



FEDERAL REGISTER

Vol. 91 Thursday,
No. 107 June 4, 2026

Pages 33579–34142

OFFICE OF THE FEDERAL REGISTER



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Federal Register

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

[Docket ID: OPM–2026–0133]

RIN 3206–AP11

Prevailing Rate Systems; Redefinition of the Raven Rock Mountain Complex to the Washington-Baltimore-Arlington Federal Wage System Wage Area

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final rule to redefine the Federal Wage System (FWS) wage area coverage of the Raven Rock Mountain Complex (RRMC), which spans small portions of Washington County, Maryland, which is in the Washington-Baltimore-Arlington wage area, and Adams County, Pennsylvania, which is in the Harrisburg-York-Lebanon, PA wage area. OPM will redefine the RRMC portion of Adams County from the Harrisburg-York-Lebanon, PA wage area to the Washington-Baltimore-Arlington wage area so that all of the RRMC is in the same wage area. Portions of Adams County outside of RRMC will continue to be defined to the Harrisburg-York-Lebanon, PA, wage area. This change will align wage area coverage for installations within the Pentagon Reservation and prevent pay disparities among FWS employees working at the RRMC.

DATES:

Effective date: This regulation is effective July 6, 2026.

Applicability date: This change applies on the first day of the first applicable pay period beginning on or after July 6, 2026.

FOR FURTHER INFORMATION CONTACT: Ana Paunoiu by telephone at (202) 606–2858 or by email at paypolicy@opm.gov.

SUPPLEMENTARY INFORMATION: On February 25, 2026, OPM issued a proposed rule (91 FR 9170) to amend Appendix C of 5 CFR part 532, subpart B—Appropriated Fund Wage and Survey Areas, to redefine the FWS wage area coverage of the RRMC. The rule also proposed several additional corrections and revisions to Appendix C and corrections and revisions to Appendix A of 5 CFR 532, subpart B—Nationwide Schedule of Appropriated Fund Regular Wage Surveys. These additional corrections and revisions concern formatting, spelling, typographical errors, inconsistencies, and omissions made in final rule 90 FR 7428, published on January 21, 2025. The proposed rule had a 60-day comment period, during which OPM received no comments. Therefore, this final rule adopts the proposed rule at 91 FR 9170 without change.

The revisions to Appendix A and Appendix C of 5 CFR part 532, subpart B, in this final rule are as follows:

This final rule will make the following revision to Appendix A: adds the State of Connecticut, and a listing for the New Haven-Hartford wage area, with “DOD” as lead agency; “April” as the listing of the beginning month of survey; and “Odd” Fiscal Year of full-scale survey. The listing for the New Haven-Hartford wage area was inadvertently omitted in final rule.

This final rule will make the following revisions to Appendix C:

(1) Birmingham-Cullman-Talladega Wage Area

Adds “until” between “effective” and “January” to read “(effective until January 2028)” for Talladega County, Alabama, in the area of application. Talladega County, AL, was moved from the Anniston-Gadsden survey area to the Birmingham-Cullman-Talladega area of application, effective October 1, 2025, until January 2028. This county will subsequently be moved from the Birmingham-Cullman-Talladega area of application to the Birmingham-Cullman-Talladega survey area effective for local wage surveys beginning in January 2028. The final rule inadvertently omitted the word “until.”

(2) Washington-Baltimore-Arlington Wage Area

Adds Adams (Only includes the Raven Rock Mountain Complex) County, PA, to the area of application of

the Washington-Baltimore-Arlington wage area.

Revises the name of “Berkley” County, West Virginia, to read “Berkeley.”

(3) Miami-Port St. Lucie-Fort Lauderdale Wage Area

Adds St. Lucie County, Florida, to the area of application of the Miami-Port St. Lucie-Fort Lauderdale wage area. Due to a formatting error, St. Lucie County was listed as a separate wage area, instead of being part of the Miami-Port St. Lucie-Fort Lauderdale wage area.

Deletes “St. Lucie” as a wage area entry.

(4) Augusta Wage Area

Replaces “:” with “.” after “Survey area,” to read “Area of Application. Survey area,” for the Augusta wage area, in the State of Maine. The Augusta wage area does not have an area of application. As such, the correct punctuation is a period instead of a colon.

(5) Chicago-Naperville Wage Area

Deletes “IL” from the title of the “Chicago-Naperville, IL” wage area to read “Chicago-Naperville” to be consistent with how we list the titles of other wage areas.

(6) Harrisburg-York-Lebanon Wage Area

Adds “(Does not include the Raven Rock Mountain Complex)” after “Adams” to read “Adams (Does not include the Raven Rock Mountain Complex)” in the area of application of the Harrisburg-York-Lebanon wage area.

(7) Roanoke Wage Area

Deletes the Cities of Staunton and Waynesboro, Virginia, which were incorrectly included and duplicated in the area of application of the Roanoke wage area. These cities were moved to the Washington-Baltimore-Arlington wage area and were inadvertently not deleted from the Roanoke wage area.

Deletes Augusta (Does not include the Shenandoah National Park portion) County, VA, which was incorrectly included and duplicated in the area of application of the Roanoke wage area. The entire Augusta County was moved to the Washington-Baltimore-Arlington wage area, and the Shenandoah National Park portion was inadvertently not deleted from the Roanoke wage area.

Expected Impact of This Rule

Section 5343 of title 5, U.S. Code, provides OPM with the authority and responsibility to define the boundaries of FWS wage areas. Any changes in wage area definitions can have the long-term effect of increasing pay for Federal employees in affected locations. OPM expects this rulemaking to impact around 50 FWS employees. Considering the small number of employees affected, OPM does not anticipate that this rule will substantially impact local economies or have a large impact in local labor markets. As this and future wage area changes may impact higher volumes of employees in geographical areas and could rise to the level of impacting local labor markets, OPM will continue to study the implications of such impacts in this or future rules as needed.

Regulatory Review

OPM has examined the impact of this rulemaking as required by Executive Orders 12866 and 13563 which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). This rulemaking is not a “significant regulatory action” under Executive Order 12866. The rule is not an E.O. 14192 regulatory action because it is not significant under E.O. 12866.

Regulatory Flexibility Act

The Director of OPM certifies that this rule would not have a significant economic impact on a substantial number of small entities.

Federalism

OPM has examined this rule in accordance with Executive Order 13132, Federalism, and has determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or Tribal governments.

Civil Justice Reform

This rulemaking will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year in 1995 dollars, updated annually for inflation. That threshold is currently approximately \$206 million. This rulemaking will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Unfunded Mandates Act of 1995

This rulemaking will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year in 1995 dollars, updated annually for inflation. That threshold is currently approximately \$206 million. This rulemaking will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

The Office of Management and Budget’s (OMB) Office of Information and Regulatory Affairs has determined this rule does not meet the criteria listed in 5 U.S.C. 804(2). In addition, this is a rule relating to agency management or personnel and does not come within the meaning of the term “rule” as used in

5 U.S.C. 804(3)(C). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

Paperwork Reduction Act

This rulemaking does not impose any reporting or record-keeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Signing Statement

The Director of OPM, Scott Kupor, reviewed and approved this document and has authorized the undersigned to electronically sign and submit this document to the Office of the Federal Register for publication.

Office of Personnel Management

Jerson Matias,
Federal Register Liaison.

Accordingly, OPM amends 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

- 1. The authority citation for part 532 continues to read as follows:
Authority: 5 U.S.C. 5343, 5346. Sec. 532.707 also issued under 5 U.S.C. 552.
- 2. In Appendix A to subpart B, amend the table by adding in alphabetic order by state the New Haven-Hartford wage survey listing for the State of Connecticut.

Appendix A to Subpart B of Part 532—
Nationwide Schedule of Appropriated
Fund Regular Wage Surveys

* * * * *

State	Wage area	Lead agency	Beginning month of survey	Fiscal year of full-scale survey odd or even
* * * * *				
Connecticut	New Haven-Hartford	DoD	April	Odd.
* * * * *				

- 3. In Appendix C to subpart B—Appropriated Fund Wage and Survey Areas, amend the table by revising the wage area listing for the District of Columbia and for the States of Alabama, Florida, Illinois, Maine, Pennsylvania, and Virginia to read as follows:

Appendix C to Subpart B of Part 532—
Appropriated Fund Wage and Survey
Areas

* * * * *

Definitions of Wage Areas and Wage
Area Survey Areas

ALABAMA

Birmingham-Cullman-Talladega

Survey Area

Alabama:

Calhoun (effective for wage surveys
beginning in January 2028)

Etowah (effective for wage surveys beginning in January 2028)
 Jefferson
 St. Clair
 Shelby
 Talladega (effective for wage surveys beginning in January 2028)
 Tuscaloosa
 Walker

Area of Application. Survey area plus:

Alabama:
 Bibb
 Blount
 Calhoun (effective until January 2028)
 Chilton
 Clay
 Coosa
 Cullman
 Etowah (effective until January 2028)
 Fayette
 Greene
 Hale
 Lamar
 Marengo
 Perry
 Pickens
 Talladega (effective until January 2028)
 Winston

Dothan

Survey Area

Alabama:
 Dale
 Houston
 Georgia:
 Early

Area of Application. Survey area plus:

Alabama:
 Barbour
 Coffee
 Geneva
 Henry
 Georgia:
 Clay
 Miller
 Seminole

Huntsville

Survey Area

Alabama:
 Limestone
 Madison
 Marshall
 Morgan

Area of Application. Survey area plus:

Alabama:
 Colbert
 DeKalb
 Franklin
 Lauderdale
 Lawrence
 Marion
 Tennessee:
 Giles
 Lincoln
 Wayne

Montgomery-Selma

Survey Area

Alabama:
 Autauga
 Elmore

Montgomery

Area of Application. Survey area plus:

Alabama:
 Bullock
 Butler
 Crenshaw
 Dallas
 Lowndes
 Pike
 Wilcox

* * * * *

DISTRICT OF COLUMBIA

Washington-Baltimore-Arlington

Survey Area

District of Columbia:
 Washington, DC
 Maryland (city):
 Baltimore (effective for wage surveys beginning in July 2027)
 Maryland (counties):
 Anne Arundel (effective for wage surveys beginning in July 2027)
 Baltimore (effective for wage surveys beginning in July 2027)
 Carroll (effective for wage surveys beginning in July 2027)
 Charles
 Frederick
 Harford (effective for wage surveys beginning in July 2027)
 Howard (effective for wage surveys beginning in July 2027)
 Montgomery
 Prince George's
 Washington (effective for wage surveys beginning in July 2027)
 Pennsylvania:
 Franklin (effective for wage surveys beginning in July 2027)
 Virginia (cities):
 Alexandria
 Fairfax
 Falls Church
 Manassas
 Manassas Park
 Virginia (counties):
 Arlington
 Fairfax
 King George (effective for wage surveys beginning in July 2027)
 Loudoun
 Prince William
 West Virginia:
 Berkeley (effective for wage surveys beginning in July 2027)

Area of Application. Survey area plus:

Maryland (city):
 Baltimore (effective until July 2027)
 Maryland (counties):
 Allegany
 Anne Arundel (effective until July 2027)
 Baltimore (effective until July 2027)
 Calvert
 Caroline
 Carroll (effective until July 2027)
 Dorchester
 Garrett
 Harford (effective until July 2027)
 Howard (effective until July 2027)
 Kent
 Queen Anne's
 St. Mary's

Talbot
 Washington (effective until July 2027)
 Pennsylvania:
 Adams (Only includes the Raven Rock Mountain Complex)
 Franklin (effective until July 2027)
 Fulton
 Virginia (cities):
 Fredericksburg
 Harrisonburg
 Staunton
 Waynesboro
 Winchester
 Virginia (counties):
 Albemarle (Only includes the Shenandoah National Park portion)
 Augusta
 Caroline
 Clarke
 Culpeper
 Fauquier
 Frederick
 Greene (Only includes the Shenandoah National Park portion)
 King George (effective until July 2027)
 Madison
 Orange
 Page
 Rappahannock
 Rockingham
 Shenandoah
 Spotsylvania
 Stafford
 Warren
 Westmoreland
 West Virginia:
 Berkeley (effective until July 2027)
 Hampshire
 Hardy
 Jefferson
 Mineral
 Morgan

FLORIDA

Cocoa-Beach

Survey Area

Florida:
 Brevard

Area of Application. Survey area.

Jacksonville

Survey Area

Florida:
 Alachua
 Baker
 Clay
 Columbia (effective for wage surveys beginning in January 2027)
 Duval
 Nassau
 Orange (effective for wage surveys beginning in January 2027)
 St. Johns
 Sumter (effective for wage surveys beginning in January 2027)
 Georgia:
 Camden

Area of Application. Survey area plus:

Florida:
 Bradford
 Citrus
 Columbia (effective until January 2027)
 Dixie

Flagler
 Gilchrist
 Hamilton
 Lafayette
 Lake
 Levy
 Madison
 Marion
 Orange (effective until January 2027)
 Osceola
 Polk
 Putnam
 Seminole
 Sumter (effective until January 2027)
 Suwannee
 Taylor
 Union
 Volusia
 Georgia:
 Charlton

Miami-Port St. Lucie-Fort Lauderdale

Survey Area

Florida:
 Miami-Dade
 Palm Beach (effective for wage surveys
 beginning in May 2027)

Area of Application. Survey area plus:

Florida:
 Broward
 Collier
 Glades
 Hendry
 Highlands
 Indian River
 Lee
 Martin
 Monroe
 Okeechobee
 Palm Beach (effective until May 2027)
 St. Lucie

Panama City

Survey Area

Florida:
 Bay
 Gulf

Area of Application. Survey area plus:

Florida:
 Calhoun
 Franklin
 Gadsden
 Holmes
 Jackson
 Jefferson
 Leon
 Liberty
 Wakulla
 Washington
 Georgia:
 Decatur

Pensacola

Survey Area

Florida:
 Escambia
 Santa Rosa

Area of Application. Survey area plus:

Alabama:
 Baldwin
 Clarke
 Conecuh

Covington
 Escambia
 Mobile
 Monroe
 Washington
 Florida:
 Okaloosa
 Walton

Tampa-St. Petersburg

Survey Area

Florida:
 Hillsborough
 Pasco
 Pinellas

Area of Application. Survey area plus:

Florida:
 Charlotte
 De Soto
 Hardee
 Hernando
 Manatee
 Sarasota

* * * * *

ILLINOIS

Bloomington-Pontiac

Survey Area

Illinois:
 Champaign
 Menard
 Sangamon
 Vermilion

Area of Application. Survey area plus:

Illinois:
 Christian
 Clark
 Coles
 Crawford
 Cumberland
 De Witt
 Douglas
 Edgar
 Ford
 Jasper
 Livingston
 Logan
 McLean
 Macon
 Morgan
 Moultrie
 Piatt
 Scott
 Shelby

Chicago-Naperville

Survey Area

Illinois:
 Cook
 Du Page
 Kane
 Lake
 McHenry
 Will

Area of Application. Survey area plus:

Illinois:
 Boone
 Bureau
 De Kalb
 Grundy
 Iroquois

Kankakee
 Kendall
 La Salle
 Ogle
 Putnam
 Stephenson
 Winnebago

Indiana:

Jasper
 Lake
 La Porte
 Newton
 Porter
 Pulaski
 Starke

Wisconsin:

Kenosha
 * * * * *

MAINE

Augusta

Survey Area

Maine:
 Kennebec
 Knox
 Lincoln

Area of Application. Survey area.

