside of the managed care quality strategy may not meet the existing standard in § 438.6(c)(2)(ii)(C).

We have concerns that SDPs with these types of provider classes may increase Medicaid expenditures without commensurate improvements in access to or quality of care furnished to the Medicaid managed care population. To better understand whether additional guardrails may be warranted to safeguard the fiscal integrity of the Medicaid program and ensure that SDPs are used consistent with applicable program requirements, we are soliciting comment on whether and how to define “provider class” at § 438.6(a). We are not proposing to define “provider class” in this rule. However, one option that we have considered is defining provider class to mean a group of providers as defined in the approved Medicaid State plan. Aligning each provider class defined in an SDP with a group of providers defined in the Medicaid State

⁷⁰ At least two States have submitted over a dozen individual SDP preprints, each with a single provider class and only one eligible provider in that class.

⁷¹ <https://www.medicaid.gov/sites/default/files/Federal-Policy-Guidance/Downloads/cib051420.pdf>.

⁷² <https://www.medicaid.gov/Federal-Policy-Guidance/Downloads/smd21001.pdf>.

plan may, in some instances, better ensure that States are designing SDPs and specifying provider classes that are aligned with the needs of their Medicaid programs and advance the goals and objectives of the managed care quality strategy. For example, a State could define a provider class by reference to an existing State plan provider grouping or service category, such as institutional providers or nursing facilities, as specified in the approved State plan. Because State plan amendments undergo rigorous review processes by us, we believe this proposal could also limit the use of provider class definitions that functionally restrict a class to a single provider or a very small number of providers for purposes unrelated to advancing access to care, enhancing quality of care in Medicaid managed care, and the specific goals and objectives of the managed care quality strategy.

We have also considered alternative approaches under which the criteria for defining the provider class for an SDP would be required to be directly tied to the goals and objectives of the State's Medicaid managed care quality strategy and to be specific to the services and enrollees to which the SDP applies. This alternative could further reinforce the requirement that SDPs advance the goals and objectives in the State's managed care quality strategy as required under § 438.6(c)(2)(ii)(C). We are exploring whether this approach could help ensure that SDP investments are more directly targeted to the needs and priorities of the Medicaid managed care population, rather than reflecting factors not directly tied to Medicaid managed care delivery, such as correlation with the source of non-Federal share financing, or other State policy considerations, including but not limited to rewarding particular provider policies concerning medical debt or uncompensated care. We are also evaluating whether this approach could be overly broad or insufficient to address our concerns described previously in this section.

We solicit comments on these possible approaches to defining "provider class", including the advantages and disadvantages of each approach, as well as alternative definitions or factors we should consider. We emphasize that we are not proposing a definition of the term "provider class" in this rule; rather, we are seeking input to inform future notice-and-comment rulemaking. Nothing in this discussion limits CMS's authority to request additional information from States regarding provider classes identified in SDP

preprints as part of our review of SDPs under § 438.6(c)(2)(i).

f. Written Prior Approval

To specify which SDPs would and would not require written prior approval by us under our proposals, we propose to revise § 438.6(c)(2)(i) to specify that States would need to submit preprints to us for SDPs described in paragraphs (c)(1)(i) and (ii) and (c)(1)(iii)(A)(3) through (5) of this section. As discussed in sections II.A.3.a and b of this proposed rule, beginning with the first rating period on or after January 1, 2028, States would no longer be required to submit permissible minimum fee schedule or maximum fee schedule preprints to us for written prior approval. We could continue to obtain documentation from States as required under proposed § 438.6(c)(8)(i)(B) and, beginning with the first rating period on or after January 1, 2029, under proposed § 438.6(c)(8)(iii)(C). We remind States that SDPs that do not require prior approval must comply with the requirements at § 438.6(c)(2)(ii) and be appropriately documented in the managed care contract(s) and rate certification(s).

These proposals are based on our authority to interpret and implement section 1903(m)(2)(A)(iii) of the Act, which requires contracts between States and MCOs to provide payment under a risk-based contract for services and associated administrative costs that are actuarially sound and our authority under section 1902(a)(4) of the Act to establish methods of administration for Medicaid that are necessary for the proper and efficient operation of the State plan, and is extended to PIHPs and PAHPs through regulations based on our authority under section 1902(a)(4) of the Act. Our proposed changes to the types of permissible SDPs are necessary for proper and efficient operation of the State plan and to reduce the inefficient and improper operation of SDPs that increase the risk of fraud, waste, and abuse.

We seek public comments on all our proposals.

4. Applicability Dates (§ 438.6(c)(10))

Throughout the other sections of this proposed rule we have stated when our proposal would include a specific applicability date. As noted in section II.A.1. of this proposed rule, we revised § 438.6(c)(8), the existing applicability section, as § 438.6(c)(10). We also propose to redesignate § 438.6(c)(8)(i) through (vii) as § 438.6(c)(10)(i) through (vii). We propose to amend § 438.6(c)(8)(i) as § 438.6(c)(10)(i) and to

clarify that the listed provisions apply as adopted in the July 9, 2024 final rule, beginning July 9, 2024, and to distinguish those provisions from amendments proposed in this rule. To effectuate the proposed revised definition of "State plan approved rates" in paragraph § 438.6(a), we propose to move § 438.6(c)(8)(vii) to § 438.6(c)(10)(vii) and revise to specify that the definition of: "State plan approved rates" in paragraph (a), as proposed in this rule applies no later than the first rating period for contracts with MCOs, PIHPs, and PAHPs beginning on or after January 1, 2028.

We solicit public comments on these proposals.

B. Targeted Medicaid Payment Limit in an FFS Delivery System (§ 447.381)

In the absence of existing regulatory standards that establish UPLs for practitioner services, we have generally allowed States to make Medicaid supplemental payments for practitioner services up to Medicare payment amounts or the ACR, provided the proposed payment methodology meets applicable Federal requirements. Unlike other supplemental payments subject to UPLs, some practitioner supplemental payments have resulted in payment amounts that far exceed a reasonable estimate of what Medicare would have paid for the services furnished, as the relevant ACRs generally are higher than Medicare rates. This result is possible because, other than economy and efficiency requirements at section 1902(a)(30)(A) of the Act, there currently is no Federal UPL requirement applicable to payments for practitioner services (as well as certain provider services).

When ACR-based FFS supplemental payments were first approved by us in the early 2000s, States initially proposed using the Medicare equivalent of the ACR. We found that State ACR calculations were between 135 percent and 165 percent of the Medicare rates for the same services. For example, one early SPA payment methodology from a State in 2012 within that range reflected a Medicare equivalent of the ACR payment at 143 percent of Medicare rates and estimated a Federal fiscal impact of \$11 million in FFY 2012 for certain physician payments. The State subsequently expanded ACR-based payments to physicians affiliated with children's hospitals, physicians at general acute care non-State government-owned hospitals, and physicians affiliated with certain medical centers. By 2023, the State had increased the payment to 238 percent of Medicare rates, which continued to be

below the ACR according to the State's ACR demonstration submitted to us to support the payment.

The source of the non-Federal share plays an important role in our concerns regarding ACR-based FFS payments. In our experience, ACR-based payments can be funded by IGTs derived from State or local government funds, including revenues provided by State university teaching hospitals, and are generally made exclusively to providers that have the ability to fund the non-Federal share of the ACR payments. Based on our review of State submissions, some of these ACR-based payments often appear to be made without clear consideration of any benefit to the Medicaid program, such as improvements in access to, or quality of, care for beneficiaries. For example, under the ACR methodology, a State could calculate supplemental payments totaling \$20 million to physicians at the only State university teaching hospital. Assuming a Federal medical assistance percentage of 50 percent, this hospital, as a unit of government, could make an IGT of \$10 million to the State Medicaid Agency and receive a \$20 million payment, with the State obtaining Federal matching funds of \$10 million. Because the State Medicaid Agency targeted the total payment amount to physicians affiliated with State university teaching hospitals and there is only one such hospital in the State, the State contributes no funds to the payment other than those provided by the hospital itself. As a result, the provider nets a \$10 million payment that is entirely funded by the Federal government and taxpayers. In instances where providers fund the non-Federal share of their own payment, the Federal government contributes its share while State Medicaid Agencies may have no budgetary stake in ensuring an appropriate Medicaid payment level. While this structure may be permissible under current rules, it can reduce State incentives to ensure that rates are economic and efficient, while remaining sufficient to ensure quality and access. As States and practitioners realized that Medicaid payments could be increased using ACR-based payment methodologies with funding through IGTs provided by the same providers receiving the payments, we began to receive an increasing number of proposals expanding these ACR-based payments to other Medicaid-participating practitioners, increasing the risk to the Federal treasury and the fiscal integrity of the Medicaid program.

States have increasingly proposed paying up to the ACR to certain practitioners and providers that are

willing and able to provide the non-Federal share, resulting in some States seeking approval from us to make Medicaid practitioner payments up to 530 percent of the Medicare rate for physicians. Currently approved payments average 207 percent of the Medicare rate for States using the Medicare equivalent of the ACR for physicians and 153 percent for other licensed practitioners (for example, dentists and GEMT providers). While these percentages account for outliers among States making ACR payments, the resulting payments are considerably larger than we have seen historically and with no discernable improvements in Medicaid access, quality of care, or other relevant programmatic metrics. In FFY 2024, the most recent full FY for which data were reported in the Form CMS-64 (the quarterly Medicaid statement of expenditures), States claimed approximately \$2.64 billion (total computable) in expenditures for supplemental payments (including ACR-based payments, but excluding DSH and any UPL payments) made to physicians, other licensed practitioners, and ground emergency medical transportation providers.⁷³

The growth in ACR as a percentage of Medicare has raised concerns over whether these payment levels remain economical and efficient. One recent State proposal, for example, reflected a Medicare equivalent of 530 percent of Medicare rates. The substantial increase in both the percentage above Medicare and the number of proposals submitted by States has caused us to reevaluate the ACR as a benchmark for meeting the statutory requirement that Medicaid payments be economical and efficient, and to question whether the demonstrations submitted by States to CMS are truly representative of the amounts commercial payers pay for Medicaid-covered services. These concerns are exacerbated by our limited ability to verify the commercial payer data underlying ACR demonstrations, which are based on proprietary data that we cannot independently audit. Nevertheless, absent additional information indicating that the payment methods were not economical or efficient, we have continued to approve

⁷³ CMS collected this data under new supplemental payment reporting requirements under section 1903(bb) of the Act. We do not have comprehensive expenditure data for supplemental payments made to dentists or emergency medical transportation providers due to on the level and type of service category reported on the CMS-64 under this authority. <https://www.medicaid.gov/medicaid/financial-management/state-budget-expenditure-reporting-for-medicaid-and-chip/expenditure-reports-mbes/cbes/medicaid-supplemental-payment-expenditure-reporting>.

ACR methodologies submitted by States based on our historical practice and because we had not established a Medicare-based upper limit for practitioner supplemental payments in regulation, as we have for certain other categories of FFS supplemental payments.

In FFY 2024, 24 States paid \$1.6 billion (total computable) in ACR supplemental payments to 1,975 physicians or physician practices. The largest FFS ACR supplemental payment amount was \$277.5 million, targeted to 21 physicians/practices (where a practice may include multiple physicians), resulting in a per-physician/practice payment that exceeds \$13 million, the highest per physician/practice ACR supplemental payment amount among all States. The smallest amount was \$969,190, targeted to 12 physicians/practices (\$80,765 per physician/practice). The number of physicians/practices targeted by States ranged from two physicians/practices to 448 physicians/practices. Totals for ACR supplemental payments for which we have provider-level data also include other licensed practitioners and NEMT. For other licensed practitioners, 16 States paid almost \$950 million (total computable) in ACR supplemental payments to 5,384 providers with one State making almost \$500 million in supplemental payments targeted to 416 other licensed practitioners such as dentists and GEMT providers (for example, a county fire department), or about \$1.2 million per other licensed practitioner. For NEMT, two States paid almost \$80 million (total computable) in supplemental payments to 256 providers, with the largest supplemental payment amount of \$58.2 million targeted to 144 NEMT providers (about \$404,166 per provider).

In this proposed rule, we are proposing new limits on targeted payments that currently are limited to the ACR. Based on our review of State SPAs over the last two decades, as well as and State supplemental payment expenditure data reported on the CMS-64, we have become increasingly concerned that these targeted payments, made to a small number of practitioners or providers (relative to all practitioners or providers enrolled in all State Medicaid programs), may not be economical and efficient, as required by section 1902(a)(30)(A) of the Act. Moreover, we have not identified information indicating that these payments broadly improve access to care, quality, or other relevant programmatic outcomes, as they are typically targeted only to providers, or practitioners employed by or affiliated

with such providers, that have the means and ability to fund the non-Federal share of the payments. Finally, as discussed in more detail later in this section, this is an opportune time to make such a change to address similar issues across managed care and FFS delivery systems, in light of the changes made to managed care payment approaches by the WFTC legislation, which limits SDPs to 100 percent or 110 percent of the specified total published Medicare payment rate, or in the absence of a specified total published Medicare payment rate, the payment rate under a Medicaid State plan (or under a waiver of such plan).

Targeted payments present clear oversight risks to Federal taxpayer dollars. First, ACR-based supplemental payments are based on proprietary commercial payment data and thus not readily verifiable or auditable. We generally are unable to validate the commercial payer data received from States or to determine whether those data have been inflated, and we have historically relied on the data submitted by States. Second, given the limits of the data we receive through State reporting on the CMS-64, which reflects aggregated payment and provider totals and does not routinely include provider-level detail, there is limited transparency regarding how many providers receive FFS ACR supplemental payments and the total amount paid to each provider. This lack of transparency further impedes our ability to assess whether such payments are economical and efficient, as required by section 1902(a)(30)(A) of the Act.

Within the FFS provisions in this proposed rule, we are proposing to establish limits on payments targeted to a subset of participating practitioners or providers, which would encompass supplemental payments that currently use an ACR methodology. Specifically, we are proposing to limit the total payment a State may make when payments are targeted to a subset of practitioners or providers, rather than to all practitioners or providers participating in the State Medicaid program. As reflected in the Background section, our current guidance regarding payments⁷⁴ uses the term “qualified practitioner.” In this proposed rule, we are not proposing to retain that terminology for the practitioner payments discussed in the FFS provisions, nor are we proposing to adopt the definition for qualified practitioner services at an academic

medical center at § 438.6(a), as we have not identified a need for additional clarity on this term. However, we want to make clear that payments previously subject to the ACR limit and discussed in the guidance on qualified practitioner payments would remain within the scope of the payments addressed in this section of the proposed rule.

Effectively, the proposed limits would apply to both the base and supplemental payments made to practitioners or providers when either or both are targeted to a subset of practitioners or providers. Targeting of base payments generally occurs when a State sets a new base rate under an alternate fee schedule for a subset of participating practitioners or providers furnishing the applicable services. This approach informs why we are proposing to place a limit on targeted payments, which, for purposes of this proposed rule, can include targeted base payments. This contrasts with an alternative approach of limiting only supplemental payments and is intended to ensure consistent application of the limit, if finalized, across differing State payment methodologies. It also avoids creating an inadvertent loophole by confining the proposed new limit to only base payments or to only supplemental payments. We want to be clear that a State cannot set targeted fee schedules, characterize them as base rates, and then assert that the proposed provisions would not apply because the proposed policies are limited to supplemental payments. In such circumstances, the State would be subject to the applicable proposed limit on the total payment made to the practitioner.

Despite an earlier reference to how SDPs should be accounted for in DSH payments, we want to clarify that DSH payments are not targeted payments within the scope of the FFS provisions of this proposed rule. DSH payments to a particular hospital are limited to that hospital’s uncompensated care costs, as specified in section 1923(g) of the Act. In addition, DSH payments are not an open-ended entitlement; they are limited by annual allotments described in section 1923(f) of the Act, which serve as an additional limiting factor not present in State plan rates. In summary, we do not consider DSH payments to be targeted payments for the purposes of this rulemaking.

We also want to clarify that the limits we propose in this section would not establish another UPL akin to those that already exist in regulation or statute. These proposed limits differ in both structure and purpose. Current UPLs are applied on an aggregate basis, meaning the limit applies to the total payments

made to all entities within a UPL class, such as hospitals, and are generally calculated as a reasonable estimate of the amount Medicare would pay for the specified services based on Medicare cost principles or using cost report data as the basis for the estimate that is no more than 2 years old and trended to the current payment period. By contrast, the limits we are proposing (see section II.B.3. of this proposed rule), would be specific to a practitioner or provider, for that practitioner’s or provider’s total payments. In addition, the practitioner or provider-specific limit would be based on actual Medicare payment rates applicable to the practitioner or provider for the same time period as the Medicaid State plan payment rate year.

The nature of the practitioner-level payment (in most instances) and services to which they apply also supports this practitioner- or provider-specific limit, rather than a class-aggregate approach used for existing UPLs. If, for example, States were required to submit physician-specific data for all physicians, as they must with respect to hospitals for inpatient hospital UPL calculations and demonstrations, this would require a tremendous amount of data and analysis for a State to produce and validate for all Medicaid-participating physicians. The service types associated with this proposed limit generally are not facility-based services and thus by their nature are more individualized, such that UPL-style aggregate payment reporting could be excessively burdensome for the State to produce and validate, and for us to review and potentially audit.

As mentioned in section II.A. of this proposed rule, inflated SDPs and supplemental payments can reward providers based on their ability to fund the non-Federal share. As such, by proposing to address these payments and set more appropriate limits, we would remove an incentivizing factor associated with certain State financing schemes. However, the effect would go beyond changing (and formalizing) the limit from ACR to Medicare. Specifically, these FFS proposals, if finalized, would establish a limit applied at the individual practitioner or provider level. If we applied this limit instead as an aggregate UPL, a State could still target a particular practitioner or provider with additional payments made available through remaining room under the aggregate UPL, which could be made possible through lower payments to other practitioners or providers. This practitioner- or provider-specific approach further dismantles a key element of the structure necessary for

⁷⁴ <https://www.medicaid.gov/medicaid/financial-management/downloads/upl-instructions-qualified-practitioner-services-06012021.pdf>.

certain financing schemes to succeed in lessening a State's obligation to fund the non-Federal share.

As previously stated, the FFS provisions in this proposed rule differ from the managed care SDP provisions in how payments subject to the proposed limits are characterized. Although there are differences between the delivery systems, we aim to ensure consistency across the Medicaid program to the extent practicable. Accordingly, we are proposing to limit total FFS payments to the corresponding total Medicare payment rate for targeted Medicaid payments, which we propose to align with the Medicare-based limits in the SDP proposals to the extent practicable. Although the standard in section 1902(a)(30)(A) of the Act applies specifically to FFS payments, we believe that the Medicare payment rates provide an appropriate measure of economy and efficiency for both delivery systems, as discussed in more detail in section II.B.3. of this proposed rule. Furthermore, this alignment serves to prevent States from shifting SDPs previously approved up to the ACR into the FFS delivery system in a manner that could negate or diminish the intent of the proposed SDP limit or the changes made by Congress in section 71116 of the WFTC legislation. Notably, this proposal does not interfere with States' abilities to rely on allowable sources of non-Federal share derived from State or local units of government, such as IGTs, to make Medicaid payments. Rather, the proposal would limit the total targeted payment that a State may make. We believe these limits are necessary to ensure that the payments are economic and efficient as required by statute, and that the data used to calculate Medicaid payments is verifiable by States and CMS.

In this proposed rule, we describe the policies related to the targeted Medicaid payment limit. First, we discuss the general proposal and define the scope of the Medicaid practitioner payments subject to this policy. Next, we describe our proposal to limit the total Medicaid payment (when some or all of the payments are targeted) to the equivalent Medicare service payment rates, with the limit determined by whether the State is an Expansion State, and the requirement for this to be reflected in a State plan. Then, we describe certain exceptions to this proposed limit and the alternate procedures States must follow in those limited cases. Next, we propose a transition period for States currently making targeted payments that would not comply with the proposals in this rule, if finalized, to bring payments into conformity with the new

requirements. Finally, we describe compliance actions CMS may undertake for States that continue to make payments that exceed the applicable limit.

1. General (§ 447.381(a))

We propose at § 447.381 to establish limits on payment for services when those payments are targeted to certain Medicaid practitioners or providers. Specifically, in paragraph (a), we propose that this section would establish "a Medicaid practitioner or provider-specific limit for the total Medicaid FFS payment authorized under the State plan in instances where all or a portion of such payment is targeted to a subset of participating practitioners or providers furnishing the applicable Medicaid-covered services." In other words, a payment is considered targeted when it is not available to all practitioners or providers furnishing the same Medicaid-covered service. We discuss this in more detail later in this section.

As discussed earlier in this section of the proposed rule, the limit would be applied as a practitioner or provider-specific limit and not as an aggregate UPL. "Practitioner," as specified in proposed paragraph (a) would include physicians, dentists and other dental practitioners, and other licensed practitioners (such as nurse practitioners). "Provider" would include providers such as GEMT providers, air ambulance providers, and NEMT providers (referred to collectively as transportation providers in this proposed rule), as well as other providers such as clinics or CCBHCs. As such, the proposed limit applies to providers that are entities, which would also include an academic medical center that is part of a hospital, as discussed in this section. As discussed in section I.E. of this proposed rule, we use practitioner in many instances to reflect the current terminology in guidance for FFS payments made up to ACR, but have endeavored to reference providers as needed to ensure the scope of this proposed rule is clear.

States target these practitioners or providers most commonly for ACR-based payments. However, States could potentially target an ACR-based payment to any practitioner or provider type delivering Medicaid services under the State plan; and therefore, we are not specifying an exhaustive list of the existing practitioners or providers to whom payments subject to the limit in regulation could be targeted. If our proposal was overly restrictive on practitioner or provider type, it could result in a situation where unrestricted

use of targeted payments continued for other practitioner or provider types, particularly if and when new types begin to participate in the Medicaid program, which could then require further rulemaking to update the regulation if this proposal and an eventual final rule prescribed an exclusive list.

Payments that would be subject to these provisions are primarily practitioner payments, although some provider payments would also fall within the scope of this proposed limit. In instances where a State targets a payment to certain practitioners (for example, peer support specialists, physicians, and dentists) the proposed limit in this rule would apply. We also use the term provider to ensure clarity that this proposed payment limit would be applied to payments to providers of Medicaid services that may not clearly fall within the description of a practitioner, such as transportation, clinic, or CCBHC providers, and to ensure payments targeted to entities would be subject to the proposed payment limit as well. We emphasize that payments targeted to an entity not otherwise subject to a UPL or other similar limit, such as a clinic, would be subject to the proposed limit. However, a payment targeted to a provider service subject to a UPL, such as inpatient services in a hospital associated with an academic medical center, rather than practitioner-level data such as physician services, would be subject to the inpatient hospital UPL regulatory requirements at § 447.272 and would not be subject to the proposed new limit. We invite public comments on the proposed use of the terminology "practitioner or provider" to reflect the different individuals or entities to which payments can be targeted and therefore subject to the proposed payment limits at § 447.381(c), and if CMS should characterize these individuals and entities differently for improved clarity or to more effectively capture the intended scope of individuals and entities to which we intend the proposed payment limit to apply.