Central And Northern Maine

Survey Area

Maine:
 Aroostook
 Penobscot

Area of Application. Survey area plus:

Maine:
 Hancock
 Piscataquis
 Somerset
 Waldo
 Washington

* * * * *

PENNSYLVANIA

Harrisburg-York-Lebanon

Survey Area

Pennsylvania:
 Cumberland
 Dauphin
 Lebanon
 Union (effective for wage surveys
 beginning in May 2026)
 York

Area of Application. Survey area plus:

Pennsylvania:
 Adams (Does not include the Raven Rock
 Mountain Complex)
 Clinton
 Juniata
 Lancaster
 Lycoming
 Mifflin
 Perry
 Snyder
 Union (effective until May 2026)

Philadelphia-Reading-Camden

Survey Area

Delaware:
 Kent (effective for wage surveys beginning
 in October 2027)

New Castle (effective for wage surveys beginning in October 2027)
 Maryland:
 Cecil (effective for wage surveys beginning in October 2027)
 New Jersey:
 Burlington (Excluding the Joint Base McGuire-Dix-Lakehurst portion)
 Camden
 Gloucester
 Salem (effective for wage surveys beginning in October 2027)
 Pennsylvania:
 Bucks
 Chester
 Delaware
 Montgomery
 Philadelphia

Area of Application. Survey area plus:

Delaware:
 Kent (effective until October 2027)
 New Castle (effective until October 2027)
 Sussex
 Maryland:
 Cecil (effective until October 2027)
 Somerset
 Wicomico
 Worcester (Does not include the Assateague Island portion)
 New Jersey:
 Atlantic
 Cape May
 Cumberland
 Salem (effective until October 2027)
 Pennsylvania:
 Berks
 Schuylkill

Pittsburgh

Survey Area

Pennsylvania:
 Allegheny
 Beaver
 Butler
 Cambria (effective for wage surveys beginning in July 2027)
 Washington
 Westmoreland

Area of Application. Survey area plus:

Ohio:
 Belmont
 Harrison
 Jefferson
 Pennsylvania:
 Armstrong
 Bedford
 Blair
 Cambria (effective until July 2027)
 Cameron
 Centre
 Clarion
 Clearfield
 Crawford
 Elk (Does not include the Allegheny National Forest portion)
 Erie
 Fayette
 Forest (Does not include the Allegheny National Forest portion)
 Greene
 Huntingdon
 Indiana
 Jefferson
 Lawrence

Mercer
 Potter
 Somerset
 Venango
 West Virginia:
 Brooke
 Hancock
 Marshall
 Ohio

Scranton-Wilkes-Barre

Survey Area

Pennsylvania:
 Lackawanna
 Luzerne

Area of Application. Survey area plus:

Pennsylvania:
 Bradford
 Columbia
 Montour
 Northumberland
 Sullivan
 Susquehanna
 Wyoming

* * * * *

VIRGINIA

Richmond

Survey Area

Virginia (cities):
 Colonial Heights
 Hopewell
 Petersburg
 Richmond
 Virginia (counties):
 Charles City
 Chesterfield
 Dinwiddie
 Goochland
 Hanover
 Henrico
 New Kent
 Powhatan
 Prince George

Area of Application. Survey area plus:

Virginia (cities):
 Charlottesville
 Emporia
 Virginia (counties):
 Albemarle (Does not include the Shenandoah National Park portion)
 Amelia
 Brunswick
 Buckingham
 Charlotte
 Cumberland
 Essex
 Fluvanna
 Greene (Does not include the Shenandoah National Park portion)
 Greenville
 King and Queen
 King William
 Lancaster
 Louisa
 Lunenburg
 Mecklenburg
 Nelson
 Northumberland
 Nottoway
 Prince Edward
 Richmond
 Sussex

Roanoke

Survey Area

Virginia (cities):
 Radford
 Roanoke
 Salem
 Virginia (counties):
 Botetourt
 Craig
 Montgomery
 Roanoke

Area of Application. Survey area plus:

Virginia (cities):
 Buena Vista
 Covington
 Danville
 Galax
 Lexington
 Lynchburg
 Martinsville
 Virginia (counties):
 Alleghany
 Amherst
 Appomattox
 Bath
 Bedford
 Bland
 Campbell
 Carroll
 Floyd
 Franklin
 Giles
 Halifax
 Henry
 Highland
 Patrick
 Pittsylvania
 Pulaski
 Rockbridge
 Wythe

Virginia Beach-Chesapeake

Survey Area

North Carolina:
 Currituck
 Pasquotank (effective for wage surveys beginning in May 2026)
 Virginia (cities):
 Chesapeake
 Hampton
 Newport News
 Norfolk
 Poquoson
 Portsmouth
 Suffolk
 Virginia Beach
 Williamsburg
 Virginia (counties):
 Gloucester
 James City
 York

Area of Application. Survey area plus:

Maryland:
 Worcester (Only includes the Assateague Island portion)
 North Carolina:
 Camden
 Chowan
 Dare
 Gates
 Hertford
 Pasquotank (effective until May 2026)
 Perquimans

Tyrrell
Virginia (city):
Franklin
Virginia (counties):
Accomack
Isle of Wight
Mathews
Middlesex
Northampton
Southampton
Surry

* * * * *

[FR Doc. 2026-11182 Filed 6-3-26; 8:45 am]

BILLING CODE 6325-39-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2025-2558; Project Identifier MCAI-2021-00022-T; Amendment 39-23367; AD 2026-11-06]

RIN 2120-AA64

Airworthiness Directives; De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all De Havilland Aircraft of Canada Limited Model DHC-8 airplanes. This AD was prompted by reports of cracked barrel nuts at the wing front spar and horizontal stabilizer to vertical stabilizer joint. This AD requires repetitive inspections for cracking and corrosion of the affected barrel nuts and applicable corrective actions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 9, 2026.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 9, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2025-2558; 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 De Havilland Aircraft of Canada Limited material identified in this AD, contact De Havilland Aircraft of Canada Limited, Dash 8 Series Customer Response Centre, 5800 Explorer Drive, Mississauga, Ontario, L4W 5K9, Canada; telephone North America (toll-free): 855-310-1013, Direct: 647-277-5820; email thd@dehavilland.com; website [dehavilland.com](https://www.dehavilland.com).

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2025-2558.

FOR FURTHER INFORMATION CONTACT:

Christopher Spencer, 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 all De Havilland Aircraft of Canada Limited Model DHC-8 airplanes. The NPRM was published in the **Federal Register** on September 29, 2025 (90 FR 46538). The NPRM was prompted by AD CF-2020-06R1, dated January 7, 2021 (also referred to as the MCAI), issued by Transport Canada, which is the aviation authority for Canada. The MCAI states there were findings related to cracked barrel nuts at the wing front spar and horizontal stabilizer to vertical stabilizer joint. For those locations, Transport Canada issued Transport Canada AD CF-2011-24R1 (which corresponds to FAA AD 2019-20-09, Amendment 39-19762 (84 FR 56680, October 23, 2019)) and Transport Canada AD CF-2015-13R1 (which corresponds to FAA AD 2018-22-03, Amendment 39-19476 (83 FR 53563, October 24, 2018)) to address the unsafe condition. Barrel nuts are also installed in other locations on the airplane. An investigation determined that the cracking is caused by corrosion from inadequate cadmium plating on the barrel nuts. This condition, if not addressed, could result in failed barrel nuts that could compromise the structural integrity of the affected joints (*i.e.*, of the airplane) and could lead to loss of control of the airplane.

In the NPRM, the FAA proposed to require repetitive inspections for cracking and corrosion of the affected barrel nuts and applicable corrective

actions. 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-2025-2558.

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.

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

Request To Justify Forgoing Notice and Comment or Issue an NPRM

The commenter requested that the FAA provide its justification for finding good cause to bypass notice and comment procedures and either convert this action to an NPRM, or stay the effective date to allow comments. The commenter asserted the FAA has not adequately justified use of the good cause exemption to bypass notice and comment and the 30-day delayed effective date.

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

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

The Citizens Rulemaking Alliance requested the FAA ensure that IBR materials or summaries of them are in the public docket and are accessible for free to the public and affected parties for both commenting and compliance purposes. The commenter stated that the FAA's rule must comply with statutory and regulatory requirements for the reasonable availability of material incorporated by reference.

The FAA's practices comply with 5 U.S.C. 552(a) of the Administrative Procedure Act and 14 CFR part 51. The FAA makes IBR materials available in the AD docket when the final rule is published in the **Federal Register**, following formal approval of the IBR by the Office of the Federal Register. Materials may only be posted before the final rule's publication if they are already publicly available or if there is written consent from the owner of the IBR material. All relevant materials incorporated by reference will be

accessible in the AD docket on *Regulations.gov*, which the public can access without registration or fees.

The FAA also provides summaries and access details in the preamble and regulatory text, makes materials available for inspection at FAA and National Archives and Records Administration (NARA) offices, offers publisher contact information, and obtains formal IBR approval from the Office of the Federal Register. These efforts are intended to ensure that all IBR materials meet the “reasonably available” standard required by 1 CFR part 51. The FAA did not change this AD as a result of this comment.

Request To Comply With the Paperwork Reduction Act (PRA)

The Citizens Rulemaking Alliance requested that the FAA revise the AD to comply with the PRA if reporting is required or remove any reporting provisions until PRA requirements are satisfied. If reporting is not needed, the

commenter requested the FAA clarify that in the AD.

The FAA notes this AD does not require reporting. If an AD were to require reporting, the preamble of the AD would include a paragraph titled “Paperwork Reduction Act” that would provide the applicable OMB control number, required PRA statements, and the estimated time to collect the required information (burden). Any costs associated with the reporting requirement would be included in the Costs of Compliance section in the preamble of the AD. Therefore, the FAA did not change this AD as a result of this comment.

Request To Consider Impact on Small Entities

The Citizens Rulemaking Alliance requested that the FAA either provide the factual basis for its Regulatory Flexibility Act (RFA) certification that the AD will not have a significant economic impact on a substantial

number of small entities, or prepare an initial regulatory flexibility analysis.

The FAA provides the following clarification. The RFA of 1980 (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) and the Small Business Jobs Act of 2010 (Pub. L. 111–240), requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term “small entities” comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

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

NUMBER OF SMALL ENTITIES AFFECTED BY INDUSTRY AND COST SIGNIFICANCE

Number of affected entities	NAICS ¹ code	Description	Number of affected airplanes	Average annual revenue	Cost per AD/ annual revenue (%)
1	481211	Nonscheduled Chartered Passenger Air Transportation	6	\$11,430,000	0.06
1	481211	Nonscheduled Chartered Passenger Air Transportation	5	9,830,000	0.06
1	481211	Nonscheduled Chartered Passenger Air Transportation	1	84,777	1.30
1	561710	Exterminating and Pest Control Services	3	92,090	3.60

¹ North American Industrial Classification System.

While the FAA has determined that this AD affects a number of small entities, the compliance cost of the AD relative to each small entity’s annual revenue is minimal. The FAA estimates the total cost per affected airplane to be \$1,105 (13 work-hours × \$85 per work-hour), which is less than 2% of the average small entity’s annual revenue based on the number of affected airplanes in their fleet. Therefore, as provided in section 605(b), the FAA certifies this AD will not result in a significant economic impact on a substantial number of small entities. The FAA did not change this AD as a result of this comment.

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

The FAA reviewed De Havilland Aircraft of Canada Limited Service Bulletin 8–05–11, dated April 29, 2022. This material specifies procedures for detailed inspections for cracks and corrosion of the barrel nuts at the flight compartment windshield side posts, the nose landing gear trunnion plate assemblies, nacelle lower longeron attachments, the front, mid and rear spar horizontal stabilizer to vertical stabilizer attachments, the bathtub fittings attachments, the wing rib YW23.858 assemblies, and at the wing rib YW42.00 assemblies, and applicable

corrective actions (e.g., repairs or replacement).

The FAA also reviewed De Havilland Aircraft of Canada Limited Service Bulletin 84–27–73, dated May 8, 2019; and De Havilland Aircraft of Canada Limited Service Bulletin 8–27–121, dated July 30, 2019. This material specifies procedures, for a detailed inspection for cracks and corrosion of the barrel nuts, having part number (P/N) DSC228–4, at the rudder pedal adjustment mechanism, and applicable corrective actions (i.e., replacement of barrel nuts, having P/N DSC228–4, with barrel nuts, having P/N B0203073–4). These documents are distinct since they apply to different airplane models.

The FAA also reviewed De Havilland Aircraft of Canada Limited Service Bulletin 8–27–122, dated July 18, 2019. This material specifies procedures for a detailed inspection for cracks and corrosion of the barrel nuts, having P/N DSC228–5, at the control attachment fittings, and applicable corrective actions (i.e., replacement of barrel nuts,

having P/N DSC228–5, with barrel nuts, having P/N B0203073–5).

The FAA also reviewed De Havilland Aircraft of Canada Limited Service Bulletin 84–05–02, dated April 29, 2022. This material specifies procedures for detailed inspections for cracks and corrosion of the barrel nuts at the flight compartment windshield side posts, the

vertical stabilizer pitch feel trim frame, the front and rear spar wing to fuselage attachment joint struts and fittings, and the bathtub fitting attachments, and applicable corrective actions (e.g., repairs or replacement).

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 91 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
Up to 13 work-hours × \$85 per hour = \$1,105	\$0	Up to \$1,105	Up to \$100,555.

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

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

* The FAA has received no definitive data on which to base the cost estimates for the parts 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:

2026–11–06 De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.): Amendment

39–23367; Docket No. FAA–2025–2558; Project Identifier MCAI–2021–00022–T.

(a) Effective Date

This airworthiness directive (AD) is effective July 9, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all De Havilland Aircraft of Canada Limited (Type Certificate previously held by Bombardier, Inc.) airplanes, certificated in any category, identified in paragraphs (c)(1) through (4) of this AD.

(1) Model DHC–8–101, –102, –103, and –106 airplanes.

(2) Model DHC–8–201 and –202 airplanes.

(3) Model DHC–8–301, –311, and –315 airplanes.

(4) Model DHC–8–400, –401, and –402 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 14, Hardware; 51, Standard practices/structures.

(e) Unsafe Condition

This AD was prompted by reports of cracked barrel nuts at the wing front spar and horizontal stabilizer to vertical stabilizer joint, which was caused by corrosion from inadequate cadmium plating on the barrel nuts. The FAA is issuing this AD to address cracking and corrosion of the affected barrel nuts. The unsafe condition, if not addressed, could result in failed barrel nuts that could compromise the structural integrity of the

airplane and could lead to loss of control of the airplane.

(f) Compliance

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

(g) Actions for Model DHC-8-100, -200, and -300 Series Airplanes

For Model DHC-8-101, -102, -103, and -106 airplanes, Model DHC-8-201 and -202 airplanes, and Model DHC-8-301, -311, and -315 airplanes: Do the actions specified in paragraphs (g)(1) through (4) of this AD.

(1) As of 60 days after the effective date of this AD: At the next flight compartment windshield replacement, do a detailed inspection for cracks and corrosion of the barrel nuts at the windshield side posts and, before further flight, do all applicable corrective actions, in accordance with the Accomplishment Instructions of De Havilland Aircraft of Canada Limited Service Bulletin 8-05-11, dated April 29, 2022. Repeat the inspection thereafter at each flight compartment windshield replacement.

(2) Within 6 years since entry into service, or within 60 days after the effective date of this AD, whichever occurs later, do detailed inspections for cracks and corrosion of the barrel nuts at the nose landing gear trunnion plate assemblies, nacelle lower longeron attachments, the front, mid and rear spar horizontal stabilizer to vertical stabilizer attachments, the bathtub fittings attachments, the wing rib YW23.858 assemblies, and the wing rib YW42.00 assemblies, and before further flight, do all applicable corrective actions, in accordance with the Accomplishment Instructions of De Havilland Aircraft of Canada Limited Service Bulletin 8-05-11, dated April 29, 2022. Repeat the inspection thereafter at intervals not to exceed 6 years.

(3) Within 6 years since entry into service, or within 60 days after the effective date of this AD, whichever occurs later, do a detailed inspection for cracks and corrosion of the barrel nuts, having part number (P/N) DSC228-5, at the control attachment fittings, and before further flight, do all applicable corrective actions, in accordance with the Accomplishment Instructions of De Havilland Aircraft of Canada Limited Service Bulletin 8-27-122, dated July 18, 2019. Repeat the inspection thereafter at intervals not to exceed 6 years.

(4) Within 7 years since entry into service, or within 60 days after the effective date of this AD, whichever occurs later, do a detailed inspection for cracks and corrosion of the barrel nuts, having P/N DSC228-4, at the rudder pedal adjustment mechanism, and before further flight, do all applicable corrective actions, in accordance with the Accomplishment Instructions of De Havilland Aircraft of Canada Limited Service Bulletin 8-27-121, dated July 30, 2019. Repeat the inspection thereafter at intervals not to exceed 7 years.

(h) Actions for Model DHC-8-400 Series Airplanes

For Model DHC-8-400, -401, and -402 airplanes: Do the actions specified in paragraphs (h)(1) through (3) of this AD.

(1) As of 60 days after the effective date of this AD: At the next flight compartment windshield replacement, do a detailed inspection for cracks and corrosion of the barrel nuts at the flight compartment windshield side posts, and before further flight, do all applicable corrective actions, in accordance with the Accomplishment Instructions of De Havilland Aircraft of Canada Limited Service Bulletin 84-05-02, dated April 29, 2022. Repeat the inspection thereafter at each flight compartment windshield replacement.

(2) Within 6 years since entry into service, or within 60 days after the effective date of this AD, whichever occurs later, do detailed inspections for cracks and corrosion of the barrel nuts at the vertical stabilizer pitch feel trim frame, the front and rear spar wing to fuselage attachment joint struts and fittings, and the bathtub fitting attachments, and before further flight, do all applicable corrective actions, in accordance with the Accomplishment Instructions of De Havilland Aircraft of Canada Limited Service Bulletin 84-05-02, dated April 29, 2022. Repeat the inspections thereafter at intervals not to exceed 6 years.

(3) Within 7 years since entry into service, or within 60 days after the effective date of this AD, whichever occurs later, do a detailed inspection for cracks and corrosion of the barrel nuts, having P/N DSC228-4, at the rudder pedal adjustment mechanism, and before further flight, do all applicable corrective actions, in accordance with the Accomplishment Instructions of De Havilland Aircraft of Canada Limited Service Bulletin 84-27-73, dated May 8, 2019. Repeat the inspection thereafter at intervals not to exceed 7 years.

(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 De Havilland Aircraft of Canada Limited'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 Christopher Spencer, 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) De Havilland Aircraft of Canada Limited Service Bulletin 8-05-11, dated April 29, 2022.

(ii) De Havilland Aircraft of Canada Limited Service Bulletin 8-27-121, dated July 30, 2019.

(iii) De Havilland Aircraft of Canada Limited Service Bulletin 8-27-122, dated July 18, 2019.

(iv) De Havilland Aircraft of Canada Limited Service Bulletin 84-05-02, dated April 29, 2022.

(v) De Havilland Aircraft of Canada Limited Service Bulletin 84-27-73, dated May 8, 2019.

(3) For De Havilland Aircraft of Canada Limited material identified in this AD, contact De Havilland Aircraft of Canada Limited, Dash 8 Series Customer Response Centre, 5800 Explorer Drive, Mississauga, Ontario, L4W 5K9, Canada; telephone North America (toll-free): 855-310-1013, Direct: 647-277-5820; email thd@dehavilland.com; website dehavilland.com.

(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 26, 2026.

Steven W. Thompson,

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

[FR Doc. 2026-11217 Filed 6-3-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2026-2283; Project Identifier MCAI-2026-00077-R; Amendment 39-23362; AD 2026-11-01]

RIN 2120-AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus Helicopters Model H160–B helicopters modified by Supplemental Type Certificate (STC) SR00223IB. This AD was prompted by reports of various deficiencies on the parts installed on the jettisonable window system. This AD requires removing the jettisonable window and, depending on the removal results, replacing the locking fingers; inspecting and installing any missing retaining rings; and inspecting the left-hand (LH) side and right-hand (RH) side emergency handle latch covers (covers) and, depending on the inspection results, replacing the covers or reinstalling airworthy covers. This AD also requires performing repetitive lubrication of the locking fingers installed on the windows jettisonable system and repetitive operational tests of the windows jettisonable system after each lubrication. Additionally, this AD requires modifying the helicopter by replacing each cover and prohibits the installation of certain window aesthetic covers or electrochromic windows unless certain requirements are met. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 9, 2026.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 9, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–2283; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADS@easa.europa.eu*; website: *easa.europa.eu*. You may find the EASA material on the EASA website at *ad.easa.europa.eu*. For Mecaer Aviation Group (MAG) material identified in this AD, contact MAG, Via dell'Artigianato 1, Montepandone 63076 Ascoli Piceno, Italy; phone: +39 0735–7091; email: *caw@mecaer.com*; or at *mecaer.com*.

- 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. It is also available at *regulations.gov* under Docket No. FAA–2026–2283.

FOR FURTHER INFORMATION CONTACT:

Brenda Buitrago Perez, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (516) 228–7368; email: *brenda.l.buitrago.perez@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 all Airbus Helicopters Model H160–B helicopters modified by STC SR00223IB. The NPRM was published in the **Federal Register** on February 26, 2026 (91 FR 9506). The NPRM was prompted by EASA AD 2025–0269, dated December 1, 2025 (EASA AD 2025–0269) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states there have been reports of various deficiencies involving parts installed on the jettisonable window system, which include difficulty moving the locking fingers from the locking position that could cause the jettison function to fail; missing retaining rings on the jettison window hinge pins; and intermediate covers found partially detached.

In the NPRM, the FAA proposed to require removing the jettisonable window and, depending on the removal results, replacing the locking fingers; inspecting and replacing any missing retaining rings; and inspecting the LH side and RH side covers and, depending on the inspection results, replacing the covers or reinstalling airworthy covers. In the NPRM, the FAA also proposed to require performing repetitive lubrication of the locking fingers installed on the windows jettisonable system and repetitive operational tests of the windows jettisonable system after each lubrication. Additionally, in the NPRM the FAA proposed to require modifying the helicopter by replacing each cover and to prohibit installing certain window aesthetic covers or electrochromic windows unless certain requirements are met. The FAA is issuing this AD to prevent failure of the jettisoning function of the window, which if not addressed, could result in the inability to evacuate helicopter

occupants during an emergency situation.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–2283.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

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

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2025–0269. This material specifies, for helicopters that have aesthetic cover installation part number (P/N) 6A6H5600A002001XYZ and electrochromic window installation P/N 6A6H5600A001001XYZ installed, procedures for removing the jettisonable windows and, if applicable, replacing the locking fingers and inspecting and installing any missing retaining rings. EASA AD 2025–0269 also specifies procedures for inspecting the LH side and RH side covers and, depending on the inspection results, replacing any covers that have discrepancies with certain part-numbered covers. EASA AD 2025–0269 specifies procedures for repetitively lubricating the locking fingers and performing an operational test after each lubrication for helicopters that have aesthetic cover installation P/N 6A6H5600A002001XYZ and electrochromic window installation P/N 6A6H5600A001001XYZ installed.

Additionally, EASA AD 2025–0269 specifies procedures for modifying the helicopter by replacing the LH side and RH side covers and prohibits the installation of certain part-numbered aesthetic covers or certain part-numbered electrochromic windows on

any helicopter unless certain requirements are met.

The FAA also reviewed MAG Mandatory Service Bulletin No. SB-A6H-015, dated November 19, 2025, which specifies procedures for inspection, replacement, and lubrication of the locking fingers; inspection for missing retaining rings and installation instructions for any missing retaining rings; inspection and replacement of certain part-numbered covers; and an operational test for the jettisonable windows system.

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.

Differences Between This AD and the MCAI

The MCAI applies to Airbus Helicopters Model H160-B helicopters modified with EASA STC 10080809, whereas this AD applies to Airbus Helicopters Model H160-B helicopters

modified with FAA STC SR00223IB, dated October 3, 2024.

Where the MCAI specifies contacting MAG for corrective instructions, this AD requires using a method approved by the FAA, or EASA, or Airbus Helicopters' EASA Design Organizational Approval.

Costs of Compliance

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

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Remove jettisonable window systems (6 per helicopter).	4 work-hours × \$85 per hour = \$340 (per window)	\$0	\$2,040 (6 windows).	\$16,320
Inspect retaining rings	1 work-hour × \$85 per hour = \$85	\$0	\$85	680
Inspect LH and RH covers	4 work-hours × \$85 per hour = \$340	\$0	\$680 (2 covers)	5,440
Lubricate locking fingers	2 work-hours × \$85 per hour = \$170	\$0	\$170	1,360
Perform operational test	2 work-hours × \$85 per hour = \$170	\$0	\$170	1,360
Modify LH and RH covers	2 work-hours × \$85 per hour = \$170	\$290 (per cover)	\$920 (2 covers)	7,360

ESTIMATED COSTS FOR ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace locking fingers	Up to 12 work-hours × \$85 per hour = \$1,020	\$3,520 (per kit)	\$4,540 (per kit).
Install missing retaining rings	1 work-hour × \$85 per hour = \$85	Up to \$50 (per ring)	Up to \$135 (per ring).

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some 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:

2026-11-01 Airbus Helicopters:

Amendment 39-23362; Docket No. FAA-2026-2283; Project Identifier MCAI-2026-00077-R.

(a) Effective Date

This airworthiness directive (AD) is effective July 9, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus Helicopters Model H160-B helicopters, certificated in any category, modified by Supplemental Type Certificate (STC) SR00223IB.

(d) Subject

Joint Aircraft System Component (JASC) Code 5630, Door windows.

(e) Unsafe Condition

This AD was prompted by reports of various deficiencies on the parts installed on the jettisonable window system. The FAA is issuing this AD to prevent failure of the jettisoning function of the window. The unsafe condition, if not addressed, could result in the inability to evacuate helicopter occupants during an emergency situation.

(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, European Union Aviation Safety Agency (EASA) AD 2025–0269, dated December 1, 2025 (EASA AD 2025–0269).

(h) Exceptions to EASA AD 2025–0269 and MAG SB–A6H–015

(1) Where EASA AD 2025–0269 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2025–0269 requires compliance in terms of flight hours, this AD requires using hours time-in-service.

(3) Where paragraph (5) of EASA AD 2025–0269 specifies “perform one operational test of the window jettisonable systems in accordance with the instructions of Part IV of the MSB”, this AD requires replacing that text with “perform one operational test (also referred to as a functional test) of the window jettisonable systems in accordance with the instructions of Part IV of the MSB”.

(4) Where paragraph (6) of EASA AD 2025–0269 and Mecaer Aviation Group Mandatory Service Bulletin No. SB–A6H–015, dated November 19, 2025 (MAG SB–A6H–015) referenced in EASA AD 2025–0269 specifies “new”, this AD requires replacing that text with “new (zero hours time-in-service)”.

(5) Where paragraph (8) of EASA AD 2025–0269 specifies contacting MAG [Mecaer Aviation Group] for applicable corrective actions and instructions if a discrepancy is detected during the operational test, and where the material referenced in EASA AD 2025–0269 specifies to contact MAG if a functional test fails, this AD requires, before further flight, performing these actions 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.

(6) Where MAG SB–A6H–015 referenced in EASA AD 2025–0269 specifies “in case of doubt”, this AD requires replacing that text with “inspect for broken locking fingers”.

(7) Where MAG SB–A6H–015 referenced in EASA AD 2025–0269 specifies “confirm that no visible damage is present”, this AD requires replacing that text with “inspect for damage (any crack, deformation, wear, corrosion, looseness, elongation, impact mark, or structural defect)”.

(8) Where MAG SB–A6H–015 referenced in EASA AD 2025–0269 specifies “scrapped”, this AD requires replacing that text with “remove from service”.

(9) This AD does not adopt the “Remarks” section of EASA AD 2025–0269.

(i) No Reporting Requirement

Although the material referenced in EASA AD 2025–0269 specifies to submit certain information to the manufacturer, this AD does not require that action.

(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 Brenda Buitrago Perez, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (516) 228–7368; email: brenda.l.buitrago.perez@faa.gov.

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0269, dated December 1, 2025.

(ii) Mecaer Aviation Group (MAG) Mandatory Service Bulletin No. SB–A6H–015, dated November 19, 2025.

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADs@easa.europa.eu; website: easa.europa.eu. You may find the EASA material on the EASA website at ad.easa.europa.eu. For MAG material identified in this AD, contact MAG, Via dell’Artigianato 1, Montepandone 63076 Ascoli Piceno, Italy; phone: +39 0735–7091; email: caw@mecaer.com; or at mecaer.com.

(4) 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.

(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 22, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–11174 Filed 6–3–26; 8:45 am]

BILLING CODE 4910–13–P

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

[Docket No. FAA–2026–2297; Project Identifier AD–2025–00184–R; Amendment 39–23366; AD 2026–11–05]

RIN 2120–AA64

Airworthiness Directives; Various Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for various helicopters. This AD was prompted by a report of a loss of tail rotor authority due to auxiliary system fluid loss caused by a yaw pedal damper housing fatigue fracture and attachment bolt fatigue fracture. This AD requires performing repetitive visual inspections of the auxiliary servo assembly, a fluorescent penetrant inspection (FPI) of the yaw pedal damper housing and, if necessary, corrective actions. This AD also requires determining and recording the remaining life of a certain part and revising the existing rotorcraft flight manual (RFM) to provide the flight crew with procedures to follow under certain conditions. This AD also requires revising the airworthiness limitations section (ALS) of the existing maintenance manual (MM) or instructions for continued airworthiness (ICAs) and the existing approved maintenance or inspection program, as applicable by incorporating a new service life limit for a certain part. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 9, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 9, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2026–2297; 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 Sikorsky Aircraft Corporation material identified in this AD, contact

Sikorsky Field Representative or Sikorsky's Service Engineering Group at Sikorsky Aircraft Corporation, Mailstop K100, 124 Quarry Road, Trumbull, CT 06611; phone: 1-800-946-4337 (1-800-Winged-S); email: wcs_cust_service_eng.gr-sik@lmco.com; website: sikorsky360.com.

• 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. It is also available at regulations.gov under Docket No. FAA-2026-2297.

FOR FURTHER INFORMATION CONTACT:

Fatin Saumik, Aviation Safety Engineer, FAA, 1701 Columbia Avenue, College Park, GA 30337; phone: (516) 228-7350; email: ECB-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 various helicopters. The NPRM was published in the **Federal Register** on March 13, 2026 (91 FR 12314). The NPRM was prompted by a report of an accident involving a Sikorsky Aircraft Model S-61N helicopter due to the loss of tail rotor authority resulting from auxiliary system fluid loss. An investigation revealed that the auxiliary system fluid loss was caused by a yaw pedal damper housing fatigue fracture and attachment bolt fatigue fracture. During the investigation, it was identified that a non-conforming yaw pedal damper housing lug radius, improper maintenance (failure to

properly torque and safety wire bolts), and improper operation (failure to heed the caution in the RFM regarding full activation of rudder pedals in less than five seconds) were contributing factors to the unsafe condition.

In the NPRM, the FAA proposed to require performing repetitive visual inspections of the auxiliary servo assembly, an FPI of the yaw pedal damper housing and, if necessary, corrective actions. The FAA also proposed to require determining and recording the remaining life of a certain part and revising the existing RFM to provide the flight crew with procedures to follow under certain conditions. Additionally, the FAA proposed to require revising the ALS of the existing MM or ICAs and the existing approved maintenance or inspection program, as applicable by incorporating a new service life limit for a certain part. The FAA is issuing this AD to detect and address cracking of the yaw pedal damper housing and attachment bolts and a non-conforming lug radius on the yaw pedal damper housing. The unsafe condition, if not addressed, could result in auxiliary system fluid loss, loss of tail rotor authority, and consequent reduced controllability of the helicopter or loss of control of the helicopter.