In proposed paragraph § 447.381(a), we are proposing to establish a limit "for the total Medicaid FFS payment authorized under the State plan or waiver in instances where all or a portion of the payment is targeted to a subset of participating practitioners or providers furnishing the applicable Medicaid-covered services." For purposes of this provision, State plan or waiver authority includes services authorized under sections 1915(i), 1915(j), 1915(k) of the Act; section

1915(c) waiver authority; and section 1115(a) demonstration authority. By total payment, we mean the entirety of the Medicaid FFS payment on a per service basis, regardless of whether the payment is characterized as a base or supplemental payment. We are not limiting this terminology to FFS supplemental payments because the proposal applies to the total Medicaid FFS payment, including both base and supplemental components, where some or all of that payment is targeted and varies from payments available to all participating providers furnishing the service.

As previously discussed, operationally in an FFS delivery system, base payments are generally predetermined rates that States pay providers for specific services according to their Medicaid fee schedule. Payments that may be part of or added onto these payments include, but are not limited to, add-on payments, payment adjustments, and supplemental payments (including but not limited to quality incentive payments that are made to providers for increased quality of care). If a State is proposing a payment to certain practitioners that would be supplemental to the base payment, the limit would apply to the combined total of the supplemental payment and the applicable base payment, along with any associated add-on or payment adjustments. If the State is proposing an alternate fee schedule for certain practitioners that represents the base payment for a subset of participating practitioners furnishing those services, the limit would likewise apply. In paragraph (a), we include the language “in instances where all or a portion of such payment is targeted to a subset of participating practitioners or providers furnishing the applicable Medicaid-covered services.” Thus, even where a base payment applies to all practitioners, if a State proposes a supplemental payment available only to a subset, the limit proposed in paragraph (c) applies to the total payment, even if only a portion of that payment is targeted, subject to the scope and exceptions proposed in paragraphs (b) and (d), respectively, discussed later. However, in instances where different practitioners within a benefit category (for example, a nurse practitioner and a pharmacist under the other licensed practitioner benefit) are paid differently for the same service, when the payment differential is tied to provider qualifications, the payment is not considered targeted and the limit would not apply.

Within the FFS provisions of this proposed rule, Medicaid payments that

are “targeted” refer to any payment that a State directs to a specific practitioner or provider type, or group of practitioners or providers furnishing Medicaid-covered services. By targeting a payment to certain practitioners or providers that provide a particular service, the payment is not available to all practitioners or providers furnishing the same Medicaid-covered services under the State plan. A State may target payments in various ways, including: (1) developing a fee schedule specifically for certain practitioners or providers that exceeds the fee schedules available to others (excluding certain providers like FQHCs and RHCs for which there is a statutory requirement for a particular payment rate or methodology, such as that specified in section 1902(bb) of the Act for FQHCs and RHCs, as discussed later in section II.B. of this proposed rule); (2) creating qualifications or eligibility requirements that target certain practitioners or providers that can receive the supplemental payment; and (3) creating a quality incentive payment or value-based payment that targets certain practitioners or providers and excludes other similar practitioners or providers from participation or from receiving the incentive or value-based payment.

As such, this proposed “targeted” regulatory language, as opposed to characterizing as a supplemental payment limit, would ensure States cannot simply reclassify payments as something other than a supplemental payment to avoid the proposed regulatory requirements. For example, a State with an approved ACR supplemental payment may currently pay a total of \$10 million in supplemental payments to only four out of 500 providers in the State when those four providers contribute the non-Federal share of the payment through an IGT. We intend to prevent a situation in which the State reclassifies that \$10 million from a prior ACR supplemental payment as a \$10 million rate “add-on” or some other type of additional payment to maintain the same payment level for the same four providers that finance the non-Federal share of the payment through an IGT. In that case, although the payment may be characterized as an add-on to the base rate and not as a supplemental payment, it remains targeted because it is only available for certain providers of the relevant Medicaid-covered services. Conversely, we do not intend to prevent a situation where the State incorporates a \$10 million supplemental payment into the base rates for all 500 providers in the State, as this would then be

Statewide and therefore not targeted, under proposed paragraph (b)(1). When a payment is not targeted, it would not be subject to the proposed practitioner or provider-specific payment limit in the FFS provisions of this proposed rule.

As a result, quality incentive or value-based payments that all Medicaid-participating practitioners or providers of a given Medicaid-covered service have the opportunity to earn would generally be excluded from the scope of proposed § 447.381(a). As discussed in SMDL #20–0004, VBPs under FFS State plan authority have historically included concepts such as bundled payment rates, payment based on episodes of care, shared savings, accountable care organizations, integrated care models, primary care medical homes, health homes, and advanced payments.⁷⁵ If participation in the VBP methodology is open to all participating Medicaid practitioners or providers under the applicable service payment methodology, payments resulting from these VBP methodologies would not be targeted payments under § 447.381. However, if the State designs a VBP methodology where participation is limited to such an extent that only a select group of practitioners or providers (such as those with the means and ability to fund the non-Federal share) can reasonably participate, such payments would be considered targeted under § 447.381 and subject to the limit described in the next section. In that regard, under this proposal, States would retain flexibility to promote quality improvement, which may result in better care and reduced program cost over time across the entire Medicaid program, but may not use value-based or quality payments in a manner that effectively targets certain practitioners or providers in a way that circumvents the proposed limit. We acknowledge this proposed FFS VBP policy, where a VBP is not inherently subject to the limit, differs from the managed care VBP provisions of this proposed rule, which applies the limit to all VBP SDPs. This difference is due to inherent differences between both delivery systems. In the FFS delivery system, the State is the payer of Medicaid services; and therefore, has flexibility and sole control in proposing and implementing VBP methodologies, unlike in managed care, where managed care plans can establish these payments outside of direct State control.

Under FFS State plan authority, States target a payment to certain practitioners

⁷⁵ <https://www.medicaid.gov/Federal-Policy-Guidance/Downloads/smd20004.pdf>.

or providers through a SPA submission in various ways. A SPA might list certain provider groups by name or affiliation or apply provider eligibility or provider qualification requirements to receive the payment. For example, a State may require practitioners or providers to be in a certain State-determined geographical location of the State, effectively targeting the practitioner in a specific State-determined location rather than relying on existing county, parish, borough, or municipality lines. States can target providers of a particular size or level of Medicaid utilization by specifying that a provider is only eligible for a payment if the provider has a specific dollar amount of Medicaid revenue. A State may also establish a practitioner or provider qualification for a payment where the requirements are so administratively burdensome that the payment effectively targets only those practitioners or providers that are capable of and willing to satisfy those requirements, even though such requirements would not otherwise be required to receive payment for services. We would examine the proposed payment methodology, including all criteria that must be satisfied for a participating practitioner or provider to receive the payment, as part of our standard rate proposal review practices to confirm that all participating practitioners or providers of the relevant Medicaid services will receive or have a reasonable opportunity to earn the payment in determining whether a payment is targeted for purposes of these proposed provisions.

2. Scope (§ 447.381(b))

We propose at § 447.381(b) to specify the scope of when the limit on Medicaid payments described in proposed § 447.381(c) would not apply. Specifically, we first propose that the limit would not apply when a State's FFS payment methods are uniform for all participating practitioners or providers within the State, or within a geographic region of the State (that is, a county, parish, borough, or other municipality) that is referenced under a payment methodology specified in the State plan. As mentioned previously, when a State targets payment to certain practitioners or providers, the payment is not available to all practitioners or providers furnishing the same Medicaid-covered services under the State plan. If the payment is uniform across the State, or within one or more counties, parishes, boroughs, or other municipalities in the State, we would not consider such payments to be targeted and therefore the limit would

not apply. A State must still be prepared to demonstrate that the uniform (that is, non-targeted) rate is economic and efficient, as is the case for all rate proposals under section 1902(a)(30)(A) of the Act.

The proposed scope provision would require, for a payment to be considered uniform, that an applicable geographic region be a county, parish, borough, or other municipality. This means that a State could not define a special purpose district solely for rate-setting purposes (or utilize a pre-existing district such as one associated with tax rates) to the extent it does not align (as in, share the same boundaries) with a county, parish, borough, or municipality, to characterize a payment rate as uniform for that geographic region. This applies where the rate is not uniform for all practitioners or providers furnishing the applicable Medicaid covered services in a geographic area defined by the previously referenced political boundaries and instead effectively targets a limited number of practitioners or providers and therefore would be presumed to not be economic and efficient. We note that although a total payment may be uniform for a State or geographic region(s), the fact that these payments fall outside the scope of this limit is not intended to suggest a rubber stamp of approval for a payment methodology solely because it is uniform within a State or permissible geographic region. We still intend to scrutinize the features of the geographic areas associated with rates, to ensure economy and efficiency under section 1902(a)(30)(A) of the Act, which applies independently of the uniformity criteria. As an example, one way a State could demonstrate economy and efficiency for payment rates that differ across geographic regions is by showing that the region aligns with a distinct geographic Medicare Administrative Contractor (MAC) rate for Medicare. We acknowledge that MAC geographical boundaries may not align with a State's county, parish, borough, or other municipality lines. To the extent that a MAC rate is available in a similar geographic region, we would expect and generally defer to the State to develop a reasonable methodology for aligning the rates associated with geographical regions in their State with Medicare payment areas and those rates for purposes of then using that MAC rate as the rate applicable to the limit proposed in this rule. States also have the flexibility to develop and propose alternative reasonable methodologies for demonstrating economy and efficiency under section 1902(a)(30)(A) of the Act

for a payment methodology that varies by geographic region, and we expect States to include an explanation of the State's reasoning and methodology with its SPA submission for CMS to evaluate.

We also believe that excluding payment rates that are uniform for a geographic region from the scope of the limits in paragraph (c) would provide the necessary flexibility for States to establish rates that account for rural providers. We expect geographic boundaries such as counties to allow a State to sufficiently identify a rural region consisting of one or more counties, for example, to establish separate but uniform rates for those regions. As such, we are not proposing a distinct policy or separate limit for rural areas. Rather, States could explain any rural considerations relevant to a proposed geographic rate when demonstrating that the payment rate is economic and efficient for the applicable county, parish, borough, or municipality. We invite comment on whether additional guidance would be helpful for States seeking to preserve or increase the supply of providers in rural areas, including whether there are other appropriate means of identifying State-defined rural districts, provided such approaches do not allow States to define rural districts in a manner that targets a particular practitioner or provider. We also considered, but did not propose, excluding payment rates that are uniform for a geographic region from paragraph (b), in which case they would fall within the scope of paragraph (c). In this instance the proposed limits in paragraph (c) would apply. We invite comments on this alternative policy or other potential approaches for these payments.

Next, we propose that the limit would not apply when the total payment is subject to another limit. Specifically, the limit would not apply when the total payment for a Medicaid-covered service is already subject to a limit under §§ 447.271, 447.272, 447.321, or 447.325, or sections 1903(i)(7) or 1903(i)(27) of the Act, but only to the extent that the total payments are subject to such other limit. The regulatory limits listed in this section are the existing UPLs; specifically: § 447.271 (upper limit based on customary charges for inpatient hospital services); § 447.272 (inpatient services furnished by hospitals, NFs, ICFs/IID, and IMDs); § 447.321 (outpatient services furnished by hospitals and clinics); and § 447.325 (other inpatient and outpatient facility services, which includes psychiatric residential treatment facilities (PRTFs)). Most of these existing limits in regulation are

tied to amounts that Medicare would pay for the relevant services. The primary exception is PRTFs, for two reasons: (1) § 447.325 limits Medicaid payment for each facility to the provider's customary charge and requires that payments not exceed prevailing charges in the locality for comparable services under comparable circumstances (also referred to as usual and customary charges); and (2) Medicaid typically is the only payer of PRTF services and therefore PRTFs typically lack applicable Medicare payment rates to serve as comparators for a Medicare-based UPL demonstration. In addition, sections 1903(i)(7) and 1903(i)(27) of the Act limit Medicaid payments for certain durable medical equipment (DME) expenditures⁷⁶ and clinical diagnostic laboratory (CDL) services, respectively. We are proposing to exclude payments subject to these existing payment limits from the proposed limit at § 447.381(c) to avoid unnecessary duplication of requirements and to focus on addressing payments that lack clear and objective payment limits in Federal requirements today. We request comment on whether any other existing limits or required payment methodologies, in addition to §§ 447.271, 447.272, 447.321, and 447.325 and sections 1903(i)(7) and (27) of the Act, should be accounted for in proposed § 447.381(b), and whether they should be accounted for by excluding them from the proposed scope or otherwise.

We recognize that statutorily required payment floors, such as those applicable to FQHCs and RHCs (section 1902(bb) of the Act), CCBHC demonstrations (section 223 of the Protecting Access to Medicare Act of 2014 (Pub. L. 113–93), and hospice providers (section 1902(a)(13)(B) and (30)(A) of the Act), may interact with the limit proposed in this rule where those statutory payment methodologies result in rates that exceed applicable Medicare rates. To the extent that a targeted payment, within the meaning of this rule is subject to a specific statutory payment methodology, we propose regulatory language in § 447.381(c) to ensure that the proposed limit would not conflict with those statutory rate requirements. As discussed later in section II.B. of this proposed rule, we propose language to ensure that this proposed limit, if finalized, would operate consistent with applicable statutory payment requirements.

However, we want to highlight the proposed language “only to the extent

that the practitioner's or provider's total payments are subject to such other limit.” Under this provision, a State would not be able to target a payment to a particular practitioner or provider that exceeds the limit proposed in paragraph (c) on the basis that the practitioner or provider receives a portion of their total Medicaid payments for services subject to a UPL or receives payment from another entity for furnishing those services. For example, physician group-A is contracted by inpatient hospital-B to furnish inpatient hospital services to Medicaid beneficiaries. Inpatient hospital-B furnishes Medicaid-covered inpatient hospital services and receives Medicaid payment subject to the inpatient hospital UPL under § 447.272 and subsequently compensates physician group-A for inpatient hospital services rendered. Separately, the State proposes a targeted supplemental payment for physician services under section 1905(a)(5) of the Act to physician group-A. In this example, the Medicaid payments made to inpatient hospital-B that are subject to the UPL under § 447.272 remain outside the scope of the proposed limit because they are for inpatient hospital services and thus subject to another UPL. However, the targeted supplemental payment made directly to physician group-A would be subject to the limit proposed in paragraph (c) because it is a targeted payment for an entirely different service (e.g. physician services). In other words, the limit proposed in paragraph (c) applies to the targeted payments for physician services even if physician group-A receives payment for other Medicaid services (e.g. inpatient hospital services) that are also subject to a different UPL. The existence of other Medicaid payments subject to a UPL does not remove the targeted supplemental payment from the scope of paragraph (b).

3. Targeted Medicaid Payment Limit (§ 447.381(c))

Within the scope of FFS targeted Medicaid payments discussed previously, we propose to limit these payments to a percentage of Medicare rates, depending on the circumstances of the State. Specifically, in paragraph (c), we propose that “a State's Medicaid State plan fee-for-service payment methodology must specify that, except as provided in paragraph (b) of this section, total Medicaid payments made to a practitioner or provider for a Medicaid-covered service may not exceed the percentages, listed in paragraphs (c)(1) and (2), of the Medicare fee-for-service payment rate

that would be paid to the practitioner or provider for the service if it were paid under the applicable Medicare payment rates established under Parts A or B of Title XVIII of the Act effective for the FY or CY, as applicable, that corresponds to the State plan rate year. For this purpose, the State plan rate year is the first State plan rate year that begins during the FFY or CY in which the Medicare payment rate is in effect.” Then, we specify the applicable percentages: for Expansion States, as defined in proposed § 438.6(a), the limit would be 100 percent of Medicare rates, and for Non-Expansion States, the limit would be 110 percent of Medicare rates. These thresholds align this proposal with the treatment of Expansion and Non-Expansion States in the managed care proposals, which would implement the statutory framework established in section 71116 of the WFTC legislation.

This requirement would apply to all targeted payments within the scope of § 447.381 that are not subject to an exception under proposed paragraph (d). However, we propose to specify that for “Medicaid payment rates subject to a statutory requirement for a particular payment rate or methodology, the limit under this paragraph may not be less than the required Medicaid payment rate or the rate calculated under the required methodology.” This language is intended to ensure that the proposed limits would not conflict with rate requirements such as those for FQHCs or RHCs (section 1902(bb) of the Act), and recognizes that certain Medicaid payment amounts, such as hospice rates (sections 1902(a)(13)(B) and 1902(a)(30)(A) of the Act), may exceed applicable Medicare rates because of statutory coverage requirements.

Historically, in practice, we have treated the ACR as an effective UPL for targeted practitioner payments, instead of applying aggregate UPLs based on reasonable estimates of Medicare payment amounts, as is done for most other Medicaid services subject to a UPL and have permitted States to pay up to the ACR for these services. We are not characterizing the proposed targeted practitioner payment limit as a UPL, for several reasons. We addressed previously in this section the distinction between this practitioner or provider-specific limit and other UPLs, which are calculated in the aggregate. In addition, we are not proposing to require a separate demonstration associated with this limit beyond the documentation submitted with the initial proposal (for example, with a SPA), and therefore this proposed limit is distinguished from other UPLs that include demonstration requirements. In other words, if

⁷⁶ <https://www.medicaid.gov/sites/default/files/federal-policy-guidance/downloads/smd18001.pdf>.

finalized, this proposed rule would not require States to submit demonstrations to us on an annual basis (for ACR methodologies) or triennial basis (for Medicare equivalent of the ACR), as we have expected States to do in connection with ACR supplemental payments in FFS Medicaid. In this case, the proposed language makes clear that the requirement to limit targeted payments would be reflected in the State's Medicaid State plan payment methodology. When a State proposes a payment rate in a SPA, whether to update a payment to comply with this limit, if finalized, or to implement subsequent payment adjustments, the SPA would be required to make clear how the total payments for practitioners or providers being targeted would not exceed the applicable percentage of the corresponding Medicare payment rates.

Any Medicare payment rate corresponding to a Medicaid service subject to this payment limit would function as the basis for the limit for Medicaid; however, we believe Medicare's Physician Fee Schedule (PFS) and Ambulance Fee Schedule (AFS) would serve as the primary sources of Medicare payment rates for the basis of the payment limit proposed under § 447.381(c). We are proposing to apply a limit on targeted Medicaid payments using a percentage of the Medicare payment rate as a measure of economy and efficiency in accordance with section 1902(a)(30)(A) of the Act. Although we have explained how we view this limit as distinct from UPLs, we note that this proposed rule aligns with the existing UPL regulations to the extent that both limit payments (albeit in the aggregate, in the case of a UPL) to a reasonable estimate of what Medicare would have paid or a provider's usual and customary charge. Although we are not proposing to require States to submit a UPL demonstration for this limit, the proposed limit would function as a ceiling for Medicaid payment rates authorized through the State plan, rather than UPL demonstrations. Similarly, by proposing to use Original Medicare as the basis of the FFS payment limit on targeted Medicaid payments for services that are not already subject to a UPL, we are seeking to ensure more consistent application of section 1902(a)(30)(A) of the Act across Medicaid services. Furthermore, this approach would align with the directive in the Presidential Memorandum discussed earlier that instructs the Secretary to, where possible, ensure Medicaid payment rates are not higher

than Medicare, to the extent permitted by applicable law.

We propose to utilize Original Medicare payment rates as the basis for the general payment limit for targeted Medicaid payments for three principal reasons. First, both Medicaid and Medicare are government health coverage programs available to citizens in every State and with a similar number of enrollees (averaging 70 million per program). Second, since 2001, FFS Medicaid has relied on a reasonable estimate of what Medicare would pay for most services subject to UPL requirements (distinguished earlier) to ensure economy and efficiency as required under section 1902(a)(30)(A) of the Act. Third, Medicare maintains publicly available and transparent methodologies for calculating its FFS payment rates, unlike commercial payer rates that are generally proprietary and not verifiable. Finally, as discussed, we believe it is important and appropriate to align Medicaid delivery systems as much as possible; thus, we are proposing to utilize Medicare to align with the managed care provisions of this proposed rule.

For the reasons previously described, we are proposing to use Medicare FFS payment rates as the basis of the general limit for targeted Medicaid payments, because we believe that the Medicare FFS payment rates are likely to serve as a reliable balance between the requirement that rates be economic and efficient—the specific concern this proposed limit is intended to address—as well as the ability for States to maintain a level of payment sufficient to enlist providers to furnish the relevant services to beneficiaries at high quality as required under section 1902(a)(30)(A) of the Act. Furthermore, we believe lowering the limit from, in practice, ACR to a Medicare-based benchmark would be a more prudent approach, discussed in more detail in section V. of this proposed rule, as Medicare rates are generally lower than commercial rates for physician and hospital services.⁷⁷ As described earlier, this Medicare-based benchmark would be operationalized through percentage limits that vary by State circumstances, with different percentage caps applying for Expansion and Non-Expansion States. We are seeking public comment on the proposed use of Medicare FFS payment rates established in the applicable fee

schedule as the basis of the general limit for targeted Medicaid payments.

While the proposed regulatory requirements at § 447.381(c) refer to “applicable Medicare payment rates established under Parts A or B of Title XVIII of the Act,” we generally expect that States would operationalize this regulatory language by identifying Medicare payment rates from Medicare's PFS and AFS under Part B, because most services relevant to this proposed rule are covered under Part B of Title XVIII of the Act. For targeted Medicaid payments for physician and other licensed practitioner services that would be subject to proposed § 447.381 and where there is an existing Medicare equivalent, the Medicaid payment would be limited to the applicable percentage of the published Medicare PFS payment rate in effect for the FFY or CY, as applicable, that would be paid to the provider or practitioner. If finalized, this proposed rule would require States that target a payment to specific Medicaid practitioners or providers to limit such payment to the applicable percentage of the Medicare payment rate as established under Part A or under Part B of Title XVIII of the Act, including Medicare applicable PFS or AFS payment rate.

The Medicare PFS sets different payment rates by provider type (that is, physician versus non-physician practitioner), site of service (that is, facility versus non-facility), and geographical location. We are proposing States account for these different payment rates when ensuring compliance with the payment limit proposed at § 447.381, if this proposed rule is finalized. Medicare pays physicians 100 percent of the Medicare PFS rates; however, Medicare pays certain NPPs (nurse practitioners, physician assistants, and clinical nurse specialists) at 85 percent of the full MPFS amount.⁷⁸ Accordingly, we expect States to limit targeted Medicaid payments for other licensed practitioners, including nurse practitioners, physician assistants, and clinical nurse specialists, to the applicable percentage of the Medicare amount that reflects how Medicare pays the practitioner type, which would effectively permit payment up to 85 percent of the full Medicare PFS amount for Expansion States and up to 93.5⁷⁹ percent of the full Medicare PFS amount for Non-Expansion States, to account for

⁷⁷ Congressional Budget Office (CBO). 2022. The prices that commercial health insurers and Medicare pay for hospitals' and physicians' services. Washington, DC: CBO. <https://www.cbo.gov/system/files/2022-01/57422-medical-prices.pdf>.

⁷⁸ https://www.medpac.gov/wp-content/uploads/2021/11/MedPAC_Payment_Basics_22_Physician_FINAL_SEC.pdf.

⁷⁹ 93.5 percent represents 110 percent of the Medicare rate of 85 percent of the published Medicare rate.

the application of the proposed percentage limits to the Medicare payment rate for non-physician practitioners.

Medicare also adjusts the PFS payment amounts based on the site of service (non-facility versus facility setting). The applicable rate (facility or non-facility) is determined by the place of service (POS) code, which identifies the setting where the beneficiary received the face-to-face encounter with the billing practitioner. In this rule, we propose to characterize the applicable Medicare payment rates established under Part B of title XVIII of the Act as described in paragraph (c) as the non-facility payment rate, rather than facility payment rate, as listed on the Medicare PFS. As previously discussed, the proposed payment limits would only apply to services for which no portion of the total practitioner or provider payment is already subject to a limit under §§ 447.271, 447.272, 447.321, or 447.325, and sections 1903(i)(7) and 1903(i)(27) of the Act, which apply primarily to facility-based services (with limited exceptions such as DME or CDL services). Therefore, we believe that the Medicare PFS facility rates generally are not relevant to the proposed payment limit at § 447.381. However, we invite comments on this proposed policy. Given the remaining Medicaid practitioners and services that could receive a targeted payment, we believe that the Medicare PFS non-facility rates are the most appropriate source for States to utilize in complying with proposed payment limit at § 447.381, if finalized.

Medicare sets a national level payment rate on the PFS but also varies their PFS payment rates by geographical location through calculated adjustments that reflect variation in practice costs across geographic areas. Geographical location is accounted for through the geographic practice cost index (GPCI). As described in Chapter 12—Physicians/Nonphysician Practitioners of the Medicare Claims Processing Manual, most physician services are paid according to the Medicare PFS and the fee schedule amounts for a particular procedure code (including CPT and HCPCS (Healthcare Common Procedure Coding System)) are computed using a resource-based formula made up of three components of a procedure's relative value unit (RVU): physician work, practice expense, and malpractice, with geographic adjustments applied to each

component.⁸⁰ Medicare establishes a GPCI for every Medicare payment locality for each RVU component and applies the GPCI in calculating the fee schedule payment amount by multiplying the RVU for each component by the corresponding GPCI.⁸¹

As previously stated, in most instances, we expect States will find the equivalent Medicare payment rates on the Medicare PFS or AFS as established under Part B of title XVIII of the Act. However, we are including a reference to Medicare payment rates as established under Part A of title XVIII of the Act in proposed § 447.381(c). We believe there may be limited instances where Medicare payment rates established under part A of title XVIII of the Act would be the equivalent for a targeted Medicaid payment rate that a State is seeking to implement, such as hospice services and certain home health care services. Additionally, we are including a reference in proposed § 447.381(c) to the FFY because some payment rates established under Part A of title XVIII of the Act are provided on a FFY basis, such as hospice payment rates. In these cases, a State would be able to utilize the Medicare FFY rate for its full State plan rate year, consistent with how States can align their rates with the CY rates under Part B of title XVIII of the Act. However, in most instances, the Medicare payment rates under Part A of title XVIII of the Act are associated with services that are subject to existing regulatory Medicaid UPLs or statutory Medicaid payment limits, such as inpatient hospital services, and are outside the scope of this proposed rule.

As discussed in § 447.381(c), we propose generally limiting targeted Medicaid payments for Medicaid-covered services to a percentage of the applicable Medicare FFS payment rates. For States that propose a targeted Medicaid payment rate for a service that does not have an exact Medicare equivalent, we would expect the State to develop a methodology for identifying a reasonably comparable Medicare payment rate for a comparable Medicare-covered service or set of Medicare-covered services, if applicable. We would expect States to include with their SPA submissions, an explanation of the State's reasoning and methodology for constructing the Medicare rate used for comparison to the Medicaid payment rate. As

⁸⁰ <https://www.cms.gov/regulations-and-guidance/guidance/manuals/downloads/clm104c12.pdf>.

⁸¹ <https://www.cms.gov/medicare/physician-fee-schedule/search/overview>.

discussed, we would review the State's approach based on the documentation submitted with the SPA, including the services selected for comparison and the assumptions used, to assess compliance with the proposed requirements. We discuss later in this proposed rule the process for exceptions when there is no reasonable method to identify an equivalent Medicare service.

In developing a methodology for identifying a reasonably comparable Medicare payment rate for a comparable Medicare-covered service, States could consider factors such as: clinically similar code service descriptions (for example, CPT code descriptors, which are clinically focused and utilize common standard⁸²), time-based services where the unit of time for one code could mathematically be extrapolated (for example, multiplying a Medicare payment rate for a 15-minute unit of service by two to derive a Medicare payment rate for a 30-minute unit), or similar service descriptions in which there is a minor difference in one aspect of the service (for example, the same service furnished using different medical equipment).

We acknowledge that many States create Medicaid bundled payment rates that are unique to that State and billed using State-specific codes. In such cases, we would expect the State to identify the constituent services included within the bundled payment rate and to cross-walk those constituent services to the corresponding Medicare payment rate, to the extent feasible. Where a State-specific bundled payment rate includes one or more codes that do not have an exact Medicare equivalent, we expect the State to identify those constituent services included within the bundled payment rate, cross-walk such constituent services to a reasonably comparable Medicare service (using the State's methodology for identifying a reasonably comparable Medicare payment rate for a comparable Medicare-covered service), and, as necessary, adjust the units of service where Medicare uses a different unit than the State.

To illustrate how a State may handle a bundled rate, we provide an illustrative, non-exhaustive example of how a State could crosswalk a State-created bundled rate for Medicaid services to a Medicare equivalent, if this proposed rule is finalized. Assume State-A pays a bundled weekly payment rate of \$301.56 for opioid treatment under its rehabilitation services benefit in the State plan. This bundled rate

⁸² <https://www.ama-assn.org/practice-management/cpt/cpt-overview-and-code-approval>.

includes the following discrete services as part of the weekly bundled payment rate: evaluation and management; screening, brief intervention, and referral to treatment; individual psychotherapy; psychotherapy for crisis situations; toxicology testing; chronic care management; and peer support services. Drugs are excluded from the weekly bundled payment rate under the rehabilitation services benefit and are instead paid under the pharmacy benefit. Under State A's payment methodology, the practitioner or provider bills HCPCS code H0020 to represent the weekly bundled rate and also reports the most specific billing code (CPT or HCPCS) that accurately and completely describes each service furnished. For a particular individual's

weekly opioid treatment, a practitioner or provider reports: HCPCS code H0020 together with CPT or HCPCS code 99212, H0050, 90832, 90839, 80305, 99490, and H0038.

Medicare covers and pays for the same or comparable discrete services that State-A includes in its bundled rate billed under HCPCS code H0020. The State would be expected to crosswalk the individual codes the provider billed under Medicaid to corresponding Medicare payment rates, including for the individual services included within the bundled payment. State-A determines that Medicare pays for the following codes from the MPFS: 99212, 90832, 90839, 80305, and 99490. However, Medicare does not pay for H0050 or H0038 from the MPFS. For

H0050 or H0038, the State would be expected to identify reasonably comparable Medicare services, meaning services that are similar but do not have an exact code match. For example, a State may identify G0396 and G0536 as Medicare equivalents for H0050 or H0038, respectively (see Table 7. In applying this crosswalk, the State would be expected to account for the differences in units of service by adjusting the Medicare payment rate to reflect the unit definition, used by Medicaid, such as by dividing the Medicare payment rate of \$41.29 for a 30-minute service by two to derive a 15-minute payment rate of \$20.65. See Table 7 for an example of this crosswalk.

TABLE 7: ILLUSTRATIVE EXAMPLE OF MEDICAID BUNDLED PAYMENT RATE CROSSWALK TO CALCULATE MEDICARE EQUIVALENT BUNDLED PAYMENT RATE

Medicaid CPT/ HCPCS	Medicaid Description	Medicaid Payment Rate	Medicare CPT/ HCPCS	Medicare Description	Medicare Payment Rate
H0020	Opioid Treatment	\$301.56	N/A	N/A	N/A
Medicaid Weekly Bundled Rate Includes			Crosswalk to Medicare Equivalent Services		
99212	Established patient office or other outpatient visit, 10-19 minutes	Paid via bundle	99212	Established patient office or other outpatient visit, 10-19 minutes	\$54.99
H0050	Alcohol and/or substance (other than tobacco) misuse structured assessment and brief intervention 15 to 30 minutes	Paid via bundle	G0396	Alcohol and/or substance abuse structured screening and brief intervention services; 15 to 30 minutes	\$29.42
90832	Psychotherapy, 30 minutes with patient	Paid via bundle	90832	Psychotherapy, 30 minutes with patient	\$78.93
90839	Psychotherapy for crisis, 60 minutes	Paid via bundle	90839	Psychotherapy for crisis, 60 minutes	\$148.47
80305	Drug test, lab performed	Paid via bundle	80305	Drug test, lab performed	\$12.60
99490	Chronic Care Management, support and coordination of patient care across multiple disciplines, 20 minutes per month	Paid via bundle	99490	Chronic Care Management, support and coordination of patient care across multiple disciplines, 20 minutes per month	\$60.49
H0038	Self-help/peer services, 15 minutes	Paid via bundle	G0536	Peer recovery support services, 30 minutes	\$41.69 To calculate a 15-minute unit, \$41.69/2 = \$20.65
Total Bundled Rate					\$405.55

We acknowledge there are instances where States may have bundled payment rates that have been in place for many years, even decades, and for which the State currently does not have

available information regarding how the payment rates were originally developed, including the specific constituent services or payment rates for those constituent services. As a result, a

State may lack historical data sufficient to crosswalk each constituent service to a corresponding Medicare payment rate. The absence of a historical rate regarding the development of a State

created bundled payment rate, standing alone, would not qualify for an exception under proposed § 447.381(d). In such circumstances, we would generally expect a State to develop a reasonable methodology to identify the constituent services currently included in the bundled payment rate and to reasonably estimate or deduce the Medicaid payment rate attributable to each constituent service included in the bundled payment rate. Consistent with proposed § 447.381(c), States would be expected to ensure the total Medicaid payments attributable to the constituent services included in the Medicaid bundle payment rate do not exceed the percentage of the corresponding Medicare payment rates. If, after reasonable efforts, a State cannot identify a comparable Medicare payment rate for one or more constituent services, the State would be able to seek an exception under proposed § 447.381(d)(1), consistent with the process described later in this section.

We also emphasize that mere differences in coding, by themselves, would not be sufficient to conclude that no equivalent service exists. Differences in coding practices for otherwise identical or very similar services do not necessarily mean that there is no reasonably comparable Medicare service, and States setting rates should, where appropriate, map between such codes. For example, if Medicare uses a code “99202,” but a State Medicaid Agency codes that same service as “99202MCAID” in its Medicaid billing system, then we would expect the State to align these codes and apply the applicable Medicare-based limit, provided the codes describe substantially similar or identical services. Similarly, the absence of a single Medicare equivalent code within a targeted payment methodology that otherwise utilizes multiple codes would not, by itself, render the entire targeted payment eligible for an exception to this limit. In these situations, we would expect the State to make reasonable efforts to identify a reasonably comparable Medicare code for the service without a direct equivalent, to ensure that the overall targeted payment remains comparable to what Medicare would pay for those same or similar services. If this proposed rule is finalized, we would expect States that make targeted Medicaid payments to physicians and other licensed practitioners to source the Original Medicare payment rates from the published Medicare fee schedule amounts on the Medicare PFS through

one or both of the following sources: the Physician Fee Schedule Look-Up Tool⁸³ on the CMS website or Excel file downloads of the Medicare PFS Relative Value Files⁸⁴ for the relevant CY from the CMS website. When rates are not available in the Look-Up Tool, the Excel file downloads of the Medicare PFS Relative Value Files contains the necessary information for calculating Original Medicare payment rates.

Medicare has established a Quality Payment Program (QPP), which includes the Merit-based incentive payment system (MIPS) and Alternative Payment Models (APMs). The QPP is designed to reward high-value, high-quality Medicare clinicians with payment adjustments based on performance.⁸⁵ For purposes of this proposal, the Medicare payment rates that serve as a basis for the payment limit under proposed § 447.381(c) would be “the applicable Medicare payment rates established under Parts A and B of Title XVIII of the Act effective for the FY or CY, as applicable, that corresponds to the State plan rate year. For this purpose, the State plan rate year is the first State plan rate year that begins while the applicable Medicare payment rate is in effect.” Our proposal would exclude Medicare QPP payment adjustments because not all providers are eligible for QPP payments, and because we anticipate that States would face significant administrative burden in obtaining and applying Medicare QPP payment data when calculating compliance with the proposed limit. Therefore, the Medicare limit for purposes of proposed § 447.381(c) would not include Medicare QPP payments.

For targeted Medicaid payments for transportation providers (for example, GEMT providers, air emergency medical transportation providers, and NEMT providers) that would be subject to proposed § 447.381 and for which there is a Medicare equivalent service rate, the applicable Medicaid payment would be limited to the published Medicare AFS payment rates in effect for the relevant CY that would be paid to transportation providers. Under the AFS, Medicare Part B pays for a medically necessary non-emergency and emergency ground ambulance, and emergency air ambulance transportation of the beneficiary to the nearest appropriate facility that can treat the patient’s condition, when transport by

other means would endanger the health of the beneficiary. Therefore, the AFS generally serves as the appropriate comparator for services in these categories. The Medicare AFS payment rates are listed on the Medicare AFS website⁸⁶ effective January 1 of each year and are updated annually by the ambulance inflation factor and geographic adjustment factor (non-facility practice expense component of the geographic practice cost index (GPCI) of the Medicare PFS).

Medicare established AFS payment amounts that include both a base payment, a separate payment for mileage to the nearest appropriate facility and a geographic adjustment factor (GAF) based on the geographic location of the point of the ambulance pick-up. Section 414.610 includes the basis of payment for the AFS. Ground and air ambulance services are paid according to the AFS fee schedule amounts for a particular HCPCS procedure code) which are computed using a resource-based formula that includes an RVU, conversion factor, GAF, including the GPCI and beneficiary point of pick up, and a national uniform loaded mileage rate as well as two applicable permanent and three temporary add-on payments for urban, rural, or super rural areas of the point of ambulance pick up.⁸⁷ The geographical areas applicable to the Medicare AFS are the same as those used for the Medicare PFS.

We recognize that Medicare often sets payment rates for services that are not covered or paid for by Medicare and lists these rates on the PFS fee schedules, which can result in outdated or unreviewed rates remaining listed. In these instances, we do not intend to unintentionally limit State Medicaid payment rates by reference to a Medicare FFS payment that is no longer reflective of current Medicare payment policy. For purposes of the Medicare PFS, we are proposing that States rely on Medicare FFS payment rates for codes with a status indicator of A (Active), R (Restricted), or T (Injections), as such codes generally include RVUs and are subject to Medicare’s standard rate-setting and update process. Although some codes with these status indicators may have limited or no Medicare coverage, we may nevertheless establish RVUs and payment amounts for these codes, and where such amounts are established, States would

⁸³ <https://www.cms.gov/medicare/physician-fee-schedule/search/overview>.

⁸⁴ <https://www.cms.gov/medicare/payment/fee-schedules/physician/pfs-relative-value-files>.

⁸⁵ <https://qpp.cms.gov/about/qpp-overview>.

⁸⁶ <https://www.cms.gov/medicare/payment/fee-schedules/ambulance/ambulance-fee-schedule-public-use-files>.

⁸⁷ <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/clm104c15.pdf>.

be expected to rely on them when applying the proposed payment limit under § 447.381, if this proposed rule is finalized. For purposes of the Medicare AFS, which does not utilize code status indicators analogous to those under the Medicare PFS, we would expect States to rely on the published Medicare AFS payment rates as the most appropriate comparator when applying the proposed limit under § 447.381, if finalized.

In instances where a State believes a payment rate listed on the Medicare PFS or AFS has not been updated in a manner that reflects current Medicare payment policy, the State could propose to CMS a methodology, such as a formula, to approximate a more current Medicare payment rate. Such proposed methodologies could include, for example, applying an appropriate inflation factor such as the Medical Care Services component of the Consumer Price Index for All Urban Consumers⁸⁸ or the Medicare Economic Index, to extrapolate the Medicare payment rate to a more current period. States doing so would be expected to provide, with its proposed methodology for calculating a more current Medicare payment rate, supporting documentation describing how the State identified the Medicare rate as outdated, the basis for selecting the time period and inflation factor used, and the steps taken to derive the State's extrapolated Medicare rate. In addition, where a Medicare code is no longer maintained for billing purposes, a State may propose to use a successor Medicare code, provided the successor code is reasonably comparable to the discontinued code and consistent with the overall expectation that States identify reasonably comparable codes whenever feasible. We invite public comments on how to operationalize this flexibility in a manner that ensures Original Medicare payment rates used for purposes of proposed § 447.381 remain reflective of current Medicare payment policy while minimizing administrative burden for States and CMS.

Medicare fee schedule rates under both PFS and AFS reflect the total Medicare payment amount for a service, including any applicable beneficiary co-insurance and deductible amounts. Under proposed § 447.381, targeted Medicaid payments should similarly reflect the total computable payment amount that a provider would reasonably expect to receive as payment-in-full for the provision of Medicaid services. Section 447.15 describes payment-in-full as “the

amounts paid by the agency plus any deductible, coinsurance or copayment required by the plan to be paid by the individual.” Therefore, when States make targeted Medicaid practitioner payments, the total payment used for purposes of compliance with proposed § 447.381 must include both the Medicaid agency payment and any applicable cost sharing to the extent that a beneficiary is expected to be liable for those payments. For example, where a State's Medicaid physician fee schedule rate otherwise accounts for beneficiary cost-sharing payment amounts, the State would need to account for such amounts when determining compliance with the proposed payment limit.

We propose to include language specifying that the relevant State plan rate year as “the first State plan rate year that begins during the FFY or CY in which the Medicare payment rate is in effect” to provide States clarity on how proposed targeted payments would need to be aligned with Medicare rates, given the differences in rate years between States and Medicare, if this rule is finalized. As previously discussed, in Medicaid, States commonly target payments to certain physicians and other licensed practitioners (including non-physician practitioners (NPPs) such as nurse practitioners, physician assistants, and clinical nurse specialists for whom the Medicare PFS specifies payment rates, making the Medicare PFS an ideal source for a significant number of the payment rates that would limit the targeted payments to these practitioners. The Medicare PFS is based on the annual PFS final rule that is published in November of each year with the Medicare payment rates listed on the Medicare PFS as effective the following January 1 (for example, the PFS final rule published in November 2024 contains rates effective January 1, 2025).

We acknowledge that many States set their fee schedules in alignment with their SFY, which can begin on various dates, most commonly July 1. A State may wish to align its relevant fee schedule with the CY, under an approved SPA methodology, to ensure the fee schedule consistently reflects the most up to date Medicare rates. As an example, a State with their SFY 2029 starting on July 1, 2028 would need to set its relevant State fee schedule effective July 1, 2028, at no more than 100 or 110 percent of the CY 2028 Medicare PFS rate (effective January 1, 2028) for applicable payments, if this rule is finalized. However, we would not regard States that set their SFY based fee schedules as out of compliance with the CY Medicare rates

when the next January rates are released solely on the basis of the timing of the State's fiscal year. As proposed, rates should align for “the first State plan rate year that begins during the FFY or CY in which the Medicare payment rate is in effect.” This means that a State would still be able to set annual rates for its July 1 SFY and have those rates regarded as aligned with the January 1 calendar year of Medicare rates. The same would be true in instances where a State relies on a Medicare Part A rate associated with the FFY; in such cases, the State plan should specify the applicable FFY rates for use during the corresponding State plan rate year.

We are aware that we may issue a correction to the Medicare PFS after the final rule is in effect, and such a correction may change the previously published payment rate for one or more codes. In instances where a State has set their Medicaid payment rates to 100 or 110 percent of the Medicare PFS for a given CY and Medicare later issues a correction that changes previously published payment rates, we would not expect States to update their Medicaid payment rates mid-year. However, States have the flexibility to submit a SPA to update their payment rates to implement the corrected Medicare PFS if they choose. We would permit States that set State plan rate year rates to align with Medicare rates on a calendar year to rely on those rates as set for the duration of the State plan rate year. However, we further wish to highlight that States could include evergreen language when designing payments by submitting a SPA that ties the payment to the “current” Medicare PFS rates, which would have the effect of automatically updating the State's Medicaid payment in alignment with the correction to the Medicare PFS according to the timing specified by Medicare. In instances where States choose not to update their Medicaid payments in alignment with corrections to the Medicare PFS, we encourage States to submit SPAs annually that update their rates tied to Medicare PFS rates to a specific year (that is, the State's Medicaid payment rates for State plan rate year starting on July 1, 2026 are tied specifically to the January 1, 2026 Medicare PFS and subsequent updates will not be implemented by the State). We invite comment on the proposed meaning of “State plan rate year” within this rule and how States would expect to operationalize their programs under this proposal.

4. Exceptions (§ 447.381(d))

As mentioned, there are limited instances where we propose that the

⁸⁸ <https://www.bls.gov/cpi/factsheets/medical-care.htm>.

limits proposed in § 447.381(c) would not apply, and as a result targeted payments would be subject to a different review standard. For payments falling within an exception under proposed paragraph (d), we propose that the “State must explain and provide supporting information in the form and manner specified by CMS sufficient to demonstrate that the payments are consistent with section 1902(a)(30)(A) of the Act.” Under section 1902(a)(30)(A) of the Act, payments must be, among other things, consistent with efficiency and economy, and these are aspects we would seek to assess. We describe below the proposed exceptions, followed by a discussion of how States may demonstrate compliance with section 1902(a)(30)(A) of the Act in these circumstances.

The first exception would apply when there is no reasonable Medicare equivalent rate. As discussed in the previous section, we expect States to make reasonable efforts to identify reasonably comparable Medicare rates for the Medicaid services that form the basis of a targeted payment. This exception would apply where, despite such efforts, there is no reasonably comparable Medicare service for some or all of the services included in the targeted payment. In such circumstances, a State would be unable to demonstrate compliance with a Medicare-based limit, and an alternative approach would be necessary. We would expect this circumstance to arise mostly in the context of broad service categories that generally are not covered by Medicare, such as personal care services.⁸⁹ We intend to closely scrutinize the services in question in instances where a State has indicated there is no comparable Medicare rate, for accuracy.

We considered whether to define an alternative limit for use in situations where there is no reasonable Medicare equivalent. In this proposed rule, we have emphasized that we no longer believe the ACR is an economic and efficient threshold, but we have not proposed another benchmark for when a Medicare rate is unavailable. Therefore, we invite comments on potential approaches that could assist States in demonstrating compliance with section 1902(a)(30)(A) of the Act where no Medicare rate exists, including benchmarks that would generally fall below the ACR, while preserving appropriate State flexibility

for rate setting to ensure access to quality care, particularly with respect to rural providers.

The second exception would apply to payments that are reconciled to a practitioner’s or provider’s actual, incurred costs. In these circumstances, we have historically viewed payment methodologies that reconcile to allowable costs, consistent with applicable cost principles, as generally consistent with economy and efficiency. For payment rates reconciled to cost, we follow the cost principles set forth in the Office of Management and Budget (OMB) cost principles at 2 CFR part 200, which are also used by the Medicare program. In that respect this exception is aligned with Medicare. If this proposed rule is finalized, CMS would consider the context of the State’s proposal and approved payment methodologies when assessing whether exceptions to the proposed targeted Medicaid payment limit at § 447.381 apply. For example, where a State proposes to pay governmental providers or practitioners based on reconciled costs while continuing to pay private providers under an existing, uniformly applicable fee schedule, payments to governmental providers would fall within the exception in § 447.381(d)(2). In such circumstances, we would not consider payments to the private providers to be targeted within the meaning of this proposed rule based only on the different treatment of governmental providers, because the underlying fee schedule methodology continues to apply uniformly to all providers within that category. In summary, in this example the distinct methodology applied to governmental providers falls within the cost reconciliation exception in proposed § 447.381(d)(2), and the remaining private providers continue to be paid under a uniform fee schedule consistent with § 447.381(b); therefore, the application of different methodologies only to apply a reconciled cost-based payment methodology to the subset of governmental providers does not render the uniform fee schedule-based payments to the remaining private providers targeted.