Discussion of Final Airworthiness Directive

Comments

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

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, 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 Sikorsky Aircraft Corporation S-61 Helicopter Alert Service Bulletin ASB 61B65-25, Basic Issue, dated October 17, 2022, as corrected by Sikorsky Aircraft Corporation S-61 Helicopter Alert Service Bulletin Errata, effective February 3, 2026 (ASB 61B65-25, dated October 17, 2022). This material specifies procedures for repetitive visual inspections of the auxiliary servo assembly, an FPI of the yaw pedal damper housing and, if necessary, corrective actions to include removing from service the yaw pedal damper check valve housing and attachment bolts and replacement with airworthy parts. This material also includes procedures for determining and recording the remaining life of a certain part. 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 76 helicopters of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Visually inspect auxiliary servo assembly	1 work-hour × \$85 per hour = \$85	\$0	\$85	\$6,460 per inspection cycle.
Determine remaining life of yaw pedal damper check valve housing.	3 work-hours × 85 per hour = 255	0	255	19,380.
Inspect yaw pedal damper check valve housing and attachment bolts.	15 work-hours × 85 per hour = 1,275.	0	1,275	96,900.
Revise RFM	1 work-hour × 85 per hour = 85	0	85	6,460.
Revise ALS	1 work-hour × 85 per hour = 85	0	85	6,460.
Record life limit in existing helicopter log card	1 work-hour × 85 per hour = 85	0	85	6,460.

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

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

helicopters that might need these repairs or replacements.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Blend repair and remeasure housing edge break radius.	4 work-hours × \$85 per hour = \$340	\$0	\$340
Replace yaw pedal damper check valve housing ...	1 work-hour × 85 per hour = 85	1,200	1,285
Replace attachment bolts	1 work-hour × 85 per hour = 85	1 (per bolt)	86
FPI of yaw pedal damper check valve housing and attachment bolts.	2 work-hours × 85 per hour = 170	0	170 per inspection cycle

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:

2026–11–05 Various Helicopters:
Amendment 39–23366; Docket No. FAA–2026–2297; Project Identifier AD–2025–00184–R.

(a) Effective Date

This airworthiness directive (AD) is effective July 9, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the helicopters identified in paragraphs (c)(1) through (7) of this AD, certificated in any category.

- (1) Carson Helicopters, Inc. Model S–61L and SH–3H helicopters.
- (2) Croman Corporation Model SH–3H helicopters.
- (3) Glacier Helicopter, Inc. Model CH–3E helicopters.
- (4) Reynolds Aviation Model USAF CH–3C, CH–3E, HH–3C, and HH–3E helicopters.
- (5) Sikorsky Aircraft Corporation Model S–61A, S–61D, S–61E, and S–61V helicopters.
- (6) Sikorsky Aircraft Model S–61L, S–61N, S–61NM, and S–61R helicopters.
- (7) Siller Helicopters Model CH–3E and SH–3A helicopters.

(d) Subject

Joint Aircraft System Component (JASC) Code 6700, Rotorcraft flight control; 6730, Rotorcraft servo system.

(e) Unsafe Condition

This AD was prompted by a report of a loss of tail rotor authority due to auxiliary system fluid loss caused by a yaw pedal damper housing fatigue fracture and attachment bolt fatigue fracture. The FAA is issuing this AD to detect and address cracking of the yaw pedal damper housing and attachment bolts and a non-conforming lug radius on the yaw pedal damper housing. The unsafe condition, if not addressed, could result in auxiliary

system fluid loss, loss of tail rotor authority, and consequent reduced controllability of the helicopter or loss of control of the helicopter.

(f) Compliance

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

(g) Repetitive Visual Inspection and Corrective Actions

As of the effective date of this AD, before the first flight of each day, inspect the lockwire to determine if attachment hardware does not rotate under finger pressure, and use a high-powered light source and mirror to perform a visual inspection of the auxiliary servo assembly located in the controls compartment (also known as the broom closet) for hydraulic fluid leakage, cracks, missing or loose lockwire, and compromised bolt security (loose, missing, cracked, fractured, or stretched bolts) in accordance with the Accomplishment Instructions Section 3.C.(3)(a) and (b) of Sikorsky Aircraft Corporation S–61 Helicopter Alert Service Bulletin ASB 61B65–25, Basic Issue, dated October 17, 2022, as corrected by Sikorsky Aircraft Corporation S–61 Helicopter Alert Service Bulletin Errata, effective February 3, 2026 (Sikorsky ASB 61B65–25).

(1) If there is any hydraulic fluid leakage, compromised bolt security (loose, missing, cracked, fractured, or stretched bolts), or if there are any cracks on the yaw pedal damper check valve housing, before further flight, replace the yaw pedal damper check valve housing and the associated attachment bolts with serviceable parts.

(2) If there is any loose or missing lockwire, before further flight, inspect that each bolt has a torque value of 45–50 in./lbs. and perform the applicable corrective actions as follows.

(i) If the torque value is correct replace the lockwire.

(ii) If the torque value is below 45 in./lbs. or above 50 in./lbs., or if evidence of compromised bolt security (loose, missing, cracked, fractured, or stretched bolts) is found, replace the yaw pedal damper check valve housing, the associated attachment bolts, and lockwire with serviceable parts.

(h) Determining Life and Parts Replacement

Within 10 hours time-in-service (TIS) from the effective date of the AD:

- (1) Determine the remaining life of the yaw pedal damper check valve housing having part number S6165–61517 in accordance with the Accomplishment Instructions, paragraph 3.B., of Sikorsky ASB 61B65–25

and record it in the existing helicopter log card or equivalent record.

(2) Before the yaw pedal damper check valve housing has accumulated 30,000 total hours TIS or within 60 days after the effective date of this AD, whichever occurs later, remove the yaw pedal damper check valve housing from service and replace with a serviceable part.

(i) Fluorescent Penetrant Inspection (FPI) and Corrective Action

(1) Within 150 hours TIS or 4 months, whichever occurs first after the effective date of this AD, perform an FPI of the yaw pedal damper check valve housing in accordance with the Accomplishment Instructions, paragraphs 3.C.(3) through (9), of Sikorsky ASB 61B65–25. If there are any cracks in the yaw pedal damper check valve housing, before further flight, remove the yaw pedal damper check valve housing and the associated attachment bolts from service and replace the affected parts with serviceable

parts. This FPI terminates the daily checks required by paragraph (g) of this AD.

(2) After accomplishing the actions as required by paragraph (i)(1) of this AD, thereafter at every 15 hours TIS, perform the repetitive visual inspection required by paragraph (g) of this AD.

Note 1 to paragraph (i)(2): The 15-hour repetitive inspection is established to coincide with any existing 15-hour TIS safety inspections of the auxiliary servo assembly. For example, Sikorsky Aircraft Model S–61N helicopters have this inspection as specified in Sikorsky Aircraft S–61 Equalized Inspection and Maintenance Program, SA 4047–13, Revision No. 18, dated January 15, 2014.

(j) Update Maintenance Records

Within 30 days after the effective date of this AD, incorporate into existing maintenance records required by 14 CFR 91.417(a)(2) or 135.439(a)(2), as applicable for your helicopter, a new service life limit

of 30,000 hours TIS for the yaw pedal damper check valve housing.

(k) Provisions for Alternative Actions and Intervals

After the action required by paragraph (j) of this AD has been accomplished, no alternative actions and associated thresholds and intervals, including life limits, are allowed.

(l) Revision of Existing Rotorcraft Flight Manual (RFM)

Within 30 days after the effective date of this AD, revise the normal procedures section, specifically the preflight inspection of the flight control servo system procedure, of the existing RFM for the helicopter by inserting the information specified in figure 1 to paragraph (l) of this AD or by inserting a copy of this AD.

Figure 1 to Paragraph (l)—New RFM Caution

CAUTION

Full activation of the rudder pedals in less than 5 seconds will likely damage the yaw bellcrank, yaw pedal damper housing, and yaw pedal damper attachment bolts on the YAW AUX servo.

(m) No Reporting or Returning Parts Requirements

Although Sikorsky ASB 61B65–25 specifies submitting certain information or returning an affected part to the manufacturer, this AD does not include those requirements.

(n) Special Flight Permits

Special flight permits are prohibited.

(o) Alternative Methods of Compliance (AMOCs)

(1) The Manager, East Certification 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 East Certification Branch, send it to the attention of the person identified in paragraph (p) 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.

(p) Additional Information

(1) For more information about this AD, contact Fatin Saumik, Aviation Safety Engineer, FAA, 1701 Columbia Avenue, College Park, GA 30337; phone: (516) 228–7350; email: ECB-COS@faa.gov.

(2) Sikorsky Aircraft Corporation material identified in this AD that is not incorporated by reference is available at the address specified in paragraph (q)(3) of this AD.

(q) Material Incorporated by Reference

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

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

(i) Sikorsky Aircraft Corporation S–61 Helicopter Alert Service Bulletin ASB 61B65–25, Basic Issue, dated October 17, 2022, as corrected by Sikorsky Aircraft Corporation S–61 Helicopter Alert Service Bulletin Errata, effective February 3, 2026.

(ii) [Reserved]

(3) For Sikorsky Aircraft Corporation material identified in this AD, contact Sikorsky Field Representative or Sikorsky's Service Engineering Group at Sikorsky Aircraft Corporation, Mailstop K100, 124 Quarry Road, Trumbull, CT 06611; phone: 1–800–946–4337 (1–800–Winged-S); email: wcs_cust_service_eng.gr-sik@lmco.com; website: sikorsky360.com.

(4) 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.

(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 22, 2026.

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

[FR Doc. 2026–11185 Filed 6–3–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–2280; Project Identifier MCAI–2025–01562–T; Amendment 39–23369; AD 2026–11–08]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A350–941 airplanes.

This AD was prompted by a determination that double overcoating sealant was not applied during production on certain fasteners in the center wing box (CWB) and belly faring junction for both left-hand (LH) and right-hand (RH) sides, and certain fasteners are also susceptible to rotation. This AD requires replacing each affected part and applying additional head nut cap protection. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 9, 2026.
The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 9, 2026.

ADDRESSES:
AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2026–2280; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; 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](https://www.regulations.gov) under Docket No. FAA–2026–2280.

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:
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 Airbus SAS Model A350–941 airplanes. The NPRM was published in the **Federal Register** on February 25, 2026 (91 FR 9199). The NPRM was prompted by EASA AD 2025–0210, dated September 24, 2025 (EASA AD 2025–0210) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states that during production some fasteners located at the junction between the CWB lower panel and the belly fairing fittings on both LH and RH sides may have been installed without double overcoating sealant; in addition, some fasteners EN6115 code B have been installed, which are susceptible to rotation. This condition, if not corrected, could lead to loss of fastener clamping and crack of nut sealant cover, possibly resulting, in the case of a lightning strike, in a risk of a fuel tank explosion and consequent loss of the airplane.

In the NPRM, the FAA proposed to require replacing each affected part and applying additional head nut cap protection, as specified in EASA AD 2025–0210. 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–2026–2280.

Discussion of Final Airworthiness Directive
Comments
The FAA received a comment from the Airline Pilots Association, International (ALPA) who supported the NPRM without change.

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
EASA AD 2025–0210 specifies procedures for replacing fasteners installed at Frame (FR) 46 and FR 49 on the LH and RH sides of the CWB and for applying additional head nut cap protection (e.g., applying sealant and corrosion inhibiting fastener head protection). 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 5 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS				
	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
64 work-hours × \$85 per hour = \$5,440		\$480	\$5,920	\$29,600

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:

2026–11–08 Airbus SAS: Amendment 39–23369; Docket No. FAA–2026–2280; Project Identifier MCAI–2025–01562–T.

(a) Effective Date

This airworthiness directive (AD) is effective July 9, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A350–941 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2025–0210, dated September 24, 2025 (EASA AD 2025–0210).

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

This AD was prompted by a determination that double overcoating sealant was not applied during production on certain fasteners in the center wing box and belly faring junction for both left-hand and right-hand sides, and certain fasteners are susceptible to rotation. The FAA is issuing this AD to address incorrect fastener

installation. This unsafe condition, if not addressed, could result in loss of fastener clamping and crack of nut sealant cover, possibly resulting, in the case of a lightning strike, in a risk of a fuel tank explosion and consequent loss of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2025–0210.

(h) Exceptions to EASA AD 2025–0210

(1) Where EASA AD 2025–0210 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where the definition of “Affected part” in EASA AD 2025–0210 specifies “as specified in the SB”, this AD requires replacing that text with “as specified in Airbus Service Bulletin A350–57–P094, dated June 17, 2025”.

(3) This AD does not adopt the “Remarks” section of EASA AD 2025–0210.

(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 contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator’s maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or

changes to procedures or tests identified as RC require approval of an AMOC.

(j) Additional Information

For more information about this AD, contact 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 of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0210, dated September 24, 2025.

(ii) [Reserved]

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

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

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

Issued on May 22, 2026.

Lona C. Saccomando,

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

[FR Doc. 2026–11215 Filed 6–3–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2025–2540; Project Identifier MCAI–2025–00158–R; Amendment 39–23360; AD 2026–10–20]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus Helicopters Deutschland GmbH (AHD) Model MBB–BK 117 D–3 helicopters. This AD was prompted by

a report of excessive vibrations in-flight due to an incorrect installation of the angular ball bearing of the control ring assembly. This AD requires a one-time inspection of the affected swashplates and, depending on the results of the inspection, corrective actions. This AD prohibits the installation of an affected swashplate on a helicopter, unless certain requirements are met. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 9, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 9, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–2540; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

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

- You may view this material at the FAA, 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. It is also available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–2540.

FOR FURTHER INFORMATION CONTACT: Zain Jamal, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (847) 294–7264; email: zain.jamal@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 all Airbus Helicopters Deutschland GmbH Model MBB–BK 117 D–3 helicopters. The NPRM was published in the **Federal Register** on September 15, 2025 (90 FR 44347). The

NPRM was prompted by EASA AD 2025–0029, dated February 7, 2025 (EASA AD 2025–0029) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states that an occurrence of excessive vibrations in flight was reported. The MCAI further states that subsequent investigations revealed that an incorrect installation of the angular ball bearing of the control ring assembly caused wear of the axial bearing seat. This condition, if not addressed, could result in axial play between the swashplate bearing ring assembly and the control ring assembly and consequent reduced control of the helicopter.

In the NPRM, the FAA proposed to require a one-time inspection of the affected swashplates and, depending on the results of the inspection, corrective actions. The NPRM also proposed to prohibit the installation of an affected swashplate on a helicopter unless certain requirements are met, as specified in EASA AD 2025–0029.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–2540.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from two commenters. The commenters were an individual who supported the NPRM without change, and the Citizens Rulemaking Alliance. The following presents the comments received on the NPRM from the Citizens Rulemaking Alliance and the FAA’s response to each comment.

Request To Issue an NPRM or Justify Forgoing Notice and Comment

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

The FAA notes the comment was submitted in response to an NPRM for which the FAA provided a 45-day comment period. This final rule is effective 35 days after its publication in the **Federal Register**. Therefore, the FAA did not change this AD as a result of this comment.

Request To Comply With the Paperwork Reduction Act (PRA)

The Citizens Rulemaking Alliance requested that the FAA revise the AD to comply with the PRA if reporting is required or remove any reporting provisions until PRA requirements are satisfied.

The FAA notes that paragraph (i) of this AD specifies that this AD does not require reporting. If an AD were to require reporting, the preamble of the AD would include a paragraph titled “Paperwork Reduction Act” that would provide the applicable OMB control number, required PRA statements, and the estimated time to collect the required information (burden). Any costs associated with the reporting requirement would be included in the Costs of Compliance section in the preamble of the AD. Therefore, the FAA did not change this AD as a result of this comment.

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

The Citizens Rulemaking Alliance stated that the FAA’s current practices for IBR frequently fail to meet the legal and regulatory standards for reasonable availability. The commenter called on the FAA to guarantee that all IBR materials are easily and freely accessible to the public.