There are many ways a State may be able to demonstrate that the standard of economy and efficiency has been met when an exception applies. As stated earlier, our intent is not to create another UPL-like demonstration requirement. Consistent with proposed § 447.381(d), a State would be required to provide supporting information only upon request by us, typically in connection with SPA review or program oversight activities, not on a regular or

recurring basis. When such a request occurs, we believe our standard practices for reviewing payment rates during an SPA review provide an appropriate framework for the information needed to assess whether the payment rate is economic and efficient, as this is a standard to which all State plan payment rates must already adhere. For example, we may ask a State to describe any cost components used to construct the rate, the calculations used, and the supporting data. We may also request documentation showing how the targeted payment rate was calculated, including the data sources used, the methodology for calculating or trending those data, and the time periods associated with the data. Depending on the context, we may specify a particular form and manner, such as data extracted from a particular source and formatted in a specific way, to ensure that information is reliable and usable for purposes of assessing whether the payment is economic and efficient. In all cases, we would take into account administrative burden and would request data in a form and manner intended to minimize unnecessary burden.

We considered, but did not propose, that when a practitioner’s or provider’s payments (1) have no reasonable Medicare equivalent rate or (2) are reconciled to cost, total payments made to a practitioner or provider may not exceed 200 percent of the total fee-for-service base payments authorized under the State plan. We invite comments on this alternative benchmark or other potential approaches.

5. Transition Period (§ 447.381(e))

We recognize that States already making ACR-based targeted payments may need time to prepare and submit State plan amendments to come into compliance with the proposed new limit, if finalized. For States whose State plans currently provide for targeted Medicaid payments that would exceed the limit in § 447.381(c), if finalized, we are proposing in § 447.381(e) that States would have until the start of the first State fiscal year that begins on or after January 1, 2029, to comply with the limit at § 447.381(c). Specifically, we propose that States with State plan payments that exceed the limit under paragraph (c) of this section, and to which an exception under paragraph (d) does not apply, would be required to submit a State plan amendment to remove these payments or update them to comply with the limit in paragraph (c), with an effective date no later than the start of the first State fiscal year that

⁸⁹ For HCBS more broadly, although in many instances these are not covered by Medicare, Medicaid rates for these services are reviewed under State plan and waiver authorities.

begins on or after January 1, 2029. We selected this timeframe to align with the managed care provisions, which would prohibit States from exceeding the applicable payment limit for each service covered under a State directed payment submitted for an effective date on or after January 1, 2029. As an alternative, we invite comments on shorter or longer transition periods from the effective date of the final rule, including 6 months, 1 year, and 2 years, or another date before or after January 1, 2029. We also invite comment on two alternative phase-down transition approaches for targeted payments. Under the first approach, we could establish an interim limit, such as 200 percent of Medicare rates, midway through the transition period leading to January 1, 2029. Under the second approach, we could require an annual percentage reduction, such as 10 percent, of the total payment amount that exceeds Medicare over the course of a 10-year transition period from the effective date of the final rule until the targeted Medicaid practitioner or provider payment complies with the proposed new payment limit, to incorporate a phase-down concept as utilized, albeit differently, in the managed care transition proposal. Under our proposal, States would have the option voluntarily to phase down their targeted practitioner payments that do not comply with the limit in § 447.381(c); however, use of these alternatives would require States to lower such payments one or more times during the transition period, which could effectively create a mandatory glidepath to full compliance. We are not proposing to consider any exemptions or exceptions to the transition period timeline.

For example, a Non-Expansion State with an existing targeted payment, such as an enhanced fee schedule for physicians employed by an academic medical center that results in payment exceeding 110 percent of the corresponding Medicare payment rate would be required by this proposed rule, if finalized, to submit a SPA to lower its State fee schedule rate to no more than 110 percent of the Medicare PFS payment rate for the relevant year within the transition period described in section II.B.4. of this proposed rule. As another example, assume a State has a targeted payment in its FFS delivery system for nurse practitioner services furnished at AMCs, and that targeted payment is based on ACR. Assume further that the State's fiscal year begins on July 1. Under the proposed transition period, if finalized, the State would then

have until September 30, 2029 to submit a SPA to obtain a July 1, 2029 effective date to adjust the targeted payment. We note that the effective date of this SPA could not be earlier than the first day of the calendar quarter in which an approvable amendment is submitted, in accordance with § 430.20. However, nothing would prevent a State from submitting a SPA earlier in the transition period if an earlier effective date better aligns with the State's programmatic objectives. In these instances, the SPA could be in full compliance, or reflect an aforementioned voluntary phase-down. However, in this latter instance, a SPA that provides for payment higher than the applicable percentage of the Medicare payment rate would be required to include a sunset date for that methodology, such that it would comply with the limits set forth in § 447.381(c) by the end of the applicable transition period. If a State failed to submit a SPA to establish payments that comply with § 447.381(c), if finalized, the State would not be authorized to continue making the targeted payments and could be subject to deferral or disallowance of noncompliant payments, or to a State plan compliance action under section 1904 of the Act, discussed in the next section.

The following example illustrates how the proposed limit and transition period would be applied in practice, if finalized. Assume State-A, an Expansion State, has a targeted payment for physicians furnishing services at an AMC. State-A uses the ACR to set the targeted payment amount and for submitting an annual demonstration to CMS. In this example, State-A makes this targeted payment as a supplemental payment, as opposed to an alternative fee schedule. Currently, to calculate the supplemental payment and ACR demonstration, State-A and the physicians receiving the payment obtain payment data from their top five commercial payers in the State for specified services. They obtain the data from the billing systems of the physicians eligible for the targeted payment and include data for each CPT code furnished by the physicians eligible for the payment. Assume CMS finalizes this rule as proposed to limit targeted Medicaid payments to 100 percent of Medicare for Expansion States. Then assume State-A's fiscal year begins on July 1. State-A would have until September 30, 2029, to submit a SPA to CMS with an effective date no later than July 1, 2029, that adjusts the targeted payment to comply with the new limit, reducing total targeted

payments to no more than 100 percent of the Medicare rate from the previous ACR limit. State-A would not need to continue with its supplemental payment approach, and could instead implement an alternative fee schedule to set the targeted Medicaid payment rates at 100 percent of Medicare. State-A could look at the same CPT codes, find a Medicare equivalent, and either set an alternative fee schedule up to 100 percent of Medicare, or calculate the difference between the base rate and the amount that is 100 percent of the Medicare rate, to be paid as a supplemental payment. Alternatively, State-A may decide that it does not want to maintain these targeted payments subject to this new limit, and instead could submit a SPA that expands a supplemental payment (or a base payment fee schedule) to the entire county where the AMC is located. In this alternative case, State-A would need to be prepared to demonstrate the proposed rates are economic and efficient, in accordance with section 1902(a)(30)(A) of the Act, as part of the SPA submission. We again note that we are not proposing to consider any exemptions or exceptions to the transition timeline other than the alternative transition approaches we have specifically discussed. We invite comments on the transition period proposed and the alternatives considered, including the alternatives of requiring one or more phased reductions in the targeted Medicaid practitioner or provider payment during the transition period, on the way to full compliance with the proposed new payment limit.

6. Compliance With the Targeted Medicaid Payment Limit (§ 447.381(f))

In proposed new paragraph § 447.381(f), we propose to specify the compliance actions to which a State may be subject to if it fails to address payments that exceeds the proposed limit, if finalized. If this proposed rule is finalized as proposed, should a State submit a SPA that proposes a targeted Medicaid practitioner or provider payment that exceed the proposed limits after the effective date of the final rule, we would advise the State via formal written communication during the SPA review process to amend their payment methodology to adhere to the applicable payment limit. Should the State submit a SPA that does not amend its payment methodology, we would document that in a Request for Additional Information (RAI) and if the State continued to not adhere to the payment limit, then CMS would proceed to disapprove this SPA for non-compliance with the payment limit. For

States whose State plans currently provide for targeted Medicaid payments that would exceed the applicable limit in § 447.381(c), and that do not address it in the timeframe described in paragraph (e) of this section, CMS may reduce future grant awards. We may defer and/or disallow the portion of the claim for FFP attributable to targeted Medicaid practitioner or provider payments that exceed the applicable limit, and where appropriate, may initiate a State plan compliance action if the State fails to conform its plan or operation of its plan to the payment limit, consistent with 42 CFR 430.35, 430.40, 430.42, and 430.45. In estimating the amount subject to deferral or disallowance, we would review the State-submitted information about the payment in question, such as the most recent SPA establishing or amending the payment, and would assess the extent to which Medicare payment rates are available for the associated services and the degree to which the applicable limit has been exceeded.

In paragraph (f), we also propose that States submitting a SPA that proposes to exceed the limit under paragraph (c) of this section, and to which an exception in paragraph (d) of this section does not apply, would be subject to SPA

disapproval under § 430.15(c) of this chapter. Disapproval of a SPA means that the State would not have authority to implement the proposed payment methodology and would be required to continue to pay providers according to the rate methodology set forth in the already approved State plan. However, that SPA disapproval does not authorize a State to continue making payments that exceed the limit described in paragraph (c) of this section if that is the currently approved rate methodology and the transition has expired. Furthermore, when an exception under paragraph (d) applies but a State fails to furnish information requested by us to determine whether the payment is consistent with section 1902(a)(30)(A) of the Act, the SPA would likewise be disapproved.

III. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 et. seq.), we are required to provide notice in the **Federal Register** and solicit public comment before a “collection of information” requirement, as defined under 5 CFR 1320.3(c) of the PRA’s implementing regulations, is submitted to the Office of Management and Budget (OMB) for review and approval. To fairly evaluate whether an information

collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We are soliciting public comment on each of these issues for the following sections of this document that contain confirmed or potential information collection requirements. Comments, if received, will be addressed in the subsequent final rule (CMS–2449–F).

A. Wage Estimates

To derive average costs, we used data from the U.S. Bureau of Labor Statistics’ (BLS’) May 2024 National Occupational Employment and Wage Estimates for all salary estimates (<https://www.bls.gov/oes/tables.htm>). Table 8 presents BLS’ mean hourly wage, our estimated cost of fringe benefits and other indirect costs (calculated at 100 percent of salary), and our adjusted hourly wage.

TABLE 8: NATIONAL OCCUPATIONAL EMPLOYMENT AND WAGE ESTIMATES

Occupation Title	Occupation Code	Mean Hourly Wage (\$/hr)	Fringe Benefits and Other Indirect Costs (\$/hr)	Adjusted Hourly Wage (\$/hr)
Actuary	15-2011	64.90	64.90	129.80
Business Operation Specialist	13-1000	43.76	43.76	87.52
General and Operations Manager	11-1021	64.00	64.00	128.00
Social Science Research Assistant	19-4061	30.56	30.56	61.12
Software and web developers, programmers, and testers	15-1250	65.34	65.34	130.68

As indicated, we are adjusting our employee hourly wage estimates by a factor of 100 percent. This is necessarily a rough adjustment, both because fringe benefits and other indirect costs vary significantly from employer to employer, and because methods of estimating these costs vary widely from study to study. Nonetheless, we believe that doubling the mean hourly wage to estimate total cost is a reasonably accurate estimation method.

B. Proposed Information Collection Requirements (ICRs)

1. ICRs Regarding Special Contract Provisions Related to Payment (§ 438.6)

The following proposed changes will be submitted to OMB for review under control number 0938–1453 (CMS–10856). We anticipate revising the SDP preprint at a later date to address needed revisions under a final rule.

This rule’s proposed amendments to § 438.6(c)(1)(iii) would significantly reduce the number of preprint submissions because prior approval would no longer be required for minimum fee schedule and maximum

fee schedule SDPs and uniform increase SDPs would be phased out. We believe 42 States would no longer submit 272 SDP preprints to us on an annual basis. Based on the preprint, we estimate an active burden of 2 hours at \$129.80/hr for an actuary, 2 hours at \$128.00/hr for a general and operations manager, and 6 hours at \$87.52/hr for a business operations specialist. In aggregate, we estimate an annual State burden reduction of minus 2,720 hours (272 SDPs × 10 hr) and minus \$283,076 [272 preprints × [(2 hours × \$129.80/hr) + (2 hours × \$128.00/hr) + (6 hours × \$87.52/hr)]]). When taking into account the Federal administrative match of 50

percent, we estimate an annual State savings of minus \$141,538 ($\$283,076 \times .5$).

Section § 438.6(c)(2)(iii) in the 2024 final rule required States to submit documentation demonstrating that the total payment rate would not exceed the ACR for SDPs⁹⁰ for inpatient hospital services, outpatient hospital services, nursing facility services, or qualified practitioner services at an academic

medical center. Our active burden estimates are for 6 hours at \$129.80/hr for an actuary, 3 hours at \$128.00/hr for a general and operations manager, and 6 hours at \$130.68/hr for a software and web developers. Since this proposal would remove this regulatory requirement, we estimate a reduction of minus 900 hours (60 demonstrations $\times$ 15 hr) and minus \$116,813 (60 demonstrations $\times$ [(6 hr $\times$ \$129.80/hr) +

(3 hr $\times$ \$128.00/hr) + (6 hr $\times$ \$130.68/hr)]. As this was a requirement to update once every 3 years, we annualize our burden estimates to minus 300 hours (900 hr/3 years) and minus \$38,938 ($\$116,813/3$ years). When taking into account the Federal administrative match of 50 percent, we estimate an annual State savings of minus \$19,469 ($\$38,938 \times .5$).

TABLE 9: SPECIAL CONTRACT PROVISIONS RELATED TO PAYMENT (§ 438.6)

Requirement	No. of Respondents	Total Annual Responses	Time per Response (hours)	Total Annual Time (hours)	Labor Cost (\$/hr)	State Savings (\$)
Submit Preprints	42 States	272 SDP Preprints	10	2,720	Varies	(141,538)
Submit Documentation	38 States	60 Demonstrations	15	900	Varies	(19,469)
Total	42 States	(332)	Varies	(3,620)	Varies	(161,007)

2. ICRs Regarding Targeted Payments—SPA Submissions (§ 447.381)

We estimate this rule's proposed amendments to § 447.381 would require, based on data in our MBES system regarding existing supplemental payments with ACR demonstrations, 25 States to submit a payment SPA to amend targeted payments, either to adhere to the new Medicare limit, or to expand the payment so that it is no longer targeted. States also may fold this work into another planned SPA submission, but for purposes of this

estimate we will view them as standalone submissions (25 total SPAs). Finally, we do not believe these proposals would require any changes to the Form CMS–179 included with a SPA submission but we invite comment as to whether we would need to revise the Form CMS–179. We estimate it would take 10 hours at \$61.12/hr for a social science research assistant to prepare and submit the SPA, 6 hours at \$129.80/hr for an actuary to prepare the payment data, and 3 hours at \$128.00/hr for a general and operations manager

to review the data and SPA. In aggregate, we estimate one-time burden of 475 hours (25 SPAs $\times$ 19 hr/SPA) at a cost of \$44,350 (25 States [(10 hr $\times$ \$61.12/hr) + (6 hr $\times$ \$129.80/hr) + (3 hr $\times$ \$128.00/hr)]). When factoring in OMB's typical 3-year approval period, we estimate an annual burden of 158 hours (475 hr/3 years) and \$14,783 ($\$44,350/3$ years). When taking into account the Federal administrative match of 50 percent, we estimate an annual State cost of \$7,392 ($\$14,783 \times 0.5$).

TABLE 10: TARGETED PAYMENTS – SPA SUBMISSIONS (§ 447.381)

Requirement	No. of Respondents	Total Annual Responses	Time per Response (hours)	Total Annual Time (hours)	Labor Cost (\$/hr)	State Share (\$)
SPA Submissions	25 States	25 SPA Submissions	19	475	Varies	22,175

3. ICRs Regarding Targeted Payments—UPL Demonstrations (§ 447.381)

The following proposed changes will be submitted to OMB for review under control number 0938–0618 (CMS–R–148).

Under this rule's proposed changes and based on data reviewed in MBES as of the second quarter of FY 2025, we estimate that 17 States (13 States submitting annual demonstrations + 12 States submitting every 3 years or an annualized amount of 4 States) would no longer need to submit a

demonstration at a prescribed cadence, but must be prepared to provide similar information, upon request. As such, the recordkeeping burden will remain unchanged from what is currently approved by OMB under the aforementioned control number while the reporting time and frequency would decrease since the demonstration documentation would be submitted less frequently to us. We also project that the reporting template “Qualified Practitioner Services Average Commercial Rate Template” would no

longer be necessary by the proposed changes. We invite comment on this assumption.

We estimate that the time for a social science research assistant to prepare and submit demonstration documentation would decrease by 5 hours at \$61.12/hr and the time for a general and operations manager to review the submission would decrease by 3 hours at \$128.00/hr.

As previously mentioned earlier in this section, the 17 States submitting demonstrations are accounted for in our

⁹⁰ For SDPs that require prior approval under paragraphs (c)(1)(i) through (iii).

burden calculations as 17 demonstrations per year to account for the States submitting demonstrations annually and every 3 years. In aggregate, we estimate an annual burden reduction

of minus 136 hours (17 demonstrations/year $\times$ 8 hr/demonstration) and minus \$11,723 (17 demonstrations $\times$ [(5 hr $\times$ \$61.12/hr) + (3 hr $\times$ \$128.00/hr)]). When taking into account the Federal

administrative match of 50 percent, we estimate an annual reduced State cost of \$5,862 (\$11,723 $\times$ 0.5).

TABLE 11: TARGETED PAYMENTS – UPL DEMONSTRATIONS (§ 447.381)

Requirement	No. of Respondents	Total Annual Responses	Time per Response (hours)	Total Annual Time (hours)	Labor Cost (\$/hr)	State Savings (\$)
Reporting	25 States	(17)	(8)	(136)	Varies	(5,862)

C. Summary of Proposed Collection of Information Requirements and Associated Burden Estimates

TABLE 12: PROPOSED BURDEN ESTIMATES

Regulatory Section in Title 42 of the CFR	OMB Control Number (CMS ID No.)	No. of Respondents	Total No. of Responses	Time per Response (hours)	Total Time (hours)	Labor Rate (\$/hr)	Total Cost (\$)	Annualized Cost (\$)	Annualized State Savings/Share
436.6(c)(1)(iii) (SDP)	0938-1453 (CMS-10856)	42 States	272	10	2720	Varies	(280,976)	(\$283,076)	(141,538)
436.6(c)(2)(iii) (SDP)	0938-1453 (CMS-10856)	38 States	60	15	900	Varies	(108,680)	(38,938)	(19,469)
447.381 (SPA)	0938-0193 (CMS-179)	25 States	25	19	475	Varies	44,350*	14,783	7,392
447.381 (UPL)	0938-0618 (CMS-R-148)	17 States	17	8	(136)	Varies	(11,723)	(11,723)	(5,862)
Total		Varies	324	Varies	(3,281)	Varies	(401,379)	(318,954)	(159,467)

* When taking into account the Federal administrative match of 50 percent, we estimate a one-time State cost of \$22,175 (\$44,350 $\times$ 0.5). When annualized, this corresponds to \$7,392 (\$14,783 $\times$ 0.5).

D. Submission of PRA-Related Comments

We have submitted a copy of this proposed rule to OMB for its review of the rule's information collection requirements. The requirements are not effective until they have been approved by OMB.

To obtain copies of the supporting statement and any related forms for the proposed collections discussed previously, please visit the CMS website at <https://www.cms.gov/regulations-and-guidance/legislation/paperworkreductionactof1995/pa-listing>, or call the Reports Clearance Office at 410-786-1326.

We invite public comments on these potential information collection requirements. If you wish to comment, please submit your comments electronically as specified in the **DATES** and **ADDRESSES** sections of this proposed rule and identify the rule (CMS-2449-P), the ICR's CFR citation, and OMB control number.

IV. Regulatory Impact Analysis

A. Statement of Need

This proposed rule would advance CMS's efforts to improve fiscal integrity and stewardship of the federal funds used in the Medicaid program. In addition, the proposed rule would better align payment requirements across FFS and managed care programs and across different provider types.

B. Overall Impact

We have examined the impacts of this rule as required by Executive Order 12866, "Regulatory Planning and Review"; Executive Order 13132, "Federalism"; Executive Order 13563, "Improving Regulation and Regulatory Review"; Executive Order 14192, "Unleashing Prosperity Through Deregulation"; the Regulatory Flexibility Act (RFA) (Pub. L. 96-354); section 1102(b) of the Social Security Act; and section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory

alternatives and, if regulation is necessary, to select those regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as any regulatory action that is likely to result in a rule that may: (1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, or the President's priorities.

A regulatory impact analysis (RIA) must be prepared for a regulatory action that is significant under section 3(f)(1) of Executive Order 12866. Based on our

estimates, the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) has determined that this rulemaking is significant under section 3(f)(1) of Executive Order 12866. Accordingly, we have prepared an RIA that to the best of our ability presents the costs, benefits, and transfers of the rulemaking. Therefore, OMB has reviewed these proposed regulations, and the Departments have provided the following assessment of their impact.

C. Detailed Economic Analysis

We have examined the proposed provisions in this rule and determined that most of the proposed revisions to parts 438 and 447 outlined in this proposed rule are expected to minimally or moderately increase administrative burden and associated costs, as we note in the COI (see section III of this proposed rule). Aside from our analysis of burden in the COI, we believed that certain provisions in this proposed rule should specifically be analyzed in this regulatory impact analysis as potentially having a significant economic impact. These include provisions on the proposed new limits on total payment rates for SDPs and for targeted Medicaid payments for certain services through FFS.

1. Benefits

There are several benefits to this proposed rule. We expect that this proposed rule would increase transparency of Medicaid provider payment rates and financing. We also believe that this proposed rule would create consistency between Medicaid and Medicare by requiring the Medicaid total payment rates through SDPs and targeted FFS practitioner payments to be no greater than—

- 100 percent of the specified total published Medicare payment rate (or, in the absence of a specified total published Medicare payment rate, the payment rate under the Medicaid State plan (or under a waiver of such plan)) for an Expansion State; or
- 110 percent of the specified total published Medicare payment rate (or, in the absence of a specified total published Medicare payment rate, the payment rate under the Medicaid State plan (or under a waiver of such plan)) for a Non-Expansion State.

There is a limited exception to the payment limit for SDPs that qualify for

a temporary grandfathering period. The proposed rule would further align Medicaid managed care programs and FFS programs.

The proposed rule is anticipated to reduce administrative costs and burdens on CMS. Currently, we are expending more resources on reviewing and approving SDP preprints as required in § 438.6(c)(1)(i), and those costs would likely increase as the number of and total dollar amounts of SDPs grow. The proposed rule would result in simpler administration of SDPs and reduce the time, effort, and cost it takes to provide oversight of SDPs in managed care programs.

Finally, we believe that the proposed rule would provide greater fiscal integrity to the Medicaid program. CMS, as well as other government entities, have been concerned with the rapid growth of SDPs and whether the additional spending improves access, quality, or program outcomes. These proposed changes would strengthen Federal Medicaid oversight and reduce potentially inefficient spending.

We are not able to quantify these benefits.

2. Costs

The proposed rule may result in several potential costs. These changes may require additional time and effort for State Medicaid programs, managed care plans, and providers to revise managed care contracts. In some cases, there may be adverse impacts on providers and consequently on beneficiaries. We are not able to quantify these costs (beyond those reflected in the Transfers analysis below). We request comments on these potential impacts.

3. Transfers

a. State Directed Payments (SDPs) (§ 438.6)

The 2024 final rule set new requirements for the total payment rates for SDPs, with a limit of 100 percent of the ACR for inpatient hospital services, outpatient hospital services, qualified practitioner services provided by AMCs, and nursing facility services. For all other services, the requirement remained the same as in the 2016 final rule—that is, that provider payment rates are “reasonable, appropriate, and attainable.”

SDPs are a substantial component of Medicaid managed care programs. States may direct payment from Medicaid managed care plans to providers. These payments must relate to one or more of the goals and objectives of the Medicaid managed care quality strategy required under § 438.340, which can include improving access to care and healthcare quality. States are estimated to have paid \$143.8 billion of SDPs in FFY 2025 (excluding SDPs for which States are not required to receive written prior approval by us under § 438.6(c)(2)(i) via submission of a preprint). This represents 14 percent of all Medicaid benefit spending and 26 percent of Medicaid managed care payments. The largest recipients of these payments were hospitals (87.5 percent), AMCs (4.9 percent), physicians (3.6 percent), and nursing facilities (2.5 percent). States also made SDPs to HCBS providers, transportation providers, and other healthcare professionals. Under current regulations, States are allowed to use SDPs to increase payments to providers up to 100 percent of ACR for inpatient hospital services, outpatient hospital services, qualified practitioner services at AMCs, and nursing facility services. In the 2024 final rule, we noted our intent to continue using ACR as the fiscal guardrail by which we would evaluate all other SDPs as reasonable, appropriate, and attainable.

These projections are based on the projections of Medicaid spending in the President's FY 2027 Budget, updated with SDP data through the end of December 2025, and excluding any changes in spending attributable to the WFTC legislation. Total managed care spending is projected to grow at an average annual rate of 7.5 percent, reflecting growth in use of healthcare services, prices of services, and enrollment in Medicaid. Total SDP spending is projected to grow at an average annual rate of 8.2 percent, outpacing overall managed care spending growth through 2027 and then assumed to grow at the same rate as managed care spending beginning in 2028. The average federal share nationally is approximately 66 percent in 2025 and is expected to remain the same through 2035. Table 13 shows our projections of Medicaid managed care and SDP spending for 2024 through 2035.

TABLE 13: PROJECTED MEDICAID MANAGED CARE AND SDP SPENDING UNDER CURRENT POLICY, FY 2024 THROUGH 2035 (IN BILLIONS OF DOLLARS)

Fiscal Year	Medicaid Managed Care		SDP	
	Total	Federal	Total	Federal
2024	488.3	326.1	107.3	71.6
2025	545.6	362.8	143.8	95.6
2026	602.5	398.4	167.4	110.7
2027	655.0	432.6	184.1	121.6
2028	701.1	461.5	197.1	129.7
2029	749.3	493.0	210.6	138.6
2030	806.2	530.0	226.6	149.0
2031	864.5	568.1	243.0	159.7
2032	923.3	606.7	259.5	170.5
2033	985.6	647.7	277.0	182.1
2034	1052.5	691.7	295.9	194.4
2035	1124.4	738.8	316.0	207.7

Estimating the impact of the proposed SDP provisions is challenging for several reasons. First, the projected and actual spending data that we collect from States is not standardized, and in some cases aggregated across provider types. States submit information in the SDP preprints, for SDPs that require written prior approval under § 438.6(c)(2)(i), but information is sometimes incomplete and there are other limitations to this data. Moreover, SDPs have grown rapidly over the last several years, and future SDP spending under current policy could be higher or lower than projected here.

Second, it is often difficult to determine how total payment rates in SDPs compare, especially when States use different benchmarks for payment (for example, comparing SDPs using Medicare payment rates to those using ACR payment rates). In addition, there is frequently limited information on ACR payment rates. It is difficult to determine how the ACR is calculated and how the calculation may vary across different States and providers. For this proposed rule, this is a key consideration in estimating the impact and is discussed further in this section. To account for limited data on provider payment rates, we have developed a range of estimates using different relative price assumptions between Medicaid, Medicare, and the ACR. Those estimates are presented later in this section.

We have developed a model to estimate the impacts of the SDP provisions of this proposed rule. This model is based on SDP data collected by us through the SDP preprints, including in Table 2 of the current preprint. We collected data by State and SDP and included: the service category; the

provider class; the comparative rate basis for assessing the SDP payments (for example, Medicare, the ACR, Medicaid State plan); the average base payment level from plans to providers before the application of the SDP; SDP change (that is, the effect of the SDP on the total payment levels); and final payment levels by provider class; and the estimated total SDP amount. The model primarily relies on data for SDPs with effective dates starting in 2025; there is some additional data for SDPs with effective dates starting in 2024 or 2026. Data from 2025 reflects information on most SDPs and captures all known current SDP spending.

There are some exclusions to the data set. SDPs without payment rate information and for which it is not possible to determine reasonable assumptions of those rates (for example, from more information submitted with the preprint or from a prior year's preprint) are excluded. These excluded SDPs amounted to \$1.4 billion of SDPs with rating periods starting in 2025. In addition, there are 6 preprints that do not include total SDP amounts because the State estimated a zero-dollar impact. Thus, spending from these payments is not included. We also have made some adjustments for preprints where information submitted in the preprints is believed to be incorrect. Some examples of these adjustments include: (1) cases where the sum of the base payment level and SDP, plus the effect on the total payment level of other SDPs or pass-through payments, did not match the reported total payment rate; and (2) preprints where the reported total dollar amount appears to be incorrect (often including the base payment level and SDP together). These

adjustments to the data have been minor.

In total, there is data for \$136.0 billion in SDPs for payments with effective dates starting in calendar year 2025, which we believe is mostly complete (based on the limitations described previously). This does not include SDPs that are not required to have a preprint submitted or receive written prior approval by us under § 438.6(c)(2)(i).

The preprints are also limited in detail. Notably, most States do not report projected, total SDP spending by provider or by provider class in preprints with more than one provider class. To develop estimates, we assumed that the spending was equally distributed across provider class in preprints with multiple classes.

There is a limited amount of information available on the relative prices across different payers. SDP preprints typically only include the payment rates relative to the selected basis utilized for the provider payment analysis in Table 2 of the preprint (for example, the ACR, Medicare, Medicaid State plan) and do not provide comparisons to other payers. There is not enough detail in the preprints to evaluate these payment rates.

There is some analysis comparing prices across the three key payers (Medicaid, Medicare, and commercial payers) and different services. We relied on research from several studies to complete our analysis.^{91 92 93 94 95 96}

⁹¹ Congressional Budget Office, "The Prices That Commercial Health Insurers and Medicare Pay for Hospitals' and Physicians' Services," January 2022, <https://www.cbo.gov/system/files/2022-01/57422-medical-prices.pdf>.

⁹² Christopher M. Whaley, Rose Kerber, Daniel Wang, Aaron Kofner, and Brian Briscoe, "Prices Paid to Hospitals by Private Health Plans," RAND,

These studies compared prices between Medicare and commercial payers, or between Medicaid and Medicare. We used the conclusions of these analyses

(or, where multiple analyses exist, the median of those results) to develop assumptions for these estimates. Using this research, we developed the

following price relativities by payer and by service for the estimates in this analysis (expressed as percentages of Medicare payment rates).

TABLE 14: ASSUMED RELATIVE PRICES BY PAYER AND BY SERVICE

Service	Medicaid	Medicare	Commercial (ACR)
Inpatient hospital	90%	100%	189%
Outpatient hospital	90%	100%	263%
Academic medical center*	90%	100%	226%
Physician	75%	100%	136%
Nursing facility	80%	100%	150%
Home and community-based services	90%	100%	150%
Transportation	80%	100%	150%
Durable medical equipment	80%	100%	150%
Dentist	80%	100%	150%
Pharmacy	80%	100%	150%

* AMC rates were set equal to the average of inpatient and outpatient hospital rates.

For several services, there is less information available on prices across payers. Notably, there is little information on nursing facility prices and the services that Medicare covers may be significantly different than those covered by private payers and Medicaid;

and for HCBS, there may not be comparable services provided by Medicare and commercial insurers in many cases. In those cases, we developed assumptions shown in Table 14. The range of commercial-to-Medicare price ratios is large and that

the actual differences may vary from these estimates. In addition, the ratios may differ by States and for specific providers. Therefore, we also include low and high scenarios for different relative prices as part of this analysis:

TABLE 15: LOW SCENARIO—ASSUMED RELATIVE PRICES BY PAYER AND BY SERVICE

Service	Medicaid	Medicare	Commercial (ACR)
Inpatient hospital	100%	100%	137%
Outpatient hospital	100%	100%	155%
Academic medical center	100%	100%	146%
Physician	90%	100%	118%
Nursing facility	100%	100%	100%
Home and community-based services	100%	100%	100%
Transportation	100%	100%	100%
Durable medical equipment	100%	100%	100%
Dentist	100%	100%	100%
Pharmacy	100%	100%	100%

December 10, 2024, https://www.rand.org/pubs/research_reports/RR1144-2-v2.html.

⁹³ Spencer Marshall, Danjie Zhou, Casey Anderson, Charlie Mills, "Commercial Reimbursement Benchmarking," Milliman, June 19, 2024, <https://www.milliman.com/en/insight/commercial-reimbursement-benchmarking-medicare-ffs-rates>.

⁹⁴ Medicaid and CHIP Payment and Access Commission, "Medicaid Base and Supplemental Payments to Hospitals," April 2024, <https://www.macpac.gov/wp-content/uploads/2024/05/Medicaid-Base-and-Supplemental-Payments-to-Hospitals.pdf>.

⁹⁵ Eric Lopez, Tricia Neuman, Gretchen Johnson, Larry Levitt, "How Much More Than Medicare DO Private Insurers Pay? A Review of Literature," Kaiser Family Foundation, April 15, 2020, <https://www.kff.org/medicare/issue-brief/how-much-more-than-medicare-do-private-insurers-pay-a-review-of-the-literature/>.

⁹⁶ Laura Skopec, Avani Pugazhendhi, Stephen Zuckerman, "Updated Medicaid-to-Medicare Fee Index: Medicaid Physician Fees Still Lag Behind Medicare Physician Fees," Health Affairs, vol. 44, no. 5, May 2025, <https://www.healthaffairs.org/doi/10.1377/hlthaff.2024.01530>.

TABLE 16: HIGH SCENARIO—ASSUMED RELATIVE PRICES BY PAYER AND BY SERVICE

Service	Medicaid	Medicare	Commercial (ACR)
Inpatient hospital	80%	100%	255%
Outpatient hospital	80%	100%	358%
Academic medical center	80%	100%	307%
Physician	60%	100%	179%
Nursing facility	60%	100%	200%
Home and community-based services	80%	100%	200%
Transportation	60%	100%	200%
Durable medical equipment	60%	100%	200%
Dentist	60%	100%	200%
Pharmacy	60%	100%	200%

We welcome comments on the assumptions about relative prices between Medicaid, Medicare, and commercial payers.

For each provider class in each SDP, we used the preprint data to calculate the base payment amount, SDP amounts, other SDPs and adjustments that apply to the provider class, and the final payment rate and the ratio of the payment rates to the benchmark rate. We used the projected trends from the President's Budget *excluding the impact of the legislation* to develop estimates of annual spending for each provider class in each SDP prior to the impact of the legislation. We refer to these as the "pre-legislation SDP amounts."

Then we calculated the new annual limits and compared those amounts and rates to the new limits defined in this proposed rule. Beginning with the first rating period starting on or after July 4, 2025, the total payment rate for SDPs for inpatient and outpatient hospital services, nursing facility services, and qualified practitioner services at an academic medical center must not exceed the applicable payment limit. Specifically, the total payments (that is, the sum of the base payment, SDP, and any other SDPs applicable to the same provider and the impact of any pass-through payments) may not exceed 100 percent of the Medicare payment rate for Expansion States and 110 percent of the Medicare payment rate for Non-Expansion States, unless no total published Medicare payment rate exists for the service, in which case the payment limit is the State plan approved rate. For rating periods that start on or after July 4, 2025 but before January 1, 2028, a grandfathered SDP may not exceed the grandfathered total dollar amount. States would be permitted to implement new SDPs for the four services at the applicable

payment limit for rating periods starting on or after July 4, 2025. Beginning with the first rating period starting on or after January 1, 2028, States must reduce 100 percent of the grandfathered total dollar amount by 10 percentage points annually until the payment limit is reached (that is, 90 percent in 2028, 80 percent in 2029, etc.). States are able to phase down faster or transition the grandfathered SDP to an SDP that complies with the applicable payment limits sooner, at their discretion. We refer to these as the "post-legislation SDP limits."

If the pre-legislation SDP amounts exceeded the post-legislation SDP limits for applicable rating periods, then the SDP was reduced by an amount such that the final payment (base payment plus SDP plus other SDPs and adjustments) was equal to the post-legislation SDP limit. If the pre-legislation SDP amounts were less than or equal to the post-legislation SDP limits, then we assumed that there was no change to the SDP. The difference between the pre-legislation SDP amounts and post-legislation SDP limits is reflected as a reduction in Medicaid spending under this proposed rule, and a transfer from affected providers and other relevant individuals and entities (such as State or local jurisdictions that reimburse providers for otherwise-uncompensated care) to the States and the Federal government.

In addition, we project that additional savings from reduced growth in new SDPs for inpatient hospital services, outpatient hospital services, nursing facility services, or qualified practitioner services at AMCs because SDPs that do not meet the definition of a grandfathered SDP must comply with the new payment limits with the first rating period beginning on or after July 4, 2025. By placing stricter limits on

SDPs for these services, we expect to avoid further spending on new SDPs created by States. To estimate the impact of this effect, we assumed that half of SDP growth in excess of growth in the non-SDP portion of managed care spending was for new SDPs (3.4 percent growth in 2026 and 0.9 percent growth in 2027), and that 80 percent of new spending would be above the SDP limits described in this rule. Those estimated amounts are also counted as a reduction in Medicaid spending, and transfers from providers and other affected entities and individuals to States and the Federal government.

As an example, we refer back to the example presented in the preamble (Table 5) of an SDP in an Expansion State of \$1 billion in 2025. Expanding on this example, we assume (1) that the base payments for these services are equal to \$500 million, (2) that the SDP currently reflects payments equivalent to 150 percent of the Medicare payment rate, and (3) that the SDP payments would grow 5 percent per year. (For the purposes of this example, we assume no growth in base payments and that Medicare payment rates increase annually.) In this example, the SDP would be \$1 billion in 2026 and 2027 under the proposed policy, as those amounts would be kept at 2025 levels because the applicable payment limit constrains further growth above that level. Starting in 2028, payments would decrease by 10 percent annually (\$100 million) until the total payment rate (base payments plus SDP) equals 100 percent of the Medicare payment rate. (For a non-Expansion State, the decreases would end when total payments were equal to 110 percent of the Medicare rate.) The annual impacts are shown in Table 17.

TABLE 17: EXAMPLE OF MEDICAID SPENDING IMPACT OF LIMITING SDPS UNDER SECTION 71116 OF THE WFTC LEGISLATION BY YEAR (IN BILLIONS OF DOLLARS)

Year	Current Law				Proposed Policy				Impact
	Base Payments	SDP	Total Payment	Effective Payment Rate as Share of Medicare	Base Payments	SDP	Total Payments	Effective Payment Rate as Share of Medicare	
2025	0.500	1.000	1.500	150%	0.500	1.000	1.500	150%	0.000
2026	0.500	1.050	1.550	155%	0.500	1.000	1.500	150%	-0.050
2027	0.500	1.103	1.603	160%	0.500	1.000	1.500	150%	-0.103
2028	0.500	1.158	1.658	166%	0.500	0.900	1.400	140%	-0.258
2029	0.500	1.216	1.716	172%	0.500	0.800	1.300	130%	-0.416
2030	0.500	1.276	1.776	178%	0.500	0.700	1.200	120%	-0.576
2031	0.500	1.340	1.840	184%	0.500	0.600	1.100	110%	-0.740
2032	0.500	1.407	1.907	191%	0.500	0.500	1.000	100%	-0.907
2033	0.500	1.477	1.977	198%	0.500	0.500	1.000	100%	-0.977
2034	0.500	1.551	2.051	205%	0.500	0.500	1.000	100%	-1.051
2035	0.500	1.629	2.129	213%	0.500	0.500	1.000	100%	-1.129

In this example, expenditures decrease by \$50 million as compared to what would have been paid in 2026, and by 2035 expenditures would have decreased by \$1.129 billion. As shown in Table 17, the total payment rate

under the SDP is equal to 100 percent of Medicare rates by 2032, and thus the SDP is not reduced any further after that.

We project that the proposed rule would reduce total computable (Federal

plus non-Federal shares) Medicaid spending by \$774.8 billion from 2026 through 2035 (in real 2026 dollars). The annual impacts are shown in Table 18.

TABLE 18: PROJECTED TOTAL COMPUTABLE MEDICAID SPENDING IMPACT OF LIMITING SDPS UNDER SECTION 71116 OF THE WFTC LEGISLATION BY YEAR (IN BILLIONS OF 2026 DOLLARS)

Fiscal Year	Current Law	Proposed Rule	Impact
2026	167.4	149.2	-18.2
2027	177.2	147.5	-29.7
2028	182.5	135.0	-47.5
2029	187.8	124.4	-63.4
2030	194.4	116.4	-78.0
2031	200.7	110.4	-90.3
2032	206.3	105.7	-100.6
2033	212.0	103.1	-108.9
2034	217.8	101.7	-116.1
2035	224.0	101.9	-122.1

We project that the proposed rule would reduce Federal Medicaid spending by \$510.1 billion from 2026

through 2035 (in real 2026 dollars). The annual impacts are shown in Table 19.

TABLE 19: PROJECTED FEDERAL SHARE MEDICAID SPENDING IMPACT OF LIMITING SDPS UNDER SECTION 71116 OF THE WFTC LEGISLATION BY YEAR (IN BILLIONS OF 2026 DOLLARS)

Fiscal Year	Current Law	Proposed Rule	Impact
2026	110.7	98.8	-11.9
2027	117.0	97.6	-19.4
2028	120.2	89.0	-31.2
2029	123.6	82.0	-41.6
2030	127.8	76.5	-51.3
2031	131.9	72.5	-59.4
2032	135.6	69.3	-66.3
2033	139.3	67.5	-71.8
2034	143.2	66.6	-76.6
2035	147.2	66.6	-80.6

There are also impacts expected on State Medicaid expenditures. State expenditures would also decrease under the proposed rule, as States make fewer SDPs to providers. However, States often finance the non-Federal share of SDPs with provider taxes and IGTs. SDP preprint data indicates that by the end of 2025, 80 to 90 percent of SDPs relied entirely or in part on provider taxes or IGTs. It is likely that if SDPs were substantially reduced, there may also be decreases in provider tax revenues and IGTs that support the non-Federal share. Thus, the reduction in net State expenditures (State Medicaid payments minus revenue from provider taxes and IGTs) would likely be lower than the gross reduction in State Medicaid expenditures.

An analysis by the Medicaid and CHIP Payment and Access Commission (MACPAC) illustrates how provider taxes and IGTs are related to SDPs.⁹⁷

MACPAC reviewed payments to private and public hospitals in one State. For a private hospital, MACPAC found that the base payments made by Medicaid were 65 percent of what Medicare would have paid, and SDPs added 87 percent of what Medicare would have paid, for a total payment equal to 152 percent of Medicare rates. However, after excluding the amount that the hospital paid to the State in provider taxes, the SDP amount was reduced from 87 percent of Medicare to 24 percent of Medicare, and the total payment was equal to 89 percent of what Medicare would have paid. Similarly, for a public hospital, MACPAC found the base Medicaid payment was equal to 42 percent of Medicare, the pass-through payment was equal to 46 percent of Medicare, and the SDP was equal to 40 percent of Medicare, for a total of 128 percent of what Medicare would have paid. After

accounting for IGTs, the pass-through payment was reduced to 22 percent of Medicare and the SDP to 17 percent of Medicare, for a total payment of 82 percent of what Medicare would have paid. The impacts across different States and providers may vary substantially, but this analysis illustrates the complexity of the impacts to States and providers. We request feedback, including suggestions for data from a broader set of providers and States than what is reflected in this MACPAC report, that would facilitate more thorough quantification of how effects flow through the health care system to various entities, individuals, and jurisdictions.

We project that the proposed rule would reduce State Medicaid spending by \$264.4 billion from 2026 through 2035 (in real 2026 dollars). The annual impacts are shown in Table 20 below.

TABLE 20: PROJECTED NON-FEDERAL SHARE MEDICAID SPENDING IMPACT OF LIMITING SDPS UNDER SECTION 71116 OF THE WFTC LEGISLATION BY YEAR (IN BILLIONS OF 2026 DOLLARS)

Fiscal Year	Current Law	Proposed Rule	Impact
2026	56.7	50.4	-6.3
2027	60.2	49.9	-10.3
2028	62.3	46.0	-16.3
2029	64.2	42.4	-21.8
2030	66.6	39.9	-26.7
2031	68.8	37.9	-30.9
2032	70.7	36.4	-34.3
2033	72.7	35.6	-37.1
2034	74.6	35.1	-39.5
2035	76.8	35.3	-41.5

⁹⁷ MACPAC, "Report to Congress on Medicaid and CHIP," June 2024, <https://www.macpac.gov/>

[wp-content/uploads/2024/06/MACPAC_June-2024-WEB-508.pdf](wp-content/uploads/2024/06/MACPAC_June-2024-WEB-508.pdf).

In addition to these impacts, we propose to extend these policies to other services not listed in section 71116 of the WFTC legislation. There are fewer SDPs for these services, and these service categories account for only 1 to 2 percent of total SDPs. Moreover, as

shown in Table 14, we assume that the ratios of ACR payment rates to Medicare payment rates are not as high for these services as those subject to section 71116 of the WFTC legislation. Therefore, the projected impacts of this policy on spending for these other

services are less. These proposed limits would not go into effect until January 1, 2029, and thus the impacts would not begin until 2029. Those projected impacts are shown in Table 21.

TABLE 21: PROJECTED MEDICAID SPENDING IMPACT OF LIMITING SDPS TO OTHER SERVICES NOT DESCRIBED IN SECTION 71116 OF THE WFTC LEGISLATION BY YEAR (IN BILLIONS OF 2026 DOLLARS)

Fiscal Year	Total Impact	Federal Impact	State Impact
2029	-0.43	-0.28	-0.15
2030	-0.66	-0.43	-0.23
2031	-0.73	-0.48	-0.25
2032	-0.80	-0.53	-0.27
2033	-0.85	-0.56	-0.29
2034	-0.91	-0.60	-0.31
2035	-0.96	-0.63	-0.33

We estimate that applying this policy to other services would reduce Medicaid spending by \$5.34 billion over the period from 2029 through 2035. Federal spending would be reduced by \$3.51 billion, and State spending would be reduced by \$1.83 billion.