The FAA clarifies that this AD only incorporates by reference EASA AD 2025–0029, not the manufacturer service information referenced in that EASA AD. The FAA posted EASA AD 2025–0029 to the AD docket when the NPRM was published in the **Federal Register**. The material referenced in EASA AD 2025–0029 may only be posted before the final rule’s publication if it is already publicly available or if there is written consent from the owner of that material. Additionally, the FAA provided notice in the NPRM that the material referenced in EASA AD 2025–0029 will be available in the AD docket after this AD is published.

The FAA also provides summaries and access details in the preamble and regulatory text, makes materials available for inspection at FAA and National Archives and Records Administration (NARA) offices, offers publisher contact information, and obtains formal IBR approval from the Office of the Federal Register. These efforts are intended to ensure that all IBR materials meet the “reasonably available” standard required by 1 CFR part 51.

Therefore, the FAA did not change this AD as a result of this comment.

Request To Consider Impact on Small Entities

The Citizens Rulemaking Alliance requested that the FAA prepare an initial regulatory flexibility analysis that takes into account parts, labor, aircraft downtime, and specific small entity impacts. Additionally, the commenter requested that the FAA adopt less burdensome alternatives for small operators, such as explicit AMOC alternatives, temporary ferry flight allowances, and flexible compliance intervals.

The FAA has considered the AD's impact on small entities and provides the following factual basis for its Regulatory Flexibility Act (RFA) certification.

The Regulatory Flexibility Act of 1980, Public Law 96–354, 94 Stat. 1164 (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121,

110 Stat. 857, Mar. 29, 1996) and the Small Business Jobs Act of 2010 (Pub. L. 111–240, 124 Stat. 2504, Sept. 27, 2010), 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.

Small Entities to Which This AD Applies

The FAA used the definition of small entities in the RFA for this analysis. The RFA defines small entities as small businesses, small governmental jurisdictions, or small organizations. In 5 U.S.C. 601(3), the RFA defines “small business” to have the same meaning as

“small business concern” under section 3 of the Small Business Act. The Small Business Act authorizes the Small Business Administration (SBA) to define “small business” by issuing regulations.

The SBA (2023) has established size standards for various types of economic activities, or industries, under the North American Industry Classification System (NAICS). These size standards generally define small businesses based on the number of employees or annual receipts. Note that the SBA definition of a small business applies to the parent company and all affiliates as a single entity.

This AD impacts 21 entities, including 6 small entities. The table below displays the industries with affected entities, along with the number of affected entities and the number of small entities impacted in each industry.

NUMBER OF SMALL ENTITIES AFFECTED BY INDUSTRY

NAICS Code	Description	Size standard	Number of entities	Number of small entities	Percent small entities %
221118	Other Electric Power Generation	650 employees	1	0	0
221122	Electric Power Distribution	1,100 employees	1	0	0
238220	Plumbing, Heating, and Air-Conditioning Contractors.	\$19.0 million	1	1	100
336411	Aircraft Manufacturing	1,500 employees	1	0	0
481211	Nonscheduled Chartered Passenger Air Transportation.	1,500 employees	3	3	100
481219	Other Nonscheduled Air Transportation	\$25.0 million	2	0	0
621498	All Other Outpatient Care Centers	\$25.5 million	1	1	100
621910	Ambulance Services	\$22.5 million	6	1	17
622110	General Medical and Surgical Hospitals	\$47.0 million	2	0	0
N/A	Government Jurisdiction	50,000 population	3	0	0

The following table displays the high-case cost impact of the AD on all six small entities.

HIGH-CASE AD COST IMPACT ON SMALL ENTITIES

Small entity number	NAICS industry	Revenue	High-case cost	Cost as a share of revenue %
1	Nonscheduled Chartered Passenger Air Transportation	\$500,000	\$9,420	1.88
2	Nonscheduled Chartered Passenger Air Transportation	12,510,000	18,840	0.15
3	Nonscheduled Chartered Passenger Air Transportation	15,290,000	9,420	0.06
4	Ambulance Services	17,740,000	37,680	0.21
5	All Other Outpatient Care Centers	1,040,000	9,420	0.91
6	Plumbing, Heating, and Air-Conditioning Contractors	17,590,000	9,420	0.05

RFA Conclusions

While the FAA has determined that this AD affects a substantial number of small entities, the high-case compliance cost of the AD requirements relative to each small entity's annual revenue is

minimal. In the high-case scenario, the AD's cost as a percentage of annual revenue imposes a cost no greater than 1.88 percent. Therefore, as provided in section 605(b), the FAA certifies that this AD will not result in a significant

economic impact on a substantial number of small entities. The FAA did not change this AD as a result of this comment.

Request To Provide the Regulatory Evaluation

The Citizens Rulemaking Alliance requested that the FAA add to the AD docket the regulatory evaluation of the proposed AD and reopen the comment period to allow for public input on the additional cost information.

The FAA’s practice is to add the regulatory evaluation of the proposed AD in the NPRM, not as a separate document in the AD docket.

In the Costs of Compliance section of the NPRM, the FAA disclosed the estimated number of work hours, the number of helicopters affected on the U.S. registry (which has been updated in this final rule), estimated parts cost, and the aggregate costs for the U.S. fleet. The FAA has revised the Costs of Compliance section to clarify costs of this AD. Since the FAA provided the regulatory evaluation in the NPRM, and the commenter did not provide additional information for the FAA to consider in its analysis, it is not necessary to reopen the comment period or provide additional information in the AD docket.

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

The FAA reviewed EASA AD 2025–0029, which specifies procedures for a one-time inspection of swashplates having part number D623M2050102 and a serial number up to 0487 inclusive and, depending on the inspection results, accomplishing corrective actions and contacting Airbus Helicopters for approved repair instructions. Corrective actions include inspecting the control ring assembly and, depending on the results, repair or replacement of the control ring assembly or repair of the surface protection of the control ring assembly.

The MCAI also allows the accomplishment of corrective actions using the instructions of the applicable Aircraft Maintenance Manual (AMM) 62–32–00, 6–7. Corrective actions specified in the applicable AMM

include the examination of bolts, single row ball bearings, bushings, and washers and, depending on the results, repair or replacement of these parts, as applicable.

Additionally, the MCAI allows the installation of an affected swashplate on a helicopter if it is inspected before it is installed, and if any corrective actions are completed in accordance with the instructions of the service material.

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.

Differences Between This AD and the MCAI

The MCAI applies to Model MBB–BK117 D–3m helicopters, whereas this AD does not because that model does not have an FAA type certificate. The MCAI requires reporting inspection results to the manufacturer, whereas this AD does not. The MCAI does not apply to helicopters where it cannot be determined that a swashplate has been inspected, whereas this AD applies to those helicopters.

Costs of Compliance

The FAA estimates that this AD affects 55 helicopters of the U.S. registry. The FAA estimates that following costs to comply with this AD.

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost ¹	Parts cost	Cost per product	Cost on U.S. operators
Inspect swashplate	4 work-hours × \$85 per hour = \$340	\$0	\$340	\$18,700

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 helicopters that might need these on-condition actions. However, the FAA estimates the low- and high-case costs for each helicopter. If a helicopter only incurs required costs (low-case scenario), each helicopter will incur \$340 in compliance costs. If a helicopter incurs all required and on-condition costs (high-case scenario), each helicopter could incur up to \$9,420 in compliance costs.

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Action	Labor cost	Parts cost	Cost per product
Inspect control ring assembly	4 work-hours × \$85 per hour = \$340	\$0	\$340
Repair or replace control ring assembly	Up to 64 work-hours × \$85 hour = \$5,440	Up to \$3,300	Up to \$8,740.

¹ The FAA estimated operators will incur \$85 in costs per labor hour, which is the weighted average fiscal year (FY) 2026 fully loaded wage of an aircraft mechanic (\$69.85) working 60% of the labor hours and a general and operations manager (\$108.15) working 40% of the labor hours. The FAA estimated these wages by taking the average of the FY 2024 Bureau of Labor Statistics (BLS) air

transportation industry average wage for aircraft mechanics and general and operations managers (See: Occupational Employment and Wage Statistics Query System, BLS (May 2024), data.bls.gov/oes/); multiplying each wage by a fringe benefit factor of 1.42 (See: Employer Cost for Employee Compensation—December 2024, BLS (2024), bls.gov/news.release/archives/ecec_03142025.pdf); and adjusting these 2024 wages to 2026 dollars using an implicit Gross Domestic Product (GDP) Price Deflator of 2.8% (See: Gross Domestic Product: Implicit Price Deflator, FRED (2026) fred.stlouisfed.org/series/GDPDEF).

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:

2026–10–20 Airbus Helicopters

Deutschland GmbH: Amendment 39–23360; Docket No. FAA–2025–2540; Project Identifier MCAI–2025–00158–R.

(a) Effective Date

This airworthiness directive (AD) is effective July 9, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus Helicopters Deutschland GmbH (AHD) Model MBB–BK 117 D–3 helicopters, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 6230, Main Rotor Mast/Swashplate.

(e) Unsafe Condition

This AD was prompted by a report of an occurrence of excessive vibrations in-flight due to an incorrect installation of the angular ball bearing of the control ring assembly. The FAA is issuing this AD to detect and correct incorrect installation of the angular ball bearing. The unsafe condition, if not addressed, could result in axial play between the swashplate bearing ring assembly and the control ring assembly and consequent reduced control of the helicopter.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2025–0029, dated February 7, 2025 (EASA AD 2025–0029).

(h) Exceptions to EASA AD 2025–0029

(1) Where EASA AD 2025–0029 requires compliance in terms of flight hours, this AD requires using hours time-in-service.

(2) Where EASA AD 2025–0029 refers to its effective date, this AD requires using the effective date of this AD.

(3) Where EASA AD 2025–0029 defines "Affected part", this AD adds "including those where it cannot be determined if the 'Supplementary Inspection-4000 FH' has been accomplished on the swashplate" to the end of that definition.

(4) Where the material referenced in EASA AD 2025–0029 specifies "check", this AD requires replacing that text with "inspect".

(5) Where the material referenced in EASA AD 2025–0029 specifies "Tightening torque inspection of the hexagonal head bolts of the inner ring and outer ring", this AD requires replacing that text with "Tightening torque inspection of the hexagonal head bolts of the inner ring".

(6) Where paragraph (2) of EASA AD 2025–0029 specifies "in case of finding any discrepancy during the inspection of the control ring assembly, to accomplish the applicable corrective actions before next

flight, or to contact AH [Airbus Helicopters] for approved repair instructions and, before next flight, to accomplish those instructions accordingly", this AD requires replacing that text with "in case of finding any discrepancy during the inspection of the control ring assembly, before further flight, accomplish the instructions or corrective actions 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".

(7) This AD does not adopt the "Remarks" section of EASA AD 2025–0029.

(i) No Reporting Requirement

Although the material referenced in EASA AD 2025–0029 specifies to submit certain information to the manufacturer, this AD does not require that action.

(j) Special Flight Permits

Special flight permits are prohibited.

(k) Alternative Methods of Compliance (AMOCs)

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

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

(l) Additional Information

For more information about this AD, contact Zain Jamal, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (847) 294–7264; email: zain.jamal@faa.gov.

(m) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0029, dated February 7, 2025.

(ii) [Reserved]

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

(4) You may view this material at 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.

(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. 2026–11175 Filed 6–3–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–1337; Project Identifier MCAI–2025–01289–R; Amendment 39–23363; AD 2026–11–02]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus Helicopters Model H160–B helicopters. This AD was prompted by reports of a fully discharged personal locator beacon (PLB) battery installed on an emergency life-raft system (ELRS), as well as a report where the ropes connecting the two ELRS to the PLB were not correctly attached. This AD requires performing a functional test of the PLB and inspecting the rope connection to the ELRS. Depending on the results of the functional test, this AD requires performing the functional test again or replacing affected parts, and depending on the results of the rope inspection, correctly attaching the wrist strap of the PLB to the ELRS rope. This AD also prohibits the installation of a certain part-numbered PLB and the rope connection to the ELRS, unless certain requirements are met. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 9, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 9, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2026–1337; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except

Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADs@easa.europa.eu; website: easa.europa.eu. You may find the EASA material on the EASA website at 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. It is also available at regulations.gov under Docket No. FAA–2026–1337.

FOR FURTHER INFORMATION CONTACT:

Steven Warwick, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 222–5225; email: steven.r.warwick@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 all Airbus Helicopters Model H160–B helicopters. The NPRM was published in the **Federal Register** on February 23, 2026 (91 FR 8393). The NPRM was prompted by EASA AD 2025–0162, dated July 29, 2025 (EASA AD 2025–0162) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states there have been reports of a fully discharged PLB battery that is installed on the ELRS. The MCAI further states an occurrence was reported where the connecting rope between the two ELRS and the PLB was not attached correctly.

In the NPRM, the FAA proposed to require performing a functional test of the PLB and inspecting the rope connection to the ELRS. Depending on the results of the functional test, the FAA proposed to require performing the functional test again or replacing affected parts, and depending on the results of the rope inspection, correctly attaching the wrist strap of the PLB to the ELRS rope. The FAA also proposed

to prohibit the installation of a certain part-numbered PLB and the rope connection to the ELRS, unless certain requirements are met. 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–2026–1337.

Discussion of Final Airworthiness Directive

Comments

The FAA received one comment on the NPRM from an individual commenter. The commenter supported the NPRM without change.

Additional Changes Made to This AD

In the NPRM, the FAA incorrectly referenced EASA AD 2025–0165 in the Exceptions to EASA AD 2025–0162 paragraph (paragraph (h)(2) of the proposed AD).

Accordingly, the FAA has revised paragraph (h)(2) of the Exceptions to EASA AD 2025–0162 paragraph of this AD to reference EASA AD 2025–0162.

Further, the FAA incorrectly designated paragraph (i) of the proposed AD as the Alternative Methods of Compliance (AMOCs) paragraph. Accordingly, the FAA has revised the Alternative Methods of Compliance (AMOCs) paragraph to designate it as paragraph (j). The FAA has also redesignated subsequent paragraphs accordingly.

Conclusion

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

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2025–0162, which specifies procedures for inspecting PLB part number (P/N) U256M30T1001, with manufacturer P/N 500–32–2Y–H and the connecting rope between the PLB and the ELRS and,

depending on the results of this inspection, performing a functional test up to five times or replacing the PLB battery pack with a new battery pack; and if necessary, correctly connecting the rope attached to the ELRS. EASA AD 2025–0162 also prohibits installing an affected PLB or the rope between an

affected PLB and ELRS unless certain requirements are met. 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 12 helicopters of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Perform functional test of each PLB	1 work-hour × \$85 per hour = \$85	\$0	\$85	\$1,020
Inspect the wrist strap	1 work-hour × \$85 per hour = \$85	0	85	1,020

The FAA estimates the following costs to do any replacements or corrections that would be required

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

the number of helicopters that might need these replacements or corrections.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace battery pack	1 work-hour × \$85 per hour = \$85	\$2,173	\$2,258
Replace a PLB	1 work-hour × \$85 per hour = \$85	5,393	5,478
Attach wrist strap correctly	1 work-hour × \$85 per hour = \$85	0	85

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:

2026–11–02 Airbus Helicopters:

Amendment 39–23363; Docket No. FAA–2026–1337; Project Identifier MCAI–2025–01289–R.

(a) Effective Date

This airworthiness directive (AD) is effective July 9, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Helicopters Model H160–B helicopters, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 2562, Emergency Locator Beacon.

(e) Unsafe Condition

This AD was prompted by reports of a fully discharged personal locator beacon (PLB) battery installed on an emergency life-raft system (ELRS), as well as a report where the ropes connecting the two ELRS to the PLB were not correctly attached. The FAA is issuing this AD to prevent operational failure of the PLB. The unsafe condition, if not addressed, could result in delayed arrival of rescue services and timely medical assistance to injured crew members or passengers during an emergency use of the life-raft.

(f) Compliance

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

(g) Requirements

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

0162, dated July 29, 2025 (EASA AD 2025–0162).

(h) Exceptions to EASA AD 2025–0162

(1) Where EASA AD 2025–0162 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2025–0162 requires compliance in terms of flight hours, this AD requires using hours time-in-service.

(3) Where the material referenced in EASA AD 2025–0162 specifies a “new”, this AD requires replacing that text with “new (never installed) part”.

(4) This AD does not adopt the “Remarks” section of EASA AD 2025–0162.

(i) No Reporting Requirement

Although the material referenced in EASA AD 2025–0162 specifies to submit certain information to the manufacturer, this AD does not require that action.

(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 Steven Warwick, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 222–5225; email: steven.r.warwick@faa.gov.

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0162, dated July 29, 2025.

(ii) [Reserved]

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

(4) You may view this material at the FAA, 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. 2026–11178 Filed 6–3–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–2293; Project Identifier MCAI–2025–00684–T; Amendment 39–23364; AD 2026–11–03]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Dassault Aviation Model FALCON 7X airplanes. This AD was prompted by a report of a failed extension of the inboard slats during the landing phase, which the crew alerting system (CAS) did not indicate to the flightcrew. This AD requires modifying the maintenance and avionics interface computer (MAIC) software and revising the existing airplane flight manual (AFM) to provide improved procedures for addressing slat failures. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 9, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 9, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2026–2293; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material

identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; 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–2026–2293.

FOR FURTHER INFORMATION CONTACT:

Jonathan Duong, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7362; email: 9-AVS-AIR-BACO-COS@faa.gov.

SUPPLEMENTARY INFORMATION:

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 Dassault Aviation Model FALCON 7X airplanes. The NPRM was published in the **Federal Register** on March 10, 2026 (91 FR 11480). The NPRM was prompted by EASA AD 2025–0092, dated April 23, 2025 (EASA AD 2025–0092) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states that Dassault Aviation has developed Dassault modification M2138 that introduces changes to the MAIC software to restore crew awareness about the inboard slat configuration in case of slat failures and published improved AFM procedures to cope with slat failures. EASA AD 2025–0092 also stated that the AD is considered an interim action and further AD action may follow to expand the applicability to airplanes that have not embodied Dassault modification M1000.

In the NPRM, the FAA proposed to require modifying the MAIC software and revising the existing AFM to provide improved procedures for addressing slat failures, as specified in EASA AD 2025–0092. The NPRM also specified that accomplishing the proposed actions would terminate the requirements of AD 2022–18–18, Amendment 39–22169 (87 FR 54131, September 2, 2022) only for Dassault Aviation Model FALCON 7X airplanes that have embodied Dassault modification M1000. The FAA is issuing this AD to address the failed extension of inboard slats during landing phase without flightcrew indication. The unsafe condition, if not addressed, could lead to reduced lift

margin during approach and landing and result in reduced control of the airplane.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–2293.

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

EASA AD 2025–0092 specifies procedures for the following actions:

- Upgrading the MAIC software, which includes modifying the digital flight control system (DFCS) 4.1.3 standard to ensure the “FCS: SLAT INB EXTEND FAIL” CAS message is properly displayed (Dassault modification M2138).
- Accomplishing Dassault modification M1968 or Dassault modification M1655, as applicable, prior to accomplishing Dassault modification M2138. Dassault modification M1968 includes updating

the MAIC software. Dassault modification M1655 includes modifying DFCS standard 4.1.1.

- Amending the AFM to implement improved procedures for addressing slat failures.

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

Interim Action

The FAA considers that this AD is an interim action. If EASA later determines it is necessary to expand the applicability to airplanes that have not embodied Dassault modification M1000, the FAA might consider further rulemaking.

Costs of Compliance

The FAA estimates that this AD affects 25 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
Up to 24 work-hours × \$85 per hour = \$2,040	Up to \$2,860 *	Up to \$4,900	Up to \$122,500.

* The FAA estimates that rental of special tooling to accomplish Dassault modifications M2138, M1968, and M1655, as applicable, costs \$929, \$981, and \$950 per day, respectively.

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some or all of the costs of this 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:

2026–11–03 Dassault Aviation:

Amendment 39–23364; Docket No. FAA–2026–2293; Project Identifier MCAI–2025–00684–T.

(a) Effective Date

This airworthiness directive (AD) is effective July 9, 2026.

(b) Affected ADs

This AD affects AD 2022–18–18, Amendment 39–22169 (87 FR 54131, September 2, 2022) (AD 2022–18–18).

(c) Applicability

This AD applies to Dassault Aviation Model FALCON 7X airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2025–0092, dated April 23, 2025 (EASA AD 2025–0092).

Note 1 to paragraph (c): Model FALCON 7X airplanes with Dassault modification M1000 incorporated are commonly referred

to as “Model FALCON 8X” as a marketing designation.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report of a failed extension of the inboard slats during the landing phase, which the crew alerting system did not indicate to the flightcrew. The FAA is issuing this AD to address the failed extension of inboard slats during landing phase without flightcrew indication. The unsafe condition, if not addressed, could lead to reduced lift margin during approach and landing and result in reduced control of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2025–0092.

(h) Exceptions to EASA AD 2025–0092

(1) Where EASA AD 2025–0092 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (3) of EASA AD 2025–0092 specifies to “implement the AFM–CP”, this AD requires replacing that text with “revise the existing AFM to incorporate the procedures in “the AFM–CP” for addressing slat failures”.

(3) Where paragraph (3) of EASA AD 2025–0092 specifies to “inform all flight crews, and thereafter, operate the aeroplane accordingly,” this AD does not require those actions as those actions are already required by existing FAA operating regulations (see 14 CFR 91.9, 91.505, 121.137, and 121.628(a)(2) and (5)).

(4) Where paragraph (5) of EASA AD 2025–0092 specifies “An aeroplane, the AFM of which has been amended to comply with paragraph (3) of this AD, or that has been amended by incorporating the AFM at revision 7, or later”, this AD requires replacing that text with “An airplane that has been amended by incorporating the AFM at revision 7, or later”.

(5) This AD does not adopt the “Remarks” section of EASA AD 2025–0092.

(i) No Reporting Requirement

Although the material referenced in EASA AD 2025–0092 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Terminating Action for AD 2022–18–18

Accomplishing the actions required by this AD terminates the requirements of AD 2022–18–18 only for the airplanes identified in paragraph (c) of this AD.

(k) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(l) Additional Information

For more information about this AD, contact Jonathan Duong, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7362; email: 9-AVS-AIR-BACO-COS@faa.gov.

(m) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0092, dated April 23, 2025.

(ii) [Reserved]

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

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

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

Issued on May 21, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–11216 Filed 6–3–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–0742; Project Identifier MCAI–2025–01337–E; Amendment 39–23361; AD 2026–10–21]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2023–26–04 for all Rolls-Royce Deutschland Ltd & Co KG (RRD) Model Trent 1000–AE3, Trent 1000–CE3, Trent 1000–D3, Trent 1000–G3, Trent 1000–H3, Trent 1000–J3, Trent 1000–K3, Trent 1000–L3, Trent 1000–M3, Trent 1000–N3, Trent 1000–P3, Trent 1000–Q3, and Trent 1000–R3 engines. AD 2023–26–04 required initial and repetitive in-shop visual inspections of the intermediate-pressure stage 8 (IP8) and high-pressure stage 3 (HP3) air transfer tubes and front bearing housing IP8 air feed tubes for cracking, damage, or air leakage wear, and replacement, if necessary. Since the FAA issued AD 2023–26–04, the FAA has determined that a new set of initial and repetitive on-wing visual inspections of the IP8 and HP3 air transfer tubes for cracking, damage, or air leakage wear are necessary, and consequently the inspection interval for the repetitive in-shop visual inspections of front bearing housing IP8 air feed tubes may be increased. This AD requires initial and repetitive in-shop visual inspections of the IP8 and HP3 air transfer tubes and front bearing housing IP8 air feed tubes (with increased inspection interval) for cracking, damage, or air leakage wear, and replacement, if necessary. This AD also requires initial and repetitive on-wing visual inspections of the IP8 and HP3 air transfer tubes for cracking, damage, or air leakage wear, and replacement, if necessary. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 9, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 9, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2026–0742; or in person at Docket Operations between 9 a.m. and

5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

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

- You may view this material at the FAA, 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-2026-0742.

FOR FURTHER INFORMATION CONTACT:

Alexis Whitaker, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (516) 228-7309; email: alexis.j.whitaker@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2023-26-04, Amendment 39-22647 (89 FR 251, January 3, 2024) (AD 2023-26-04). AD 2023-26-04 applied to all RRD Model Trent 1000-AE3, Trent 1000-CE3, Trent 1000-D3, Trent 1000-G3, Trent 1000-H3, Trent 1000-J3, Trent 1000-K3, Trent 1000-L3, Trent 1000-M3, Trent 1000-N3, Trent 1000-P3, Trent 1000-

Q3, and Trent 1000-R3 engines. AD 2023-26-04 required initial and repetitive in-shop visual inspections of the IP8 and HP3 air transfer tubes and front bearing housing IP8 air feed tubes for cracking, damage, or air leakage wear, and replacement, if necessary. The FAA issued AD 2023-26-04 to prevent failure of the IP8 and HP3 air transfer tubes and front bearing housing IP8 air feed tubes.

The NPRM was published in the **Federal Register** on February 6, 2026 (91 FR 5378). The NPRM was prompted by EASA AD 2025-0176, dated August 7, 2025 (EASA AD 2025-0176) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states that since EASA AD 2023-0087 was published, the manufacturer has issued service information to include initial and repetitive on-wing visual inspections of the IP8 and HP3 air transfer tubes, and an increase to the interval for the in-shop visual inspections of front bearing housing IP8 air feed tubes.

In the NPRM, the FAA proposed to continue to require initial and repetitive in-shop visual inspections of the IP8 and HP3 air transfer tubes and front bearing housing IP8 air feed tubes (with increased inspection interval) for cracking, damage, or air leakage wear, and replacement, if necessary. In the NPRM, the FAA also proposed to require initial and repetitive on-wing visual inspections of the IP8 and HP3 air transfer tubes for cracking, damage, or air leakage wear, and replacement, if necessary.

You may examine the MCAI in the AD docket at regulations.gov under Docket No. FAA-2026-0742.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from two commenters. Commenters included

the Airline Pilots Association, International (ALPA) and The Boeing Company (Boeing). All commenters supported the NPRM without change.

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

The FAA reviewed EASA AD 2025-0176, which specifies procedures for performing initial and repetitive on-wing and in-shop visual inspections of the IP8 and HP3 air transfer tubes and front bearing housing IP8 air feed tubes for cracking, damage, or air leakage wear, and replacement if necessary.

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 four engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
On-wing inspection of air tubes	4 work-hours × \$85 per hour = \$340	\$0	\$340	\$1,360
In-shop inspection of air tubes	4 work-hours × \$85 per hour = \$340	0	340	1,360

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 IP8 air transfer tubes	2 work-hours × \$85 per hour = \$170	\$7,600	\$7,770

ON-CONDITION COSTS—Continued

Action	Labor cost	Parts cost	Cost per product
Replace HP3 air transfer tubes	2 work-hours × \$85 per hour = \$170	11,900	12,070
Replace front bearing housing IP8 air feed tubes	2 work-hours × \$85 per hour = \$170	10,000	10,170

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive 2023–26–04, Amendment 39–22647 (89 FR 251, January 3, 2024); and

■ b. Adding the following new airworthiness directive:

2026–10–21 Rolls-Royce Deutschland Ltd & Co KG: Amendment 39–23361; Docket No. FAA–2026–0742; Project Identifier MCAI–2025–01337–E.

(a) Effective Date

This airworthiness directive (AD) is effective July 9, 2026.

(b) Affected ADs

This AD replaces AD 2023–26–04, Amendment 39–22647 (89 FR 251, January 3, 2024).

(c) Applicability

This AD applies to all Rolls-Royce Deutschland Ltd & Co KG Model Trent 1000–AE3, Trent 1000–CE3, Trent 1000–D3, Trent 1000–G3, Trent 1000–H3, Trent 1000–J3, Trent 1000–K3, Trent 1000–L3, Trent 1000–M3, Trent 1000–N3, Trent 1000–P3, Trent 1000–Q3, and Trent 1000–R3 engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7500, Engine Bleed Air System.

(e) Unsafe Condition

This AD was prompted by a determination that a new set of on-wing initial and repetitive visual inspections of the intermediate-pressure stage 8 (IP8) and high-pressure stage 3 (HP3) air transfer tubes for cracking, damage, or air leakage wear are necessary, and consequently the inspection interval for the repetitive in-shop visual inspections of the front bearing housing IP8 air feed tubes may be increased. The FAA is issuing this AD to prevent failure of the IP8 and HP3 air transfer tubes and front bearing housing IP8 air feed tubes. The unsafe condition, if not addressed, could affect the engine internal cooling and sealing flows, resulting in failure of the IP8 air transfer tubes, HP3 air transfer tubes, and front bearing housing IP8 air feed tubes, with consequent damage to the engine and reduced control of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraph (h) and (i) of this AD: Perform all required actions within the compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2025–0176, dated August 7, 2025 (EASA AD 2025–0176).

(h) Exceptions to EASA AD 2025–0176

(1) Where EASA AD 2025–0176 refers to its effective date, this AD requires using the effective date of this AD.

(2) This AD does not adopt the "Remarks" section of EASA AD 2025–0176.

(i) No Reporting Requirement

Although the service material referenced in EASA AD 2025–0176 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(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, AIR–520 Continued Operational Safety 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 Alexis Whitaker, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (516) 228–7309; email: alexis.j.whitaker@faa.gov.

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0176, dated August 7, 2025.

(ii) [Reserved]

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

(4) You may view this material at 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 22, 2026.

Lona C. Saccomando,

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

[FR Doc. 2026-11179 Filed 6-3-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2026-0630]

RIN 1625-AA08

Special Local Regulation; Allegheny River Mile Marker 20.5–21.5, Creighton, PA

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation (SLR) on the waters of the Allegheny River from mile marker 20.5 to mile marker 21.5 in Creighton, PA. This action is necessary to provide for the safety of life on these navigable waters from potential hazards during a powerboat regatta. This rulemaking prohibits persons and vessels from being in the regulated area unless registered as an event participant, or authorized by the Captain of the Port Pittsburgh or a designated representative.

DATES: This rule is effective from June 6, 2026 through June 7, 2026. The special local regulation established by this rule will be enforced from 5 a.m. through 8 p.m. on each of those days.

ADDRESSES: To view available documents go to <https://www.regulations.gov> and search for USCG-2026-0630.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact Petty Officer Brett Lanzel, MSU Pittsburgh, U.S. Coast Guard; telephone 206-815-6624, email Brett.J.Lanzel@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
SLR Special Local Regulation
U.S.C. United States Code

II. Background and Authority

On May 8, 2026, an organization notified the Coast Guard that from 5 a.m. on June 6, 2026, through 8 p.m. on June 7, 2026, they will sponsor a speedboat race. The event will be held between Mile Markers 20.5 and 21.5 on the Allegheny River in Creighton, PA.

The Captain of the Port Pittsburgh (COTP) is issuing this Special Local Regulation (SLR) under the authority in 46 U.S.C. 70041. The COTP has determined that potential hazards associated with the speedboat race include vessels transiting at high rates of speed and increased vessel traffic. The purpose of this rulemaking is to protect event participants, non-participants, and transiting vessels before, during, and after the scheduled event.

Because of these potential hazards, the Coast Guard is issuing this rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. The Coast Guard was notified of this event on May 8, 2026, but we must establish this SLR by June 6, 2026, to protect personnel, vessels, and the marine environment. Therefore, we have do not have enough time to solicit and respond to comments.