We welcome comments on the projected impacts to the Federal government and the States.

Providers would lose revenue as a result of reduced SDPs under this proposal. However, as described previously, the net effect on providers may be less than the total quantified impact. To the extent providers pay provider taxes or IGTs that are used to support the non-Federal share for SDPs, the net change in provider revenue (SDPs minus provider taxes and IGTs paid and transferred by providers) could be significantly less. Due to the lack of provider-level data and the wide variation in SDPs across States and provider categories, we are unable to estimate the impacts on providers in more detail.

We expect that there may be significant interactions with other

provisions of the WFTC legislation. Notably, sections 71115 (provider taxes) and 71117 (requirements regarding waiver of uniform tax requirement for Medicaid provider tax) of the WFTC legislation are anticipated to reduce the amount of provider taxes collected by States. Provider taxes are a common source of financing of the State share for SDPs. We anticipate that reducing the amount of provider tax collections under these provisions may also lead to reductions in SDPs even absent section 71116 of the WFTC legislation. Thus, there is potential overlap in measuring the effects of these sections. We expect to provide an analysis of the interaction between these proposals in future rulemaking.

Managed care plans may also lose some revenue due to the proposed rule. Plans may receive higher premiums when SDPs are incorporated into capitation rates, or they may be able to retain a small portion of SDP funding for administrative activities. Those amounts would likely be reduced under the proposed rule. We are not able to quantify those impacts.

We welcome comments on the impacts to providers and managed care plans.

As we noted previously, a major source of uncertainty is the relative prices paid between Medicaid, Medicare, and commercial payers. There is wide variation across services and States and it is not clear how these prices compare for each SDP. Research on prices shows a wide range of outcomes as well. Thus, we have developed low and high scenarios to account for the potential differences in relative prices.

In the low scenario, we assumed Medicaid, Medicare, and the ACR rates are relatively closer together, as shown in Table 15. In the low scenario, we project that Medicaid spending would be reduced by \$408.4 billion over 2026 through 2035 (in real 2026 dollars) under the proposed rule. Federal Medicaid spending would be \$272.1 billion lower, and State Medicaid spending would be \$136.3 billion lower. The annual impacts are shown in Table 22.

TABLE 22: LOW SCENARIO—PROJECTED MEDICAID SPENDING IMPACTS OF LIMITING SDPS UNDER SECTION 71116 OF THE WFTC LEGISLATION BY YEAR (IN BILLIONS OF 2026 DOLLARS)

Fiscal Year	Total Impact	Federal Impact	State Impact
2026	-13.1	-8.7	-4.4
2027	-20.6	-13.6	-7.0
2028	-30.5	-20.3	-10.2
2029	-38.9	-25.9	-13.0
2030	-44.4	-29.6	-14.8
2031	-47.9	-31.9	-16.0
2032	-50.3	-33.6	-16.7
2033	-52.3	-34.9	-17.4
2034	-54.2	-36.1	-18.1
2035	-56.2	-37.5	-18.8

In the high scenario, we assumed Medicaid, Medicare, and the ACR rates are relatively further apart, as shown in Table 12. In the high scenario, we project that Medicaid spending would be reduced by \$989.7 billion over 2026

through 2035 (in real 2026 dollars) under the proposed rule. This includes the impacts to services subject to the payment limits under section 71116 of the WFTC legislation and additional services with limits proposed under this

rule. Federal Medicaid spending would be \$649.7 billion lower, and State Medicaid spending would be \$339.6 billion lower. The annual impacts are shown in Table 23.

TABLE 23: HIGH SCENARIO—PROJECTED MEDICAID SPENDING IMPACTS OF LIMITING SDPS UNDER SECTION 71116 OF THE WFTC LEGISLATION BY YEAR (IN BILLIONS OF 2026 DOLLARS)

Fiscal Year	Total Impact	Federal Impact	State Impact
2026	-19.7	-12.9	-6.8
2027	-32.5	-21.2	-11.3
2028	-54.2	-35.5	-18.7
2029	-75.2	-49.3	-25.9
2030	-95.7	-62.8	-33.0
2031	-113.9	-74.7	-39.2
2032	-129.8	-85.2	-44.5
2033	-144.1	-94.7	-49.4
2034	-156.7	-103.0	-53.7
2035	-167.9	-110.4	-57.5

We welcome comments on these scenarios.

There is significant uncertainty regarding these estimates. First, these estimates rely on the SDP data reported to us by the States. There are limitations to these data and in some cases data may be incomplete or incorrect. As noted previously, we have taken steps to refine the data for this analysis. It is possible that actual SDP spending could be higher or lower than shown here, and the distribution of spending across services may vary. There is also limited

information on prices paid by different payers. Most notably, there is very little public information on what the average commercial reimbursement rates are and how they compare to other payers. To the extent commercial rates are higher or lower relative to Medicare and Medicaid than we have assumed, these estimates may differ from the actual impacts if this proposal is implemented. This specific source of uncertainty is addressed in the range of estimates provided in this section. In addition, SDP spending may grow faster or slower

under current law than we have projected. We welcome any additional comments on these estimates.

b. Fee-for-Service Targeted Medicaid Payments

FFS supplemental payments⁹⁸ for physicians, other practitioners, and NEMT were \$2.64 billion in FY 2024, with the Federal government paying \$1.66 billion and States paying the remaining \$0.98 billion. Table 24 shows these payments by service in FY 2024.

⁹⁸ In this section, we will repeatedly refer to supplemental payments as we did in the

“Background” section of this proposed rule, as this

terminology is used internally related to the data used to populate these estimates.

TABLE 24: MEDICAID FFS BASE PAYMENTS AND SUPPLEMENTAL PAYMENTS FOR SELECTED SERVICES, FY 2024 (IN BILLIONS OF DOLLARS)

Service	Total Base Payment	Total Supplemental Payment	Federal Share Base Payment	Federal Share Supplemental Payment	Non-Federal Share Base Payment	Non-Federal Share Supplemental Payment
Physician	7.90	1.61	5.34	1.04	2.55	0.58
Other Practitioner	2.16	0.95	1.31	0.58	0.85	0.37
NEMT	2.25	0.08	1.54	0.04	0.71	0.03
Total	12.31	2.64	8.19	1.66	4.12	0.98

Table 25 shows our projections of FFS supplemental payments for these services for 2024 through 2035. These

projections are based on forecasted growth of Medicaid FFS spending.

TABLE 25: PROJECTED MEDICAID FEE-FOR-SERVICE SUPPLEMENTAL PAYMENTS FOR SELECTED SERVICES, FY 2024 THROUGH 2035 (IN BILLIONS OF DOLLARS)

Fiscal Year	Total	Federal	State
2024	2.64	1.66	0.98
2025	2.74	1.72	1.01
2026	2.84	1.79	1.05
2027	2.87	1.81	1.06
2028	2.94	1.85	1.09
2029	3.05	1.92	1.13
2030	3.19	2.01	1.18
2031	3.33	2.10	1.23
2032	3.44	2.16	1.27
2033	3.60	2.26	1.33
2034	3.76	2.37	1.39
2035	3.97	2.50	1.47

Estimating the impact of the proposed rule on these FFS supplemental payments is difficult. As with SDPs, it is hard to compare payment rates across payers generally, and even more so for specific services and across States. Similar to the SDP analysis, we have developed a range of estimates with different relative prices between Medicaid, Medicare, and the ACR. Those estimates are presented later in this section. In addition, there is less information about supplemental

payments than SDPs. States do not provide the same level of detail for supplemental payments as they do for SDPs. However, it is worth noting that these supplemental payments are substantially smaller than SDPs.

To estimate the impact of the proposed rule on these supplemental payments, we relied on the analysis we developed for SDPs. We used the percentage change in SDP spending for these services (physicians; other practitioners, which includes

emergency medical transportation and dental services; and NEMT) to develop assumptions for the impact on supplemental payments. We note that we have not assumed that States would offset these reductions by increasing base payments across provider types (but we welcome feedback that would allow for refinement of the quantitative analysis to account for this possibility). Table 26 shows the estimated percentage impacts by service and by scenario (low, medium, and high).

TABLE 26: ASSUMED PERCENTAGE IMPACTS BY SERVICE AND BY SCENARIO ON FFS PAYMENTS

Service	Low Scenario	Medium Scenario	High Scenario
Physician	-9%	-14%	-30%
Other practitioner	-6%	-12%	-20%
NEMT	-5%	-11%	-17%

We believe that these are reasonable assumptions for the impacts on supplemental payments. Actual impacts may vary, as supplemental payments and SDPs may have different base payment rates and final payment rates. In addition, impacts likely would differ across States. We welcome comments on these assumptions and projected impacts.

We multiplied these percentages by supplemental payment spending by service to calculate the annual impact of the proposed rule. We also adjusted the estimates for the expected effective date of the proposed rule. We assumed that the FFS supplemental payment requirements of the proposed rule would go into effect in January 2029 and that these changes would first affect States in July 2029, at the beginning of

most States’ fiscal years. This adjustment reduced the effective impact by 75 percent for fiscal year 2029.

We project that the proposed rule would reduce total computable (Federal plus non-Federal shares) Medicaid spending by \$2.44 billion from 2029 through 2035 (in real 2026 dollars).⁹⁹ The annual impacts are shown in Table 27.

TABLE 27: PROJECTED TOTAL COMPUTABLE MEDICAID SPENDING IMPACT OF LIMITING FEE-FOR-SERVICE SUPPLEMENTAL PAYMENTS FOR SELECT SERVICES TO 100 PERCENT OF MEDICARE PAYMENT RATES BY YEAR (IN BILLIONS OF REAL 2026 DOLLARS)

Fiscal Year	Current Law	Proposed	Impact
2029	2.94	2.84	-0.10
2030	2.95	2.57	-0.39
2031	2.97	2.58	-0.39
2032	2.95	2.56	-0.39
2033	2.97	2.58	-0.39
2034	2.99	2.60	-0.39
2035	3.04	2.64	-0.40
Total	20.80	18.36	-2.44

We project that the proposed rule would reduce Federal Medicaid spending by \$1.54 billion from 2029

through 2035 (in real 2026 dollars). The annual impacts are shown in Table 28.

TABLE 28: PROJECTED FEDERAL MEDICAID SPENDING IMPACT OF LIMITING FEE-FOR-SERVICE SUPPLEMENTAL PAYMENTS FOR SELECT SERVICES TO 100 PERCENT OF MEDICARE PAYMENT RATES BY YEAR (IN BILLIONS OF REAL 2026 DOLLARS)

Fiscal Year	Current Law	Proposed	Impact
2029	1.85	1.79	-0.06
2030	1.86	1.62	-0.24
2031	1.87	1.62	-0.25
2032	1.86	1.61	-0.248
2033	1.87	1.62	-0.25
2034	1.88	1.64	-0.25
2035	1.91	1.66	-0.25
Total	13.10	11.56	-1.54

There are also impacts expected on State Medicaid expenditures. State expenditures would also decrease under the proposed rule, as States make fewer supplemental payments to providers. However, States may finance the non-Federal share of supplemental payments

with provider taxes and IGTs. It is likely that the reduction in net State expenditures (State Medicaid payments minus revenue from provider taxes and IGTs) would be lower than the gross reduction in State Medicaid expenditures.

We project that the proposed rule would reduce State Medicaid spending by \$0.90 billion from 2029 through 2035 (in real 2026 dollars). The annual impacts are shown in Table 29.

⁹⁹In this section, we use real 2026 dollars to align with estimates in other sections and consistency in the calculations in the Regulatory Impact Analysis.

TABLE 29: PROJECTED STATE MEDICAID SPENDING IMPACT OF LIMITING FEE-FOR-SERVICE SUPPLEMENTAL PAYMENTS FOR SELECT SERVICES TO 100 PERCENT OF MEDICARE PAYMENT RATES BY YEAR (IN BILLIONS OF REAL 2026 DOLLARS)

Fiscal Year	Current Law	Proposed	Impact
2029	1.09	1.05	-0.04
2030	1.09	0.95	-0.14
2031	1.10	0.96	-0.14
2032	1.09	0.95	-0.14
2033	1.10	0.96	-0.14
2034	1.11	0.96	-0.14
2035	1.12	0.98	-0.15
Total	7.70	6.80	-0.90

We welcome comments on the projected impacts to the Federal government and States.

Providers would lose revenue as a result of reduced targeted practitioner payments under this proposal. However, as described previously, the net effect on providers may be less than the total quantified impact. To the extent providers may be paying provider taxes or IGTs that are used to support the non-Federal share for supplemental payments, the net change in provider revenue (supplemental payments minus

provider taxes and IGTs) could be significantly less. We are unable to estimate the impacts on providers in more detail. We welcome comments on the impacts to providers.

As we noted previously, a major source of uncertainty is the relative prices paid between Medicaid, Medicare, and commercial payers. There is wide variation across services and States, and it is not clear how these prices compare for each targeted practitioner payment. Research on prices shows a wide range of outcomes

as well. Thus, we have developed low and high scenarios to account for the potential differences in relative prices.

In the low scenario, we project that Medicaid spending would be reduced by \$1.40 billion over 2029 through 2035 (in real 2026 dollars) under the proposed rule. Federal Medicaid spending would be \$0.89 billion lower, and State Medicaid spending would be \$0.51 billion lower. The annual impacts are shown in Table 30.

TABLE 30: LOW SCENARIO—PROJECTED MEDICAID SPENDING IMPACT OF LIMITING SUPPLEMENTAL PAYMENTS TO 100 PERCENT OF MEDICARE PAYMENT RATES BY YEAR (IN BILLIONS OF 2028 DOLLARS)

Fiscal Year	Total Impact	Federal Impact	State Impact
2029	-0.06	-0.04	-0.02
2030	-0.22	-0.14	-0.08
2031	-0.22	-0.14	-0.08
2032	-0.22	-0.14	-0.08
2033	-0.22	-0.14	-0.08
2034	-0.23	-0.14	-0.08
2035	-0.23	-0.15	-0.08
Total	-1.40	-0.89	-0.51

In the high scenario, we project that Medicaid spending would be reduced by \$4.91 billion over 2029 through 2035

(in real 2026 dollars) under the proposed rule. Federal Medicaid spending would be \$3.11 billion lower,

and State Medicaid spending would be \$1.80 billion lower. The annual impacts are shown in Table 31.

TABLE 31: HIGH SCENARIO—PROJECTED MEDICAID SPENDING IMPACT OF LIMITING SUPPLEMENTAL PAYMENTS TO 100 PERCENT OF MEDICARE PAYMENT RATES BY YEAR (IN BILLIONS OF REAL 2026 DOLLARS)

Fiscal Year	Total Impact	Federal Impact	State Impact
2029	-0.19	-0.12	-0.07
2030	-0.78	-0.49	-0.29
2031	-0.78	-0.50	-0.29
2032	-0.78	-0.49	-0.29
2033	-0.78	-0.50	-0.29
2034	-0.79	-0.50	-0.29
2035	-0.80	-0.51	-0.29
Total	-4.91	-3.11	-1.80

We welcome comments on these scenarios.

There is substantial uncertainty regarding these estimates. First, these estimates rely on the supplemental payment data reported to us by the States, and there is limited information in these reports. It is possible that supplemental payments for these services could be higher or lower than shown here, and the distribution of spending across services may vary. There is also limited information on prices across payers. Most notably, there is very little information on average commercial reimbursement rates and how they compare to other payers. To the extent commercial rates are higher or lower relative to Medicare and Medicaid than we have assumed, these estimates may differ from the actual impacts if this proposal is implemented. This source of uncertainty is addressed in the range of estimates provided in this section. In addition, supplemental payments may grow faster or slower under current law than we have projected. We welcome any additional comments on these estimates.

4. Regulatory Review Cost Estimation

If regulations impose administrative costs on private entities, such as the time needed to read and interpret this proposed rule, we should estimate the cost associated with regulatory review. Due to uncertainty in quantifying the number of entities that will review the rule, we assume the following entities will review: State Medicaid Agencies, State governments, managed care plans, and some health care providers. We assume at least 3 people at every State

Medicaid Agency (56) will review and two people in every State and territory government (56), for a total of 280 reviewers. It is more difficult to predict how many individuals in how many managed care plans and providers will review, so we are therefore utilizing our estimate from the 2024 Managed Care final rule of 415 reviewers, for a total of 695. We welcome any comments on the approach in estimating the number of entities which will review this proposed rule. We also recognize that different types of entities are affected differently by the SDP and FFS sections of this proposed rule, we nevertheless assume all reviewers will read the entire rule to confirm applicability and understanding. We seek comments on this assumption.

Using the wage information from the Bureau of Labor Statistics (BLS) for medical and health service managers (Code 11–9111), we estimate that the cost of reviewing this rule is \$132.44 per hour, including overhead and fringe benefits (https://www.bls.gov/oes/current/oes_nat.htm). Assuming an average reading speed, we estimate that it would take approximately 2 hours for staff to review this proposed rule. For each reviewer that reviews the rule, the estimated cost is \$264.88 (2 hours × \$132.44). Therefore, we estimate that the total cost of reviewing this regulation is \$184,091.60 (\$264.88 × 695).

D. Alternatives Considered

1. State Directed Payments (SDPs)

In developing the SDP provisions of this proposed rule, we considered

several alternatives. This subsection provides a description of those alternatives and their estimated impacts, as available.

a. Methodology To Grandfather SDPs

One consideration was how to interpret the text of section 71116(b) of the WFTC legislation (Grandfathering Certain Payments): “. . . beginning with the rating period on or after January 1, 2028, the total amount of such payment shall be reduced by 10 percentage points each year until the total payment rate for such service is equal to the rate for such service specified in subsection (a).” We considered whether to interpret this to mean that the total payment rate, measured as a percentage of the total published Medicare payment rate, would be reduced by 10 percentage points annually (as opposed to the approach proposed in this rule, which reduces 100 percent of the grandfathered total dollar amount by 10 percentage points each year until reaching the limit).

We have estimated the impacts on Medicaid spending under this alternative. In this alternative scenario, we project that Medicaid spending would be reduced by \$757.1 billion over 2026 through 2035 (in real 2026 dollars) under the proposed rule. Federal Medicaid spending would be \$498.1 billion lower, and State Medicaid spending would be \$258.7 billion lower. These impacts include only those on services subject to payment limits under section 71116 of the WFTC legislation. The annual impacts are shown in Table 32.

TABLE 32: ALTERNATIVE SCENARIO 1—PROJECTED MEDICAID SPENDING IMPACTS OF LIMITING SDPS BY UNDER SECTION 71116 OF THE WFTC LEGISLATION BY YEAR (IN BILLIONS OF REAL 2026 DOLLARS)

Fiscal Year	Total Impact	Federal Impact	State Impact
2026	-19.3	-12.7	-6.6
2027	-31.7	-20.8	-10.9
2028	-50.6	-33.1	-17.5
2029	-64.3	-42.1	-22.2
2030	-76.3	-50.1	-26.2
2031	-86.8	-57.0	-29.8
2032	-95.9	-63.1	-32.8
2033	-104.0	-68.6	-35.4
2034	-111.1	-73.3	-37.8
2035	-117.1	-77.3	-39.8

Over 10 years, the impact on Medicaid spending is not projected to be substantially different under this alternative than the proposed approach (\$757 billion and \$774 billion, respectively). However, there are some other more significant differences under this alternative approach. First, while the overall impacts are similar, there may be larger differences between the two approaches for individual States. States with larger SDPs that are currently paid at a higher ratio of Medicare spending would likely see a smaller financial impact under this alternative option. In these cases, the 10-percentage point reduction in the ratio to Medicare would result in a smaller annual reduction in SDPs than the 10-percentage point reduction in the amount. Conversely, States with SDPs that are currently paid at a relatively lower rate compared to Medicare would likely see larger financial impacts over the first few years. Second, if SDPs are currently being paid at higher rates relative to Medicare than we have assumed in our estimates, the difference between the impact of the proposed approach and the alternative approach would be larger than shown here. In general, as the SDP payment rate relative to Medicare increases, the annual change in SDP spending would

be lower under this alternative approach.

Third, under the proposed approach, we expect all SDPs will be reduced to the new limits within 10 years. However, under the alternative approach, we believe that it may not be until as late as 2075 that all SDP would be reduced to the new limits. For SDPs with higher payment rates, it is possible that the grandfathering period could take 40 to 50 years, or potentially longer if the difference between ACR and Medicare is larger than we have assumed.

b. Determination of SDPs Eligible to be Grandfathered

Another option we considered was determining which SDPs were eligible to be grandfathered. Section 71116(b) of the WFTC legislation provides criteria for grandfathering SDPs, “In the case of a payment described in section 438.6(c)(2)(iii) of title 42, Code of Federal Regulations (or a successor regulation) for which written prior approval (or a good faith effort to receive such approval, as determined by the Secretary) was made before May 1, 2025, or a payment described in such section for a rural hospital (as defined in subsection (d)(2)) for which written prior approval (or a good faith effort to

receive such approval, as determined by the Secretary) was made by the date of enactment of this Act, *for the rating period occurring within 180 days of the date of the enactment of this Act . . .*” (emphasis added). We have proposed interpreting this condition as 180 business days. However, we also considered whether to interpret this as 180 calendar days. If we were to use this alternative approach, we believe that at least eight additional SDPs would not qualify for the temporary grandfathering period (four new SDPs, and four renewals or amendments).

We have estimated the impacts on Medicaid spending under this alternative. In this alternative scenario, we project that Medicaid spending would be reduced by \$778.7 billion over 2026 through 2035 (in real 2026 dollars) under the proposed rule. Federal Medicaid spending would be \$514.2 billion lower, and State Medicaid spending would be \$264.4 billion lower. These impacts include only those on services subject to payment limits under section 71116 of the WFTC legislation. Overall, we estimate that this alternative would reduce Medicaid spending over the next 10 years by \$3.9 billion as compared to the proposed policy. The annual impacts are shown in Table 33.

**TABLE 33: ALTERNATIVE SCENARIO 2—PROJECTED MEDICAID SPENDING
IMPACTS OF LIMITING SDPS BY UNDER SECTION 71116 OF THE WFTC
LEGISLATION BY YEAR (IN BILLIONS OF REAL 2026 DOLLARS)**

Fiscal Year	Total Impact	Federal Impact	State Impact
2026	-19.0	-12.5	-6.4
2027	-31.1	-20.4	-10.5
2028	-48.6	-32.0	-16.5
2029	-64.2	-42.3	-21.9
2030	-78.5	-51.9	-26.8
2031	-90.6	-59.8	-30.8
2032	-100.7	-66.5	-34.2
2033	-108.7	-71.9	-36.9
2034	-115.7	-76.5	-39.3
2035	-121.6	-80.4	-41.1

Under this alternative, the Medicaid spending reductions would be somewhat larger than under the proposed approach, given that several SDPs would not be eligible to be grandfathered.