For the same reasons, the Coast Guard finds that under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

III. Discussion of the Rule

This rule establishes a temporary SLR from 5 a.m. until 8 p.m. on both June 6, 2026 and June 7, 2026. The special local regulation will cover all navigable waters of the Allegheny River from mile marker 20.5 and mile marker 21.5. Vessels and persons that are not

registered race participants will not be permitted to enter the regulated area without obtaining permission from the COTP or their designated representative.

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 special local regulation. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

List of Subjects in 33 CFR Part 100

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security Measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

- 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

- 2. Add § 100.T899– 0630 to read as follows:

§ 100.T899– 0630 Special Local Regulation; Allegheny River Mile Marker 20.5–21.5, Creighton, PA.

(a) *Location.* This special local regulation applies to the following regulated area: All navigable waters on the Allegheny River between mile marker 20.5 and mile marker 21.5.

(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 Pittsburgh (COTP) in the enforcement of the regulated area.

Participant means all persons and vessels registered with the event sponsor as a participant in the race.

(c) *Regulations.* (1) All non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area described in paragraph (a) of this section unless authorized by the COTP or their 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 (412) 670–4288. Those in the regulated area must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement periods.* This section will be enforced from 5 a.m. to 8 p.m. on June 6, 2026 and June 7, 2026

Justin R. Jolley,

Commander, U.S. Coast Guard, Captain of the Port, MSU Pittsburgh.

[FR Doc. 2026–11219 Filed 6–3–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2026–0629]

RIN 1625–AA08

Special Local Regulation; Ohio River Mile Marker 90–91, Wheeling, WV

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation on the waters of the Ohio River from mile marker 90 to mile marker 91 in Wheeling, WV. This action is necessary to provide for the safety of life on these navigable waters from potential hazards during the Wheeling Water Ski Show for the activities planned on June 7, 2026. This rulemaking would prohibit persons and vessels from being in the one-mile regulated area unless authorized by the Captain of the Port Pittsburgh or a designated representative.

DATES: This rule is effective from 11 a.m. to 8 p.m. on June 7, 2026.

ADDRESSES: To view available documents go to <https://www.regulations.gov> and search for USCG–2026–0629.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule,

contact Petty Officer Brett Lanzel, MSU Pittsburgh, U.S. Coast Guard; telephone 206–815–6624, email Brett.J.Lanzel@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
SLR Special Local Regulation
U.S.C. United States Code

II. Background and Authority

On May 5, 2026, the Coast Guard received notification that the Wheeling Water Ski Show will be taking place on the Ohio River near Wheeling, WV. This event will involve vessels and water-skiers performing stunts and formations on the River.

The Captain of the Port (COTP) Pittsburgh is issuing this Special Local Regulation (SLR) under the authority in 46 U.S.C. 70041. The COTP has determined that potential hazards associated with the Water Ski Show are a safety concern for anyone on the Ohio River within a mile of the event. The hazards associated with this event include vessels with restricted maneuverability operating at high speeds, and in close proximity to other vessels, and the presence of performers and other persons in the water. The purpose of this rulemaking is to protect performers, the public, and transiting vessels before, during, and after the scheduled event.

Because of these potential hazards, the Coast Guard is issuing this rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. The Coast Guard was notified of this event on May 5, 2026, but we must establish this SLR by June 7, 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 temporary SLR from 11 a.m. until 8 p.m. on June 7, 2026. The SLR will cover all navigable waters from Mile Marker 90 to 91 on the

Ohio River located near Wheeling, WV. The duration of the regulation is intended to protect personnel, vessels, and the marine environment in these navigable waters during the water ski show. No vessel or person will be permitted to enter the regulated area without obtaining permission from the COTP or a designated representative.

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 special local regulation. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

List of Subjects in 33 CFR Part 100

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add § 100.T899–0629 to read as follows:

§ 100.T899–0629 Special Local Regulation; Ohio River Mile Marker 90–91, Wheeling, WV.

(a) *Location.* This special local regulation applies to the following regulated area: All navigable waters on the Ohio River between mile marker 90 and mile marker 91.

(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 Pittsburgh (COTP) in the enforcement of the regulated area. *Participant* means all persons and vessels registered with the event sponsor as a participant in the race.

(c) *Regulations.* (1) All non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area described in paragraph (a) of this section unless authorized by the COTP or their 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 (412) 670–4288. Those in the regulated area 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 11 a.m. to 8 p.m. on June 7, 2026.

Justin R. Jolley,

Commander, U.S. Coast Guard, Captain of the Port, MSU Pittsburgh.

[FR Doc. 2026–11277 Filed 6–3–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2026–0535]

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 a safety zone for a recurring event on the Seneca River taking place on June 12, 2026. This action is necessary and intended for the safety of life and property on navigable waters during these events. During the enforcement periods, no person or vessel may enter the respective safety zone without the permission of the Captain of the Port Eastern Great Lakes or a designated representative.

DATES: The regulations in table 1 to § 165.939 for Event (F)(4) will be enforced from 9 p.m. until 10 p.m. on June 12, 2026.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Joseph Stranc

at Marine Safety Unit Thousand Islands' Waterways Management Division; telephone 315-774-8546, email *SMB-MSUThousandIslands-WaterwaysManagement@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a safety zone in 33 CFR 165.939 for Seneca River Days event in Baldwinsville, NY, from 9:00 p.m. to 10:00 p.m. on June 12, 2026. The regulated area for this event is specified in table 1 to 33 CFR 165.939 at Event (F)(4). This action is being taken to provide for the safety of life on navigable waterways during the events. Vessels must be operated at a no wake speed to reduce the wake to a minimum, and in a manner which will not endanger participants in the event or any other craft.

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 COTP Eastern Great Lakes or his designated representative. Those seeking permission to enter the safety zone may request permission from the COTP Eastern Great Lakes via channel 16, VHF-FM. Vessels and persons granted permission to enter the safety zone shall obey the directions of the COTP Eastern Great Lakes or his designated representative. While within a safety zone, all vessels shall 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 this enforcement period via Broadcast Notice to Mariners or Local Notice to Mariners. If the COTP Eastern Great Lakes determines that the safety zone need not be enforced for the full duration stated in this notice, he may use a Broadcast Notice to Mariners to grant general permission to enter the respective safety zone.

Dated: May 27, 2026.

Mathew J. Walter,

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

[FR Doc. 2026-11214 Filed 6-3-26; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R03-OAR-2025-1872; FRL-12994-02-R3]

Revisions of the Nonattainment Designation for the 2008 and 2015 Ozone Standards and Clean Data Determinations for the 2008 and 2015 Ozone Standards: Cecil County, MD and New Castle County, DE

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving two separate requests from Maryland and Delaware to revise the designation for the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment area for the 2008 primary and secondary ozone national ambient air quality standards (NAAQS) and the 2015 primary and secondary ozone NAAQS. Due to the concurrent requests from Maryland and Delaware, the EPA is revising the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment area boundary into three distinct nonattainment areas that together cover the identical geographic area of the existing area. The EPA is also issuing clean data determinations (CDDs) for the revised Maryland and Delaware nonattainment areas for both the 2008 and 2015 ozone NAAQS. The EPA is taking this action pursuant to Clean Air Act (CAA) sections 107, 110, 172, and 182.

DATES: This final rule is effective on July 6, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2025-1872. All documents in the docket are listed on the 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 www.regulations.gov, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT:

Sarah McCabe, Planning & Implementation Branch (3AD30), Air &

Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F. Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-5786. Ms. McCabe can also be reached via electronic mail at mccabe.sarah@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On January 2, 2026, the EPA published a notice of proposed rulemaking (NPRM) proposing to take several actions regarding the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment area for the 2008 ozone NAAQS and 2015 ozone NAAQS.¹

First, under the authority of CAA section 107(d)(3)(D), the EPA proposed to split the identical geographic area of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment area for both the 2008 and 2015 ozone NAAQS into three separate nonattainment areas: the Cecil County, MD nonattainment area, the New Castle County, DE nonattainment area, and the revised Philadelphia-Atlantic City, PA-NJ nonattainment area. The EPA proposed that the air quality data, emissions and emissions-related data, meteorology, geography/topography, jurisdictional boundaries, and other air quality related considerations, as well as planning and control considerations, support both of the States' requests to reconsider the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment area boundary.

Second, pursuant to regulations at 40 Code of Federal Regulations (CFR) 51.1118 and 51.1318, the EPA proposed to issue four CDDs for the proposed Cecil County, MD nonattainment area and proposed New Castle County, DE nonattainment area for the 2008 and 2015 ozone NAAQS.

For additional background information on this action, please refer to the NPRM.

II. Summary of Maryland's Redesignation Request and EPA Analysis

On February 13, 2025, Governor Wes Moore and the Maryland Department of the Environment (MDE) submitted a request and accompanying five-factor analysis for the EPA to revise the boundary of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment area for the 2008 and 2015 ozone NAAQS.² Maryland

¹ 91 FR 98 (January 2, 2026).

² Maryland's submittal can be found in the docket of this rule using Docket ID No. EPA-R03-OAR-2025-1872.

requested, under CAA section 107(d)(3)(D), to revise the boundary for the Philadelphia-Wilmington-Atlantic City, PA–NJ–MD–DE nonattainment area by splitting it into two distinct nonattainment areas for the 2008 ozone NAAQS and 2015 ozone NAAQS: a Southern Philadelphia nonattainment area encompassing all of Cecil County, MD, and a Central Philadelphia nonattainment area encompassing the existing nonattainment area counties in Delaware, New Jersey, and Pennsylvania. As discussed in section V of this preamble, due to Delaware's similar concurrent request, the EPA is revising the Philadelphia-Wilmington-Atlantic City, PA–NJ–MD–DE nonattainment area into three distinct nonattainment areas.

The rationale for the EPA's actions is explained in the NPRM and its associated technical support document (TSD) and will not be restated here.

III. Summary of Delaware's Redesignation Request and EPA Analysis

On August 15, 2025, Governor Matt Meyer and the Delaware Department of Natural Resources and Environmental Control (DNREC) submitted a request and accompanying five-factor analysis for the EPA to revise the boundary of the Philadelphia-Wilmington-Atlantic City, PA–NJ–MD–DE nonattainment area for the 2008 and 2015 ozone NAAQS.³

Delaware requested, under CAA section 107(d)(3)(D), to revise the boundary for the Philadelphia-Wilmington-Atlantic City, PA–NJ–MD–DE nonattainment area for the 2008 and 2015 ozone NAAQS to create a stand-alone nonattainment area for New Castle County, Delaware. As discussed in section V of this preamble, due to Maryland's similar concurrent request, the EPA is revising the Philadelphia-Wilmington-Atlantic City, PA–NJ–MD–DE nonattainment area into three distinct nonattainment areas.

The rationale for the EPA's actions is explained in the NPRM and its associated technical support document (TSD) and will not be restated here.

IV. EPA's Response to Comments Received

The EPA's January 2, 2026 NPRM (91 FR 98) opened a public comment period, originally scheduled to close February 2, 2026 and extended by one week (91 FR 2894, January 23, 2026), which closed on February 9, 2026. The

EPA received two identical sets of comments from one commenter. All comments received have been placed in the docket for this action.

A summary of the relevant comments and the EPA's response thereto are provided below.

Comment 1: The commenter requests that the EPA clearly articulate the process and legal standards by which historic nonattainment areas are proposed to be divided into smaller areas, given the regional nature of the ozone problem.

Response 1: In the NPRM and the accompanying TSD, the EPA clearly articulated the process and legal standards by which it proposed to divide the former Philadelphia-Wilmington-Atlantic City, PA–NJ–MD–DE nonattainment area into three distinct smaller areas. The EPA is taking this action under Clean Air Act section 107(d)(3)(D), which states, "The Governor of any State may, on the Governor's own motion, submit to the Administrator a revised designation of any area or portion thereof within the State." In this case, Maryland Governor Wes Moore and Delaware Governor Matt Meyer submitted requests under CAA section 107(d)(3)(D) on February 13, 2025 and August 15, 2025, respectively.

As stated in the NPRM in section IV,⁴ restated in section V.A in this preamble, and explained in section II in the TSD,⁵ in determining whether to approve or deny a state's request for a revision to the designation of an area under CAA section 107(d)(3)(D), the EPA considers the same factors as when the EPA initiates a revision to a designation of an area on its own motion under CAA section 107(d)(3)(A). These CAA section 107(d)(3)(A) factors include "air quality data, planning and control considerations, or any other air quality-related considerations the Administrator deems appropriate." Using CAA section 107(d)(3)(A) as a framework and referencing relevant ozone designations guidance, the EPA considers five factors when issuing initial area designations and when evaluating requests under CAA section 107(d)(3)(D): air quality data, emissions and emissions-related data, meteorology, geography/topography, and jurisdictional boundaries.⁶ The EPA considered these same factors in its July 15, 2019 approval of Wisconsin's 107(d)(3)(D) request to revise the boundary of an

ozone nonattainment area into two distinct nonattainment areas that together covered the identical geographic area of the existing nonattainment area.⁷

CAA section 107(d)(1)(A)(i) defines "nonattainment" as "any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet)" the NAAQS. The EPA is concluding in this action that the available information, applying the aforementioned factors as discussed in the NPRM and TSD, demonstrates that the Cecil County, MD nonattainment area does not contribute to a violation of the 2008 or 2015 ozone NAAQS in the Philadelphia-Atlantic City, PA–NJ nonattainment area or the New Castle County, DE nonattainment area (there is no violation in this area). Likewise, the EPA finds that the available information, applying the aforementioned factors as discussed in the NPRM and TSD, demonstrates that the New Castle County, DE nonattainment area does not contribute to a violation of the 2008 or 2015 ozone NAAQS in the Philadelphia-Atlantic City, PA–NJ nonattainment area or the Cecil County, MD nonattainment area (there is no violation in this area). For both Cecil County, MD and New Castle County, DE, an analysis of the five recommended factors and a weight-of-evidence approach described in detail in the TSD supports this conclusion. Thus, for reasons outlined in the proposed rule and associated TSD, the EPA has determined that it is appropriate that the three areas be considered separate for implementation and planning purposes.

With respect to the comment's statement that ozone problems are of a regional nature, the EPA notes, in the context of the agency deciding on a CAA section 107(d)(3)(D) request to revise the boundaries of a nonattainment area, that the aforementioned factors are meant to assist the EPA in analyzing whether the portion of the nonattainment area in the requesting state contributes to a violation of the ozone NAAQS elsewhere in the larger nonattainment area. Thus, the five-factor analysis accounts for the regional nature of ozone issues at a local level. More broadly speaking, separate from this action, the New Castle County, DE and Cecil County, MD nonattainment areas will continue to be part of the ozone transport region (OTR) and this final action does not alleviate these areas from OTR requirements outlined in 40

⁴ 91 FR 98, 100 (January 2, 2026).

⁵ Docket No. EPA–R03–OAR–2025–1872–0022, p. 5.

⁶ EPA memorandum titled "Area Designations for the 2015 Ozone National Ambient Air Quality Standards," February 25, 2016, Docket No. EPA–R03–OAR–2025–1872–0020.

³ Delaware's submittal can be found in the docket of this rulemaking using Docket ID No. EPA–R03–OAR–2025–1872.

⁷ See 84 FR 4422, 4423–24 (February 15, 2019) (proposed) and 84 FR 33699 (July 15, 2019) (final).

CFR 51.1116 and 40 CFR 51.1316 in accordance with CAA sections 176A and 184.

Comment 2: The commenter states that the proposal makes no mention of CAA section 107(e) or how the EPA may have determined what states are, or are not, significantly affected. The commenter asks the EPA to explicitly state how the proposal satisfies CAA section 107(e). The commenter further requests that interested stakeholders have adequate time to review this process to ensure the proposed redesignations adhere to CAA requirements, specifically those established in CAA section 107(e)(2).

Response 2: The EPA disagrees. The EPA is not taking this action under CAA section 107(e), which relates to *Redesignation of air quality control regions* (AQCRs). AQCRs are codified in 40 CFR part 81 subpart B, *Designation of Air Quality Control Regions*.