2. FFS Provisions

In developing the FFS provisions of this proposed rule, we considered multiple alternatives. We considered, but did not propose, applying the targeted Medicaid practitioner payments limit to only physicians. Based on our experience reviewing SPAs and analyzing State expenditures, limiting only targeted Medicaid physician payments would address a large portion of targeted Medicaid payments. However, as previously described, our goal is to avoid a situation where unrestricted use of targeted practitioner payments continues under other practitioner types and when new practitioner types are authorized in statute under the Medicaid program, counter to the intent of this proposed rule.

We considered, but did not propose, limiting the targeted Medicaid payments to the Medicare equivalent of the ACR. Again, based on our experience reviewing SPAs, we have seen significant increases in the percentage of Medicare applied to practitioner payments since first approving ACR-based payments in the 2000s. We did not propose this because this policy would not address perpetual issues with the proprietary nature of commercial data as well as a continued burden on

States to keep submitting demonstrations to CMS on a triennial basis.

We considered, but did not propose, establishing an aggregate limit (still tied to Medicare) on providers' Medicaid payments or a provider-level limit for Medicaid payments. This policy would create significant burden on States to develop UPL-like demonstrations for all Medicaid service payments, beyond the services currently subject to UPLs. Additionally, Medicaid has a number of unique services that Medicare does not cover or pay for; therefore, establishing a reasonable Medicare equivalent would not be possible for all services. However, we could have included a similar procedure to the one proposed under § 447.381(d), if we had proposed this alternative policy.

We considered, but did not propose, adding a demonstration requirement to the current proposal. However, due to the nature of the limit itself, we felt that the existing demonstration requirement for payments up to the ACR, or the Medicare equivalent of ACR, was no longer necessary.

We considered, but did not propose, that when a practitioner's or provider's payments (1) have no reasonable Medicare equivalent rate or (2) are reconciled to cost, total payments made to a practitioner or provider may not exceed 200 percent of the total fee-for-service base payments authorized under the State plan. We invite comments on this alternative benchmark or other potential approaches.

Finally, we also considered, but did not propose, excluding payment rates

that are uniform for a geographic region from paragraph (b), in which case they would fall within the scope of paragraph (c). In this instance the proposed limits in paragraph (c) would apply. We invite comments on this alternative policy or other potential approaches for these payments.

E. Accounting Statement and Table

Consistent with OMB Circular A-4 (available at <https://www.whitehouse.gov/wp-content/uploads/2025/08/CircularA-4.pdf>), we have prepared an accounting statement in Table 34 showing the classification of the impact associated with the provisions of this rule. In the case of SDPs, we categorize these as transfers from the Federal government and States to health care providers and other relevant individuals (such as beneficiaries) and entities (such as State or local jurisdictions that reimburse providers for uncompensated care).

This provides our best estimates of the transfer payments outlined in the "Section C. Detailed Economic Analysis." We present our best (or primary) estimate, as well as estimates for the low and high end of the ranges in this section. This range accounts for potential differences in relative prices paid by Medicaid, Medicare, and commercial payers and the variations across different services and States.

These impacts are discounted at 7 percent and 3 percent, respectively, as reflected in Table 34.

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TABLE 34: ACCOUNTING STATEMENT (in Millions of Real 2026 Dollars)

Benefits						
Non-Quantified	The proposed rule is expected to increase fiscal integrity and transparency of the Medicaid program. The proposed rule is also expected to reduce Federal administrative costs and burdens.					
Paperwork reduction cost-savings: § 438.6(c)(SDPs) § 447.381 (UPL)	The proposed rule is expected to reduce State administrative costs and burdens by removing the requirements for States to develop ACR demonstrations and prior written approval for a number of SDP types and for a number of FFS payments.					
Costs						
Non-Quantified	The proposed rule is expected to lead to costs for States, providers, and managed care plans in renegotiating contracts. The proposed rule could lead to some adverse impacts on some providers and beneficiaries.					
Regulatory Review Costs	0.1841					
Paperwork Costs or Savings	-0.159467					
Transfers						
Annual Monetized Transfers	Primary Estimate	Low Estimate	High Estimate	Units		
From Federal government to Providers and others	-46,655	-25,186	-58,254	Year Dollars	Discount Rate	Period Covered
	-49,159	-26,171	-61,760	2026	7%	2026-2035
From States to Providers and others	-24,210	-12,623	-30,442	2026	3%	2026-2035
	-25,496	-13,113	-32,268	2026	7%	2026-2035
					3%	2026-2035

These transfers represent reductions in payments to providers and other individuals and entities (such as State or local jurisdictions that reimburse providers for uncompensated care) from the Federal government and the States. The majority of these projected reductions would be for hospitals, with some reductions for AMCs and nursing facilities, and smaller reductions for other provider types, including physicians.

F. Regulatory Flexibility Act (RFA)

The RFA requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities. Individuals and States are not included in the definition of a small entity. The entities this proposed rule would regulate, if finalized, are State governments, and therefore this proposed rule, if finalized, will not have a significant economic impact on a substantial number of small businesses or other small entities.

Furthermore, because the policy operates at the State level and SDPs are ultimately optional for States to implement, we do not have data that would allow us to reliably attribute or disaggregate these impacts to specific provider types or to small entities as defined by SBA size standards (for example, by NAICS codes or employer status). In addition, any effects on providers would be indirect and mediated through State-level policy. For these reasons, we cannot estimate impacts across disaggregated small entity sizes and apply thresholds for “significant impact” and “substantial number” at the small entity level. We also cannot estimate how managed care plan market negotiations with providers may ameliorate the impact of this rule. Nevertheless, we have considered the potential for indirect effects on providers, including small entities, to the extent feasible using available data, and these effects are reflected in the RIA, section IV of this proposed rule. We welcome any information from the public that could help us better assess potential downstream effects on small entities.

G. Unfunded Mandates Reform Act (UMRA)

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. In 2026, that

threshold is approximately \$193 million.

H. Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it issues a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This proposed rule would not impose substantial direct requirement costs on State and local governments, preempt State law, or otherwise have Federalism implications.

I. Executive Order 14192, “Unleashing Prosperity Through Deregulation”

Executive Order 14192, entitled “Unleashing Prosperity Through Deregulation” was issued on January 31, 2025, and requires that “any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.” This proposed rule, if finalized as proposed, is expected to be exempt from otherwise-applicable requirements of Executive Order 14192, per footnote 1 of OMB’s Accounting Methods.¹⁰⁰ We estimate that this proposed rule would generate \$0.13 million in annualized cost savings at a 7 percent discount rate relative to year 2024, over a perpetual time horizon.

V. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

Mehmet Oz, Administrator of the Centers for Medicare & Medicaid Services, approved this document on May 15, 2026.

List of Subjects

42 CFR Part 447

Citizenship and naturalization, Civil rights, Grant programs—health, Individuals with disabilities, Medicaid, Reporting and recordkeeping requirements, Sex discrimination.

¹⁰⁰ https://www.reginfo.gov/public/pdf/eo14192/Accounting_Methods_under_EO_14192.pdf.

42 CFR Part 447

Accounting, Administrative practice and procedure, Drugs, Grant programs—health, Health facilities, Health professions, Medicaid, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services proposes to amend 42 CFR parts 438 and 447 as set forth below:

PART 438—MANAGED CARE

■ 1. The authority citation for part 438 continues to read as follows:

Authority: 42 U.S.C. 1302.

■ 2. Section 438.2 is amended by adding the definition of “Business day” to read as follows:

§ 438.2 Definitions

* * * * *

Business day means Monday through Friday, excluding the Federal holidays as determined under 5 U.S.C. 6103.

* * * * *

■ 3. Section 438.6 is amended—

■ a. In paragraph (a) by adding the definitions for “Completed preprint”, “Expansion State”, “Grandfathered State directed payment”, “Grandfathered total dollar amount”, “Non-Expansion State”, “Payment limit”, “Preprint”, “State”, and “State plan approved rates” in alphabetical order; and

■ b. By revising paragraphs (c)(1)(iii)(A), (B), (c)(2)(i), (ii)(A) and (I), (iii) (c)(3)(ii), introductory text in paragraphs (c)(5)(iii)(A) through E and (8); and

■ c. By adding paragraphs (c)(9) and (10).

The additions and revisions read as follows:

§ 438.6 Special contract provisions related to payment.

(a) * * *

* * * * *

Completed preprint means a State directed payment preprint with all relevant sections of the preprint filled out, and all information provided only in the fillable sections of the preprint and the published addendum tables, as applicable.

* * * * *

Expansion State means a State that has elected to provide medical assistance to all individuals described in section 1902(a)(10)(A)(i)(VIII) of the Act under a State plan under title XIX of the Act or under a waiver of the plan that provides minimum essential coverage as defined in section

5000A(f)(1)(A) of the Internal Revenue Code of 1986.

* * * * *

Grandfathered State directed payment means a State directed payment for inpatient hospital services, outpatient hospital services, nursing facility services, or qualified practitioner services at academic medical centers that meets all of the following:

(1) Receives written prior approval under paragraph (c)(2)(i) of this section.

(2) Is for a rating period that includes at least 1 business day between—

(i) October 11, 2024 and July 3, 2025; or

(ii) July 5, 2025 and March 27, 2026.

(3) Was described in a completed preprint with an eligible rating period and documented total dollar amount that was submitted to CMS on or before July 4, 2025.

(4) Exceeds the payment limit set forth in paragraph (c)(8) of this section.

Grandfathered total dollar amount means the total dollar amount approved by CMS for a Grandfathered State directed payment. When preprint submissions of the same State directed payment for different rating periods meet the definition of a Grandfathered State directed payment, the highest total dollar amount approved by CMS is the Grandfathered total dollar amount for that State directed payment.

* * * * *

Non-Expansion State means a State that does not meet the definition of Expansion State as specified in paragraph (a) of this section.

* * * * *

Payment limit means—

(1) As applicable, one of the following:

(i) 100 percent of the total published Medicare payment rate for an Expansion State.

(ii) 110 percent of the total published Medicare payment rate for a Non-Expansion State.

(iii) Only in instances when there is no total published Medicare payment rate for the covered service, 100 percent of the State plan approved rate.

* * * * *

Preprint means the template published by CMS for use by States to request written prior approval of a State directed payment.

* * * * *

State as used in paragraph (c)(8)(ii) of this section only, and only until the first rating period beginning on or after January 1, 2029, means the Single State Agency of 1 of the 50 States or the District of Columbia. At other times and for other purposes in this section, unless otherwise specified, *State* has the

meaning given the term in § 438.2 of this part.

State plan approved rates means amounts calculated for specific services identifiable as having been provided to an individual beneficiary described under rate methodologies in the Medicaid State plan approved by CMS before the start of the rating period. Supplemental payments contained in a State plan are not, and do not constitute, State plan approved rates.

* * * * *

(c) * * *

(1) * * *

(iii) * * *

(A) For rating periods beginning on or after July 9, 2024 and before January 1, 2028:

(1) Adopt a minimum fee schedule for providers that provide a particular service under the contract using State plan approved rates.

(2) Adopt a minimum fee schedule for providers that provide a particular service under the contract using a total published Medicare payment rate that was in effect no more than 3 years prior to the start of the rating period and the minimum fee schedule is equivalent to 100 percent of the total published Medicare payment rate.

(3) Adopt a minimum fee schedule for providers that provide a particular service under the contract using rates other than the State plan approved rates or one or more total published Medicare payment rate described in paragraph (c)(1)(iii)(A)(2) of this section.

(4) Provide a uniform dollar or percentage increase for providers that provide a particular service under the contract.

(5) Adopt a maximum fee schedule for providers that provide a particular service under the contract, so long as the MCO, PIHP, or PAHP retains the ability to reasonably manage risk and has discretion in accomplishing the goals of the contract.

(B) For rating periods beginning on or after January 1, 2028, adopt one or both of the following:

(1) A minimum fee schedule for providers that provide a particular service under the contract and the minimum fee schedule is no greater than the payment limit.

(2) A maximum fee schedule for providers that provide a particular service under the contract and the maximum fee schedule is no greater than the payment limit, so long as the MCO, PIHP, or PAHP retains the ability to reasonably manage risk and has discretion in accomplishing the goals of the contract without exceeding the payment limit.

* * * * *

(2) * * *

(i) State directed payments specified in paragraphs (c)(1)(i) and (ii), (c)(1)(iii)(A)(3) through (5) of this section must be submitted to CMS using a preprint and have written prior approval that the standards and requirements in this section are met.

(ii) * * *

(A) Be based only on the utilization and delivery of services furnished by a provider that provides a particular service under the contract;

* * * * *

(I) Not exceed the payment limit set forth in paragraph (c)(8) of this section; and

* * * * *

(iii) Grandfathered State directed payments are eligible to delay compliance with the payment limit set forth in paragraph (c)(8) of this section. The following is applicable to all Grandfathered State directed payments:

(A) For each rating period beginning on or after July 4, 2025 and before January 1, 2028, renewals of or amendments to a Grandfathered State directed payment may not exceed the Grandfathered total dollar amount.

(B) For each rating period beginning on or after January 1, 2028, the State must decrease 100 percent of the Grandfathered total dollar amount by at least 10 percentage points annually, until the payment limit in paragraph (c)(8) of this section is met.

(C) The total payment rate for State directed payments in paragraphs (c)(2)(iii)(A) and (B) of this section must not exceed the average commercial rate. States must submit all of the following for each Grandfathered State directed payment until the first rating period beginning on or after January 1, 2029:

(1) The average commercial rate demonstration, for which States must use payment data that meets all of the following:

(i) Is specific to the State.

(ii) Is no older than from the 3 most recent and complete years prior to first rating period beginning on or after July 9, 2024.

(iii) Is specific to each service(s) addressed by the State directed payment.

(iv) Includes the total reimbursement by the third-party payer and any patient liability, such as cost sharing and deductibles.

(v) Excludes payments to FQHCs, RHCs, and from any non-commercial payers, such as Medicare.

(vi) Excludes any payment data for services or codes that the applicable Medicaid MCOs, PIHPs, or PAHPs do not cover.

(2) A total payment rate comparison, for which States must provide a comparison of the total payment rate for these services included in the State directed payment to the average commercial rate that meets all of the following:

(i) Is specific to each managed care program that the State directed payment applies.

(ii) Is specific to each provider class to which the State directed payment applies.

(iii) Is projected for the rating period for which the State is seeking approval of the State directed payment under paragraph (c)(2)(i) of this section.

(iv) Uses payment data that are specific to each service included in the State directed payment.

(v) Describes each of the components of the total payment rate as a percentage of the average commercial rate (demonstrated by the State as provided in paragraph (c)(2)(iii)(C)(1) of this section) for each of the services included in the State directed payment.

(3)(i) The ACR demonstration described in paragraph (c)(2)(iii)(C)(1) of this section must be included with the initial documentation submitted for written prior approval of the State directed payment under paragraph (c)(2)(i) of this section, and then subsequently updated at least once every 3 years thereafter until the payment limit set forth in paragraph (c)(8) of this section is met.

(ii) The total payment rate comparison described in paragraph (c)(2)(iii)(C)(2) of this section must be included with the documentation submitted for written prior approval under paragraph (c)(2)(i) of this section and updated with each amendment and subsequent renewal.

(D) Beginning with the first rating period on or after January 1, 2027, the State must annually submit in the form and manner prescribed by CMS for each Grandfathered State directed payment a total payment rate comparison, certified by an actuary, for services included in the State directed payment as a percentage of the most recent total published Medicare payment rate, or State plan approved rate only when no total published Medicare payment rate exists for the covered service. This total payment rate comparison must be submitted until the first rating period the payment limit in paragraph (c)(8) of this section is met.

(E) The State may require the MCO, PIHP or PAHP to provide a uniform dollar or percentage increase for providers that provide a particular service under the contract until the first rating period the payment limit in paragraph (c)(8) of this section is met.

Once the payment limit is met, the State must comply with paragraph (c)(1)(iii) of this section.

(F) The State may delay compliance with paragraphs (c)(2)(viii) and (c)(6) of this section until the first rating period the payment limit is met.

* * * * *

(3) * * *

(ii) Written prior approval of a State directed payment adopting a minimum fee schedule, uniform increase, or maximum fee schedule described in paragraph (c)(1)(iii) of this section is for one rating period.

* * * * *

(5) * * *

(iii) * * *

(A) For State directed payments adopting a minimum fee schedule described in paragraph (c)(1)(iii)(A)(1), (2), and (3) or (c)(1)(iii)(B)(1) of this section:

* * * * *

(B) For State directed payments providing a uniform increase described in paragraph (c)(1)(iii)(A)(4) of this section:

* * * * *

(C) For State directed payments adopting a maximum fee schedule described in paragraph (c)(1)(iii)(A)(5) or (B)(2) of this section:

* * * * *

(D) For State directed payments implementing value-based purchasing models or participating in a multipayer or Medicaid-specific delivery system reform or performance improvement initiative described in paragraph (c)(1)(i) and (ii) of this section that condition payment based upon performance:

* * * * *

(E) For State directed payments implementing value-based purchasing models or participating in a multipayer or Medicaid-specific delivery system reform or performance improvement initiative described in paragraph (c)(1)(i) and (ii) of this section using a population-based or condition-based payment as defined in paragraph (a) of this section:

* * * * *

(8) *Payment limits.* For rating periods beginning as follows—

(i) On or after July 9, 2024 until the first rating period beginning on or after January 1, 2029, a State as defined in § 438.2 of this part must:

(A) Ensure that the total payment rate for each service and provider class included in the State directed payment must be reasonable, appropriate, and attainable; and

(B) Upon request from CMS, the State must provide documentation

demonstrating the total payment rate for each service and provider class.

(ii) On or after July 4, 2025, a State as defined in § 438.6(a) of this part may not exceed the payment limit for each inpatient hospital service, outpatient hospital service, qualified practitioner service at an academic medical center, or nursing facility service covered under a State directed payment described in paragraph (c)(2)(i) of this section. To demonstrate compliance with the payment limit, the State must submit all of the following:

(A)(1) A list of all providers eligible for the State directed payment and their National Provider Identifiers, the total published Medicare payment rate or State plan approved rate (when no total published Medicare payment rate exists for the covered service) that serves as the basis of the payment limit for each service covered under the State directed payment; and

(2) A detailed description of how the State will ensure that payment to each provider for each furnished service does not exceed the payment limit.

(B) For State directed payments described in paragraphs (c)(1)(i) and (ii) of this section, a detailed validation methodology that the State will implement to ensure that payment under such SDPs does not exceed the payment limit on a per service basis.

(C) Any additional documentation requested by CMS to demonstrate compliance with the limit.

(iii) On or after January 1, 2029, a State as defined in § 438.2 of this part must not exceed the payment limit for each service covered under a State directed payment. To demonstrate compliance with the payment limit, upon request from CMS, the State must submit all of the following:

(A)(1) A list of all providers eligible for the State directed payment and their National Provider Identifiers, the total published Medicare payment rate or State plan approved rate (when no total published Medicare payment rate exists for the covered service) that serves as the basis of the payment limit for each service covered under the State directed payment; and

(2) A detailed description of how the State will ensure that payment to each provider for each furnished service does not exceed the payment limit.

(B) For State directed payments described in paragraphs (c)(1)(i) and (ii) of this section, a detailed validation methodology to ensure that payment under the SDPs does not exceed the payment limit on a per service basis.

(C) Any additional documentation requested by CMS to demonstrate compliance with the limit.

(9) *Provision of additional guidance.* CMS issues guidance, as needed, including all of the following:

(i) Federal requirements and standards for the State directed payment.

(ii) The documentation required to determine that the State directed payment has been developed in accordance with the requirements of this part.

(iii) Any considerations for applicability of the payment limit.

(iv) The documentation required to demonstrate compliance with the payment limit.

(v) Any updates or developments in the State directed payment review process to facilitate prompt CMS review.

(vi) Any considerations for state monitoring, oversight, and evaluation of the State directed payment.

(10) *Applicability dates.* States must comply with the specified requirements in accordance with the applicability dates as follows:

(i) Paragraph (a), except for the definition of “State plan approved rates,” and paragraphs (c)(1), (c)(1)(iii), (c)(2)(i), (c)(2)(ii)(A) through (C), (c)(2)(ii)(E), (c)(2)(ii)(G), (c)(2)(ii)(I) and (J), (c)(2)(vi)(A), and (c)(3) of this section as contained in 42 CFR part 438, applicable beginning on July 9, 2024.

(ii) Paragraphs (c)(2)(iii), (c)(2)(vi)(B), and (c)(2)(vi)(C)(1) and (2) of this section no later than the first rating period for contracts with MCOs, PIHPs and PAHPs beginning on or after July 9, 2024.

(iii) Paragraphs (c)(2)(vi)(C)(3) and (4), (c)(2)(viii), and (c)(5)(i) through (iv) of this section no later than the first rating period for contracts with MCOs, PIHPs, and PAHPs beginning on or after 2 years after July 9, 2024.

(iv) Paragraphs (c)(2)(ii)(D) and (F), (c)(2)(iv), (c)(2)(v), (c)(2)(vii), (c)(6), and (c)(7) of this section no later than the first rating period for contracts with MCOs, PIHPs, and PAHPs beginning on or after 3 years after July 9, 2024.

(v) Paragraph (c)(5)(v) of this section no later than the first rating period for contracts with MCOs, PIHPs, and PAHPs beginning on or after 4 years after July 9, 2024.

(vi) Paragraph (c)(4) of this section no later than the date specified in the T-MSIS reporting instructions released by CMS.

(vii) Notwithstanding paragraph (c)(10)(i) of this section, State plan

approved rates as defined in paragraphs (a) and (c)(2)(ii)(H) of this section no later than the first rating period for contracts with MCOs, PIHPs, and PAHPs beginning on or after January 1, 2028.

* * * * *

PART 447—PAYMENTS FOR SERVICES

■ 3. The authority citation for part 447 is revised to read as follows:

Authority: 42 U.S.C. 1302.

■ 4. Section 447.381 is added to read as follows:

§ 447.381 Targeted Medicaid payment limit.

(a) *General.* This section establishes a Medicaid practitioner or provider-specific limit for the total Medicaid fee-for-service payment authorized under the State plan or waiver in instances where all or a portion of the payment is targeted to a subset of participating practitioners or providers furnishing the applicable Medicaid-covered services.

(b) *Scope.* The limit in paragraph (c) of this section does not apply if either of the following applies:

(1) A State's Medicaid fee-for-service payment methodologies for Medicaid-covered services not described in paragraph (b)(2) of this section are uniform for all Medicaid practitioners or providers furnishing the applicable Medicaid-covered services within the State, or within a geographic region of the State (that is, county, parish, borough, or municipality) that is referenced under a payment methodology specified in the State plan.

(2) The Medicaid practitioner's or provider's total Medicaid fee-for-service payment for a Medicaid-covered service is already subject to a payment limit under §§ 447.271, 447.272, 447.321, or 447.325, and sections 1903(i)(7) or 1903(i)(27) of the Act, but only to the extent that the practitioner's or provider's total payments are subject to such other limit.

(c) *Targeted Medicaid payment limit.* A State's Medicaid State plan fee-for-service payment methodology must specify that, except as provided in paragraph (b) of this section, total Medicaid payments made to a Medicaid practitioner or provider for a Medicaid-covered service may not exceed the percentages, listed in paragraphs (c)(1) and (2) of this section, of the Medicare

fee-for-service payment rate that would be paid to the practitioner or provider for the service if it were paid under the applicable Medicare payment rates established under Parts A and B of Title XVIII of the Act effective for the FFY or CY, as applicable, that corresponds to the State plan rate year. For this purpose, the State plan rate year is the first State plan rate year that begins during the FFY or CY in which the Medicare payment rate is in effect. For Medicaid payment rates subject to a statutory requirement for a particular payment rate or methodology, the limit under this paragraph may not be less than the required Medicaid payment rate or the rate calculated under the required methodology.

(1) For an Expansion State as defined in § 438.6(a), 100 percent.

(2) For a Non-expansion State as defined in § 438.6(a), 110 percent.

(d) *Exceptions.* In either of the following instances, the limit described in paragraph (c) of this section does not apply. Upon request, the State must explain and provide supporting information in the form and manner specified by CMS sufficient to demonstrate that the payments are consistent with section 1902(a)(30)(A) of the Act:

(1) If there is no reasonable Medicare equivalent payment rate.

(2) If payments are reconciled to a practitioner's or provider's actual, incurred cost.

(e) *Transition period.* States with approved State plan payments that exceed the limit under paragraph (c) of this section to which an exception in paragraph (d) of this section does not apply must submit a State plan amendment to remove these payments or update them to comply with the limit in paragraph (c) of this section, with an effective date no later than the start of the first State fiscal year that begins on or after January 1, 2029.

(f) *Compliance with the targeted Medicaid payment limit.* (1) For States that fail to comply with the requirements of this section, future grant awards may be reduced under the procedures set forth at 42 CFR part 430, subparts C and D by the amount of FFP that CMS estimates is attributable to the portion of payments that exceed the limit established in paragraph (c) of this section.

(2) State plan amendments that propose to exceed the limit under paragraph (c) of this section, to which an exception in paragraph (d) of this section does not apply, are subject to State plan amendment disapproval

under § 430.15(c) of this chapter, as would State plan amendments for payments to which an exception in paragraph (d) of this section does apply, and for which a State does not furnish the information requested by CMS to

determine the payment is economic and efficient.

Robert F. Kennedy, Jr.,
Secretary, Department of Health and Human Services.

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Part III

The President

Proclamation 11030—To Implement Certain Provisions in the Consolidated Appropriations Act, 2026, and for Other Purposes

Executive Order 14405—Integrating Financial Technology Innovation Into Regulatory Frameworks

Executive Order 14406—Restoring Integrity to America's Financial System

Presidential Documents

Title 3—

Proclamation 11030 of May 19, 2026

The President

To Implement Certain Provisions in the Consolidated Appropriations Act, 2026, and for Other Purposes

By the President of the United States of America

A Proclamation

1. Section 5019(a)(1)(A) of the Consolidated Appropriations Act, 2026 (Public Law 119–75), amended section 506B of the Trade Act of 1974 (the “Trade Act”) (19 U.S.C. 2466b), as amended, and section 5019(a)(1)(B)(i) of the Consolidated Appropriations Act, 2026, amended section 112(g) of the African Growth and Opportunity Act (the “AGOA”) (19 U.S.C. 3721(g)), to provide that in the case of a beneficiary sub-Saharan African country, duty-free treatment provided under title V of the Trade Act shall remain in effect through December 31, 2026.

2. Section 5019(a)(1)(B)(ii) of the Consolidated Appropriations Act, 2026, amended section 112(b)(3)(A) of the AGOA (19 U.S.C. 3721(b)(3)(A)) to extend the regional apparel article program through December 31, 2026. Section 5019(a)(1)(B)(iii) of the Consolidated Appropriations Act, 2026, amended section 112(c)(1) of the AGOA (19 U.S.C. 3721(c)(1)) to extend the third-country fabric program through December 31, 2026.

3. Section 506A(a)(1) of the Trade Act, as added by section 111(a) of the AGOA (title I of Public Law 106–200, 114 Stat. 251, 257–58) (19 U.S.C. 2466a(a)(1)), authorizes the President to designate a country listed in section 107 of the AGOA (19 U.S.C. 3706) as a “beneficiary sub-Saharan African country” if the President determines that the country meets the eligibility requirements set forth in section 104 of the AGOA (19 U.S.C. 3703), as well as the eligibility criteria set forth in section 502 of the Trade Act (19 U.S.C. 2462). Section 506A(a)(3) of the Trade Act authorizes the President to terminate the designation of a country as a “beneficiary sub-Saharan African country” if the country is not making continual progress in meeting the eligibility requirements set forth in section 104 of the AGOA (19 U.S.C. 3703), as well as the eligibility criteria set forth in section 502 of the Trade Act (19 U.S.C. 2462).

4. In Proclamation 10692 of December 29, 2023 (To Take Certain Actions Under the African Growth and Opportunity Act and for Other Purposes), the President determined that the Gabonese Republic (Gabon) was not making continual progress in meeting the requirements described in section 506A(a)(1) of the Trade Act. Thus, pursuant to section 506A(a)(3) of the Trade Act (19 U.S.C. 2466a(a)(3)), the President terminated the designation of Gabon as a beneficiary sub-Saharan African country for purposes of section 506A(a)(1) of the Trade Act.

5. Pursuant to section 506A(a)(1) of the Trade Act, based on actions the Government of Gabon has taken, I have determined that Gabon meets the eligibility requirements set forth in section 104 of the AGOA and the eligibility criteria set forth in section 502 of the Trade Act, and I have decided to designate Gabon as a beneficiary sub-Saharan African country.

6. Section 5020(a)(1)(A)(i) of the Consolidated Appropriations Act, 2026, amended section 213A(b)(1)(B)(v)(I) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703a(b)(1)(B)(v)(I)) (the “CBERA”) to change applicable percentage limits of the Haiti Economic Lift Program. Section 5020(a)(1)(A)(ii)

of the Consolidated Appropriations Act, 2026, amended section 213A(b)(1)(C) of the CBERA (19 U.S.C. 2703a(b)(1)(C)) to extend preferential treatment during each period after the initial applicable 1-year period to not more than 1.25 percent of the aggregate square meter equivalents of all apparel articles imported into the United States in the most recent 12-month period for which data are available. Section 5020(a)(2) of the Consolidated Appropriations Act, 2026, amended section 213A(h) of the CBERA (19 U.S.C. 2703a(h)) to extend duty-free treatment provided to Haiti through December 31, 2026.

7. Section 604 of the Trade Act (19 U.S.C. 2483), as amended, authorizes the President to embody in the Harmonized Tariff Schedule of the United States (HTSUS) the substance of statutes affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by the authority vested in me by the Constitution and the laws of the United States, including sections 506A(a)(1) and 506B of the Trade Act, sections 112(b)(3)(A), (c)(1), and (g) of the AGOA, sections 213A(b)(1) and (h) of the CBERA, and section 604 of the Trade Act, do hereby further proclaim as follows:

(1) To provide that duty-free treatment provided under the AGOA shall be effective through December 31, 2026, general note 16(c) of the HTSUS is modified as set forth in Annex I to this proclamation.

(2) To provide that the AGOA regional apparel article program and third-country fabric program are effective through December 31, 2026, U.S. Note 2(b), subchapter XIX, chapter 98 of the HTSUS is modified as set forth in Annex I to this proclamation.

(3) In Proclamation 8157 of June 28, 2007 (To Modify Duty-Free Treatment Under the Generalized System of Preferences, Take Certain Actions Under the African Growth and Opportunity Act, and for Other Purposes), the President modified U.S. Note 2(b), subchapter XIX to chapter 98 of the HTSUS by inserting “through October 1, 2011,”. Public Law 112–163 amended the AGOA to extend the third-country fabric program to September 30, 2015, but the President did not make a conforming change by modifying “through October 1, 2011,” in the HTSUS. The Trade Preferences Extension Act of 2015 (Public Law 114–27) extended the AGOA program to “September 30, 2025,” but Proclamation 9466 of June 30, 2016 (To Implement the World Trade Organization Declaration on the Expansion of Trade in Information Technology Products and for Other Purposes), did not make a conforming change by modifying “through October 1, 2011,” in the HTSUS. To make this technical correction, U.S. Note 2(b), subchapter XIX to chapter 98 of the HTSUS is modified as set forth in Annex II to this proclamation.

(4) To reflect the designation of Gabon as a beneficiary sub-Saharan African country for purposes of the AGOA and section 506A of the Trade Act, effective January 1, 2026, general note 16(a) of the HTSUS is modified as set forth in Annex I to this proclamation.

(5) To provide that the tariff treatment and applicable percentage limits to Haiti intended under section 213A of the CBERA are effective through December 31, 2026, subdivisions (f)(i) and (g)(i) of U.S. Note 6 to subchapter XX, chapter 98 of the HTSUS are modified as set forth in Annex III to this proclamation.

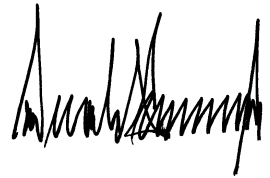
(6) Each executive department and agency (agency) is authorized to and shall take all appropriate measures within its authority to implement this proclamation. The head of each agency may, consistent with applicable law, including section 301 of title 3, United States Code, redelegate any of these functions within their respective agency.

(7) The United States Trade Representative, in consultation with U.S. Customs and Border Protection and the United States International Trade

Commission, shall determine whether any additional modifications to the HTSUS are necessary to effectuate this proclamation and shall make such modifications to the HTSUS through notice in the *Federal Register*, including any technical correction to the Annexes to this proclamation.

(8) Any provision of previous proclamations and Executive Orders that is inconsistent with the actions taken in this proclamation is superseded to the extent of such inconsistency. If any provision of this proclamation or the application of any provision to any individual or circumstance is held to be invalid, the remainder of this proclamation and the application of its provisions to any other individuals or circumstances shall not be affected.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth 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.

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

ANNEX I

MODIFICATIONS TO
THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

Effective with respect to articles entered or withdrawn from warehouse for consumption, on or after the dates set forth in the provisions below, the Harmonized Tariff Schedule of the United States (HTSUS) is modified as set forth herein:

1. Effective with respect to articles entered or withdrawn from warehouse for consumption, on or after October 1, 2025:
 - a. general note 16(c) of the HTSUS is modified by deleting “September 30, 2025” and inserting “December 31, 2026” in lieu thereof.
 - b. U.S. note 2(b) to subchapter XIX of chapter 98 of the HTSUS is modified by deleting “September 30, 2025” in each place that it appears and inserting “December 31, 2026” in lieu thereof.
 - c. the article description of heading 9819.11.12 of the HTSUS is modified by deleting “September 30, 2025” and inserting “December 31, 2026” in lieu thereof.
2. Effective with respect to articles entered or withdrawn from warehouse for consumption, on or after January 1, 2026, general note 16(a) of the HTSUS is modified by inserting in alphabetical sequence in the list of beneficiary sub-Saharan African countries “Gabonese Republic”.

ANNEX II

TO MAKE TECHNICAL AND CONFORMING CHANGES TO
THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

Effective with respect to limits for apparel articles from a lesser developed beneficiary sub-Saharan African country on or after October 1, 2025, the HTSUS is modified as set forth herein:

1. Effective with respect to the limits for apparel articles from a lesser developed beneficiary sub-Saharan African country described in and entered under subheading 9819.11.09, U.S. note 2(b) to subchapter XIX of chapter 98 of the HTSUS is modified by deleting the phrase “through October 1, 2011,”.

ANNEX III
MODIFICATIONS TO
THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

Effective with respect to articles entered or withdrawn from warehouse for consumption, on or after December 20, 2025, the Harmonized Tariff Schedule of the United States is modified as set forth herein:

1. subdivision (f)(i) of U.S. note 6 to subchapter XX of chapter 98 is deleted and the following new subdivision (f)(i) is inserted in lieu thereof:

“(i) The term “applicable percentage” means 60 percent or more on and after December 20, 2017.”

2. subdivision (g)(i) of U.S. note 6 to subchapter XX of chapter 98 is deleted and the following new subdivision (g)(i) is inserted in lieu thereof:

“(i) The preferential treatment accorded under headings 9820.61.25 and 9820.61.30 shall be extended, during each period after the initial applicable 1-year period, to not more than 1.25 percent of the aggregate square meter equivalents of all apparel articles imported into the United States in the most recent 12-month period for which data are available.

The duty-free treatment provided under this section shall remain in effect until December 31, 2026.”

Presidential Documents

Executive Order 14405 of May 19, 2026

Integrating Financial Technology Innovation Into Regulatory Frameworks

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

Section 1. *Policy.* The United States is a global leader in financial innovation, driven in part by the rapid growth of financial technology (fintech) firms. These firms provide innovative services and solutions that enhance access to financial products and services and create economic opportunity for all Americans. To foster this financial innovation, the Federal Government must update regulations to allow integration of digital assets and innovative technology into traditional financial services and payment systems. The Federal Government must also remove overly burdensome and fragmented regulations and supervisory practices that form barriers to entry and primarily benefit incumbent financial services firms.

It is therefore the policy of the United States to streamline regulatory processes, reduce unnecessary barriers to entry, and encourage collaboration between fintech firms, federally regulated financial institutions, and Federal financial regulators.

Sec. 2. *Definitions.* For the purposes of this order: (a) “Fintech firm” refers to a non-bank company that uses or develops technological means to offer or support the offering of financial products or services, including, but not limited to, any application or any digital or online technology that facilitates access to, management of, or data processing for financial products or services. Such financial products or services may include, but are not limited to, payment processing, lending, deposit-taking, derivatives, investment management, brokerage services, underwriting and capital-market activities, custodial and fiduciary services, digital banking, digital asset-related services, securities and commodities market activities, and blockchain-based services. For the avoidance of doubt, such financial products or services also include the activities set forth in paragraphs (A) through (G) of section 4(k)(4) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)(4)).

(b) “Bank” has the meaning given that term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(c) “Credit union” means an “insured credit union”, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752(7)).

(d) “Financial products and services” refer to activities permissible under Federal or State law for a bank or credit union to undertake as well as the financial activities listed in Appendix A to 12 CFR part 242.

(e) “Federal financial regulators” refers to the Consumer Financial Protection Bureau, the Securities and Exchange Commission, the National Credit Union Administration, the Commodity Futures Trading Commission, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency.

Sec. 3. *Streamlining Regulatory Processes.* (a) Within 90 days of the date of this order, the head of each Federal financial regulator shall conduct a review of existing regulations, guidance, supervisory practices, and application processes to identify those that could be updated to facilitate innovation,

and competition to financial products and services for fintech firms, particularly those that are small and emerging. The reviews shall identify regulations, guidance documents, orders, no-action letters, and other items that unduly impede fintech firms from entering into partnerships with federally regulated institutions (including insured depository institutions, credit unions, broker-dealers, investment advisers, and futures commission merchants), as well as regulations, guidance documents, orders, no-action letters, and other items that could be amended to streamline application processes for eligible fintech firms seeking bank charters, credit union charters, deposit or share insurance, and other Federal licenses, registrations, and authorizations, balancing innovation interests with the importance of safety and soundness, consumer and investor protection, market integrity, financial stability, and oversight.

(b) Within 180 days of the date of this order, the head of each Federal financial regulator shall, in consultation with the Assistant to the President for Economic Policy, take steps to encourage innovation as a result of the review described in subsection (a) of this section.

Sec. 4. Access to Federal Reserve Services. (a) The Board of Governors of the Federal Reserve System (FRB) is requested to complete the actions described in section 3 of this order.

(b) The FRB is requested to conduct a comprehensive evaluation of the legal, regulatory, and policy framework governing access to Reserve Bank payment accounts and payment services by uninsured depository institutions and non-bank financial companies, including those engaged in digital assets and other novel financial activities (collectively, covered firms), and those functioning as direct participants in real-time (instant) payment networks. Within 120 days of the date of this order, the FRB is requested to submit a report to the President, through the Assistant to the President for Economic Policy, setting forth its findings, options, and any recommendations. The evaluation is requested to assess:

(i) the legal authority of the Federal Reserve, under the Federal Reserve Act and other applicable Federal law, to extend direct access to Federal Reserve payment accounts and payment services to covered firms;

(ii) options for expanding such access to the extent permitted by law, subject to appropriate risk management requirements;

(iii) legal impediments that preclude direct access and a detailed analysis of those impediments, and legislative or regulatory options that would enable such access while mitigating risks to the payment system, financial stability, and the United States economy; and

(iv) whether, and if so to what extent, each of the 12 Federal Reserve Banks has legal authority to act independently of the FRB in granting or denying access to Reserve Bank payment accounts and payment services and, if independent action and decisions by individual Federal Reserve Banks is legally permissible, what FRB-level regulations or policies the FRB has established or proposes to establish to ensure that covered firms are evaluated on a consistent basis regardless of which Federal Reserve Bank receives or processes their applications.

(c) To the extent the FRB determines, pursuant to its review under subsection (b) of this section, that existing law permits the extension of direct access for covered firms to Reserve Bank payment accounts and payment services, the FRB is requested to establish transparent application procedures for such access and to make determinations with respect to complete applications within 90 days of the application date for such access.

Sec. 5. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

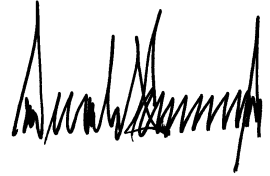
(i) the authority granted by law to an executive department or agency, or the head thereof; or

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

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

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

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

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

THE WHITE HOUSE,
May 19, 2026.

Presidential Documents

Executive Order 14406 of May 19, 2026

Restoring Integrity to America's Financial System

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

Section 1. Purpose. America's financial institutions serve a critical role in safeguarding the American people against financial fraud and abuse. My Administration has taken significant steps to lower the costs of providing financial services for Americans and reduce unnecessary and burdensome Federal regulations that restrain economic growth and hamper the competitiveness of financial service providers nationwide. However, it has long been the policy of the United States to adopt tailored measures to safeguard our financial system from illicit use and promote safe and sound lending and other practices by financial institutions. My Administration will not tolerate national security and public safety risks caused by illicit cross-border financial activity, nor will it permit risks to our financial system posed by the extension of credit or financial services to the inadmissible and removable alien population.

Even the provision of the most basic financial services, absent proper know-your-customer practices, can be abused to facilitate the funding of activities that pose significant threats to national security and public safety. Low-dollar cross-border funds transfers have been used to facilitate or commit terrorist financing, narcotics trafficking, human trafficking, and other illegal activity. Financial trend analyses have uncovered hubs of deadly fentanyl-related financial activity in the United States related to Mexico-based cartels. A recent analysis of Chinese money laundering networks identified how foreign passport holders have used United States-based accounts to facilitate the laundering of over \$312 billion for criminal organizations, with human trafficking highlighted among the activities associated with the transfers. Robust customer identification programs and enhanced due diligence measures are necessary to mitigate these risks.

Banks and other financial institutions should also be attentive to the credit risks posed by the extension of mortgage and auto loans, credit cards, and other consumer credit to the inadmissible and removable alien population. Many of those borrowers face the possibility of the loss of wages due to removal or their employers' decisions to comply with immigration law. Lending to aliens without legal work authorization or who face a substantial loss-of-wage risk creates a structural "ability to repay" deficiency that undermines the safety and soundness of the national banking system. Additionally, employers who violate immigration law may underreport wages, use mismatched or invalid Social Security numbers and taxpayer identification numbers, or fail to properly withhold or remit payroll taxes. Such schemes can create vulnerabilities within our financial system by obscuring income sources, distorting credit underwriting, and facilitating underground economic activity.

It is the policy of my Administration to restore integrity to America's financial system, safeguard financial institutions against structural risks, and deter fraud and abuse.

Sec. 2. Definition. The term "Federal functional financial regulator" means the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the National Credit Union Administration.

Sec. 3. *Safeguarding Against Fraud and Abuse.* (a) Within 60 days of the date of this order, the Secretary of the Treasury shall issue a formal Advisory to financial institutions regarding the risks associated with the exploitation of the United States financial system by non-work authorized populations and their employers. This Advisory shall describe specific red flags and typologies associated with the following categories of suspicious activity:

(i) evidentiary patterns of payroll tax evasion by employers or labor brokers, including the systematic failure to withhold or remit Federal employment taxes for non-work authorized individuals;

(ii) the utilization of certain foreign-identity documents, nominee accounts, shell companies, or complex “funnel” structures designed to obfuscate the identity of the ultimate beneficial owners or conceal the true nature of payroll disbursements;

(iii) the strategic use of unregistered money services businesses, third-party payment processors, or peer-to-peer platforms to facilitate “off-the-books” wage payments intended to bypass Bank Secrecy Act reporting thresholds or tax obligations;

(iv) patterns of repetitive, sub-threshold cash withdrawals or deposits that correlate with payroll cycles conducted outside of regulated payroll processing systems, also known as “structuring and micro-structuring”;

(v) financial activity indicative of labor trafficking or forced labor (as defined in 18 U.S.C. 1589), where proceeds are commingled with legitimate business revenue or transferred to foreign jurisdictions; and

(vi) the use of an individual taxpayer identification number (ITIN) to obtain credit products or open depository accounts where the applicant lacks verified lawful immigration status. Although an ITIN facilitates tax compliance, its use in lieu of a Social Security number or valid work-authorized visa may be identified as a risk factor requiring enhanced due diligence to ensure the account is not being utilized to facilitate the unlawful employment of unauthorized aliens.

(b) Within 90 days of the date of this order, the Secretary of the Treasury shall, in consultation with the appropriate Federal functional financial regulators, propose changes to applicable implementing regulations of the Bank Secrecy Act to strengthen risk-based customer due diligence requirements for covered financial institutions. Such changes should ensure that:

(i) institutions collect and verify sufficient customer identity information to reasonably identify the nominal and beneficial owners of accounts in order to assess risks related to illicit finance, sanctions evasion, fraud, or other unlawful activity; and

(ii) institutions maintain the authority, where warranted by other risk indicators or supervisory concerns, to obtain additional information necessary to resolve material compliance concerns, including information relevant to whether account holders possess lawful immigration status and employment authorization in the United States when such information is relevant to assessing risks associated with fraud, identity misrepresentation, sanctions evasion, or other illicit financial activity, as part of a risk-based customer due diligence program.

(c) Within 180 days of the date of this order, the Secretary of the Treasury and the appropriate Federal functional financial regulators shall consider changes to applicable implementing regulations of the Bank Secrecy Act to strengthen risk-based customer identification program requirements for covered financial institutions. Any changes considered should account for the risks foreign consular identification cards pose to the integrity of the United States financial system.

Sec. 4. *Addressing Structural Credit Risks.* (a) Within 60 days of the date of this order, the Consumer Financial Protection Bureau shall consider clarifying that potential deportation and loss of wages are factors that could adversely affect a non-work authorized borrower’s ability to repay an extension of credit under the “ability-to-repay” standards in 12 CFR Part 1026

and its appendices and supplements, and that lenders may consider such factors as part of a reasonable and good-faith underwriting determination.

(b) Within 60 days of the date of this order, each appropriate Federal functional financial regulator shall issue guidance regarding the management of the potential credit risks posed by the non-work authorized population.

Sec. 5. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

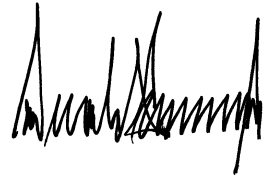
(i) the authority granted by law to an executive department or agency, or the head thereof; or

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

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

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

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

A handwritten signature in black ink, appearing to be a stylized name with a long, sweeping horizontal stroke at the end.

THE WHITE HOUSE,
May 19, 2026.

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