The EPA is taking this action under CAA section 107(d), *Designations*, and more specifically 107(d)(3)(D), *Redesignation*, which is codified in 40 CFR part 81 subpart C, *Section 107 Attainment Status Designations*. In 40 CFR part 81 subpart C, the EPA is amending 40 CFR 81.308 (Delaware), 81.321 (Maryland), 81.331 (New Jersey), and 81.339 (Pennsylvania). In this final action, the EPA is not proposing to redesignate an AQCR or amend any provision in 40 CFR part 81, subpart B⁸ where AQCRs are codified. As such, CAA section 107(e) is not applicable to this rule.

The comment period for the proposal ran from January 2, 2026 to February 9, 2026, which included a 7-day comment period extension. The duration of the comment period provided stakeholders with adequate time to review the proposal and supporting documentation. Furthermore, as the request in the comment for adequate time to review is based on CAA section 107(e)(2) which is inapplicable to this action, the basis for the request is inapplicable.

V. Final Action

In this rule, the EPA is finalizing six actions. In two separate actions, under the authority of CAA section 107(d)(3)(D), the EPA is approving Maryland's and Delaware's separate requested revisions to the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-

DE nonattainment area. To account for both requests, the EPA is revising the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment area for the 2008 ozone NAAQS and 2015 ozone NAAQS into three separate nonattainment areas that together cover the identical geographic area of the original nonattainment area. Second, pursuant to regulations at 40 CFR 51.1118 and 51.1318, the EPA is issuing two CDDs for the Cecil County, MD nonattainment area for the 2008 and 2015 ozone NAAQS and two CDDs for the New Castle County, DE nonattainment area for the 2008 and 2015 ozone NAAQS.

A. Revisions to the Philadelphia Nonattainment Area Boundary

In determining whether to approve or deny a state's request for a revision to the designation of an area under CAA section 107(d)(3)(D), the EPA considers the same factors when the EPA initiates a revision to a designation of an area on its own motion under CAA section 107(d)(3)(A). These CAA section 107(d)(3)(A) factors include "air quality data, planning and control considerations, or any other air quality-related considerations the Administrator deems appropriate." Using CAA section 107(d)(3)(A) as a framework, the EPA considers five factors when issuing initial area designations and when evaluating requests under CAA section 107(d)(3)(D): air quality data, emissions and emissions-related data, meteorology, geography/topography, and jurisdictional boundaries.⁹ Section 107(d)(1)(A)(i) of the CAA defines "nonattainment" as "any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet)" the NAAQS. Therefore, consistent with the statute the EPA will not redraw the boundaries of nonattainment areas where one portion of the area contributes to the nonattainment of another portion of the area.

The EPA is finalizing this rule as proposed. The EPA concludes that the available information demonstrates that the requested Cecil County, MD nonattainment area does not contribute to a violation of the 2015 ozone NAAQS in the remaining Philadelphia-Atlantic

City, PA-NJ nonattainment area or the requested New Castle County, DE nonattainment area. The EPA also concludes that the available information demonstrates that the requested New Castle County, DE nonattainment area does not contribute to a violation of the 2015 ozone NAAQS in the remaining Philadelphia-Atlantic City, PA-NJ nonattainment area or the requested Cecil County, MD nonattainment area.

Thus, the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment area for the 2008 and 2015 ozone NAAQS, is now split into three distinct nonattainment areas that together cover the identical geographic area of the original area. One of the separate areas, called the "Cecil County, MD Nonattainment Area," consists of Cecil County, MD. The other separate area, called the "New Castle County, DE Nonattainment Area," consists of New Castle County, DE. The revised Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment area consists of the remaining existing nonattainment area counties in New Jersey and Pennsylvania, and is called the "Philadelphia-Atlantic City, PA-NJ" nonattainment area.¹⁰

All areas continue to be designated nonattainment and classified as Marginal for the 2008 ozone NAAQS and classified as Serious for the 2015 ozone NAAQS.

The rationale for the EPA's revisions to the boundary of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment area is further explained in the NPRM and its associated TSD.¹¹

B. Clean Data Determinations

In accordance with 40 CFR 51.1118 and 51.1318, the EPA is determining that the Cecil County, MD nonattainment area and New Castle County, DE nonattainment area are attaining the 2008 and 2015 ozone NAAQS. Because the 2015 ozone NAAQS retains the same general form and averaging time as the 2008 ozone NAAQS, but is set at a more protective level, the EPA's analysis for the 2015 ozone NAAQS CDD suffices as a CDD analysis for the less stringent 2008 ozone NAAQS.

The Cecil County, MD nonattainment area CDD is based upon two three-year

⁸ See 40 CFR 81.15 for the counties in the Metropolitan Philadelphia Interstate AQCR (PA-NJ-DE). This AQCR does not encompass the same area nor is it equivalent to the former Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment area for the 2008 and 2015 ozone NAAQS.

⁹ The March 28, 2000, memorandum entitled "Boundary Guidance on Air Quality Designations for the 8-Hour Ozone National Ambient Air Quality Standards," the December 4, 2008, memorandum entitled "Area Designations for the 2008 Revised Ozone National Ambient Air Quality Standards," and the February 25, 2016, memorandum entitled "Area Designations for the 2015 Ozone National Ambient Air Quality Standards" can be found in the docket of this rule using Docket ID No. EPA-R03-OAR-2025-1872.

¹⁰ The remaining counties making up the Philadelphia-Atlantic City, PA-NJ nonattainment area are: Atlantic County, Burlington County, Camden County, Cape May County, Cumberland County, Gloucester County, Mercer County, Ocean County, and Salem County in New Jersey; and Bucks County, Chester County, Delaware County, Montgomery County, and Philadelphia County in Pennsylvania.

¹¹ Docket No. EPA-R03-OAR-2025-1872-0022.

periods of complete, quality-assured and certified data for the 2021–2023 and 2022–2024 monitoring periods from the Fair Hill monitor with site ID 24–015–0003. The most recent three-year ozone design value for the Cecil County, MD nonattainment area is 67 parts per billion (ppb), which meets the 2015 ozone NAAQS. Therefore, in this final rule, the EPA is determining that the Cecil County, MD nonattainment area is attaining the 2008 and 2015 ozone NAAQS.

The New Castle County, DE nonattainment area CDD is based upon two three-year periods of complete, quality-assured and certified data for the 2021–2023 and 2022–2024 monitoring periods. There are four Federal Reference Method/Federal Equivalent Method monitors within the New Castle County, DE nonattainment area. Where several monitors are located in a county (or a designated nonattainment area or maintenance area), the design value for the county or area is determined by the monitor with the highest level. The highest most recent three-year ozone design value for the New Castle County, DE nonattainment area is 68 ppb, which meets the 2015 ozone NAAQS. Therefore, in this rule, the EPA is determining that the New Castle County, DE nonattainment area is attaining the 2008 and 2015 ozone NAAQS.

The requirements for MDE and DNREC to submit attainment demonstrations, and associated reasonably available control measures (RACM), reasonable further progress (RFP) plans, contingency measures, and any other planning requirements related to attainment of the 2015 ozone NAAQS for the Cecil County, MD nonattainment area and New Castle County, DE nonattainment area, are suspended unless the EPA rescinds the CDDs due to an area no longer attaining the 2015 ozone NAAQS. Similarly, these same requirements related to attainment of the 2008 ozone NAAQS for the Cecil County, MD nonattainment area and New Castle County, DE nonattainment area, are suspended unless the EPA rescinds the CDDs due to an area no longer attaining the 2008 ozone NAAQS. This rule does not constitute redesignation of the areas to attainment of the 2008 or 2015 ozone NAAQS under section 107(d)(3)(E) of the CAA, nor does it constitute approval of maintenance plans for the areas as required under section 175A of the CAA, nor does it find that the areas have met all other requirements for redesignation. The Cecil County, MD nonattainment area and New Castle County, DE nonattainment area will

remain designated nonattainment for the 2008 and 2015 ozone NAAQS until such time as the States request and the EPA determines that an area meets CAA requirements for redesignation to attainment and takes separate action to redesignate an area.

The rationale for the EPA's clean data determinations is further explained in the NPRM and its associated TSD.

VI. Statutory and Executive Order Reviews

This final rule finalizes revisions to the boundary of an existing ozone nonattainment area by splitting it into three separate nonattainment areas that together cover the identical geographic area of the original nonattainment area. It also finalizes CDDs for the two new areas in Cecil County, MD and New Castle County, DE resulting from the revisions, which suspend the requirement to submit certain attainment plan requirements for the 2008 and 2015 ozone NAAQS. This rule action does not impose additional requirements. 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 is not a significant regulatory action under Executive Order 12866;
- 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 Clean Air Act.

In addition, this rule 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 3, 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

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, Designations, Intergovernmental relations, Redesignation, Reporting and recordkeeping requirements, Nitrogen dioxide, Ozone, Volatile organic compounds.

Amy Van Blarcom-Lackey,
Regional Administrator, Region III.

Michael Martucci,
Regional Administrator, Region II.

For the reasons stated in the preamble, the EPA amends 40 CFR parts 52 and 81 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 I—Delaware

■ 2. Section 52.426 is amended by adding paragraphs (j) and (k) to read as follows:

§ 52.426 Control strategy plans for attainment and rate-of-progress: ozone.

* * * * *

(j) *Determination of attainment.* EPA has determined, as of June 4, 2026, that based on 2022 to 2024 ambient air quality data, the New Castle County, DE 8-hour ozone marginal nonattainment area has attained the 2008 8-hour ozone NAAQS. This determination, in accordance with 40 CFR 51.1118, suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as this area continues to meet the 2008 annual 8-hour ozone NAAQS.

(k) *Determination of attainment.* EPA has determined, as of June 4, 2026, that based on 2022 to 2024 ambient air quality data, the New Castle County, DE 8-hour ozone serious nonattainment area has attained the 2015 8-hour ozone NAAQS. This determination, in accordance with 40 CFR 51.1318, suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of

the standard for as long as this area continues to meet the 2015 annual 8-hour ozone NAAQS.

Subpart V—Maryland

■ 3. Section 52.1076 is amended by adding paragraphs (kk) and (ll) to read as follows:

§ 52.1076 Control strategy plans for attainment and rate-of-progress: Ozone.

* * * * *

(kk) EPA has determined, as of June 4, 2026, that based on 2022 to 2024 ambient air quality data, the Cecil County, MD marginal nonattainment area for the 2008 8-hour ozone national ambient air quality standards (2008 ozone NAAQS) has attained the 2008 ozone NAAQS. This determination, in accordance with 40 CFR 51.1118, suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as this area continues to meet the 2008 ozone NAAQS.

(ll) EPA has determined, as of June 4, 2026, that based on 2022 to 2024 ambient air quality data, the Cecil County, MD serious nonattainment area for the 2015 8-hour ozone national ambient air quality standards (2015 ozone NAAQS) has attained the 2015 ozone NAAQS. This determination, in accordance with 40 CFR 51.1318,

suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as this area continues to meet the 2015 ozone NAAQS.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 4. The authority citation for part 81 continues to read as follows:

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

Subpart C—Section 107 Attainment Status Designations

■ 5. Section 81.308 is amended:

■ a. In the table entitled “Delaware—2008 8-Hour Ozone NAAQS [Primary and secondary]” by removing the entry for “Philadelphia-Wilmington-Atlantic City, PA–NJ–MD–DE: New Castle County” and adding the entry “New Castle County” in its place; and

■ b. In the table entitled “Delaware—2015 8-Hour Ozone NAAQS [Primary and secondary]” by removing the entry for “Philadelphia-Wilmington-Atlantic City, PA–NJ–MD–DE New Castle County” and adding the entry “New Castle County” in its place.

The revisions read as follows:

§ 81.308 Delaware.

* * * * *

DELAWARE—2008 8-HOUR OZONE NAAQS

[Primary and secondary]

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
New Castle County ²	7/6/2026	Nonattainment	6/3/2016	Marginal. ⁴
* * *	*	*	*	*

¹ This date is July 20, 2012, unless otherwise noted.

² Excludes Indian country located in each area, unless otherwise noted.

* * *

⁴ Attainment date is extended to July 20, 2016.

DELAWARE—2015 8-HOUR OZONE NAAQS

[Primary and secondary]

Designated Area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
New Castle County	7/6/2026	Nonattainment	7/30/2024	Serious.
* * *	*	*	*	*

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

² This date is August 3, 2018, unless otherwise noted.

* * * * *

■ 6. Section 81.321 is amended:

■ a. In the table entitled “Maryland—2008 8-Hour Ozone NAAQS [Primary and secondary]” by removing the entry for “Philadelphia-Wilmington-Atlantic

City, PA–NJ–MD–DE: Cecil County” and adding the entry “Cecil County” in its place; and

■ b. In the table entitled “Maryland—2015 8-Hour Ozone NAAQS [Primary and secondary]” by removing the entry for “Philadelphia-Wilmington-Atlantic

City, PA–NJ–MD–DE: Cecil County” and adding the entry “Cecil County” in its place.

The revisions read as follows:

§ 81.321 Maryland.

* * * * *

MARYLAND—2008 8-HOUR OZONE NAAQS

[Primary and secondary]

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Cecil County ²	7/6/2026	Nonattainment	6/3/2016	Marginal. ⁴
*	*	*	*	*

¹ This date is July 20, 2012, unless otherwise noted.

² Excludes Indian country located in each area, unless otherwise noted.

⁴ Attainment date is extended to July 20, 2016.

MARYLAND—2015 8-HOUR OZONE NAAQS

[Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Cecil County.	7/6/2026	Nonattainment	7/30/2024	Serious.
*	*	*	*	*

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

² This date is August 3, 2018, unless otherwise noted.

* * * * *

■ 7. Section 81.331 is amended:

■ a. In the table entitled “New Jersey—2008 8-Hour Ozone NAAQS [Primary and secondary]” by removing the entry “Philadelphia-Wilmington-Atlantic City, PA–NJ–MD–DE” and its accompanying subordinate entries and

adding the entry “Philadelphia-Atlantic City, PA–NJ” and accompanying subordinate entries in its place; and

■ b. In the table entitled “New Jersey—2015 8-Hour Ozone NAAQS [Primary and secondary]” by removing the entry for “Philadelphia-Wilmington-Atlantic City, PA–NJ–MD–DE” and its

accompanying subordinate entries and adding the entry “Philadelphia-Atlantic City, PA–NJ” and its accompanying subordinate entries in its place.

The additions read as follows:

§ 81.331 New Jersey.

* * * * *

NEW JERSEY—2008 8-HOUR OZONE NAAQS

[Primary and secondary]

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Philadelphia-Atlantic City, PA–NJ ²		Nonattainment	6/3/2016	Marginal. ³
Atlantic County				
Burlington County				
Camden County				
Cape May County				
Cumberland County				
Gloucester County				
Mercer County				
Ocean County				
Salem County				

¹ This date is July 20, 2012, unless otherwise noted.

² Excludes Indian country located in each area, unless otherwise noted.

³ Attainment date is extended to July 20, 2016.

NEW JERSEY—2015 8-HOUR OZONE NAAQS
[Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
* * * * *				
Philadelphia-Atlantic City, PA-NJ		Nonattainment	7/30/2024	Serious.
Atlantic County				
Burlington County				
Camden County				
Cape May County				
Cumberland County				
Gloucester County				
Mercer County				
Ocean County				
Salem County				

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

² This date is August 3, 2018, unless otherwise noted.

* * * * *

■ 8. Section 81.339 is amended:

■ a. In the table entitled

“Pennsylvania—2008 8-Hour Ozone NAAQS [Primary and secondary]” by removing the entry for “Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE” and its accompanying subordinate

entries and adding the entry “Philadelphia-Atlantic City, PA-NJ” and its accompanying subordinate entries in its place; and

■ b. in the table entitled

“Pennsylvania—2015 8-Hour Ozone NAAQS [Primary and secondary]” by removing the entry for “Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-

DE” and its accompanying subordinate entries and adding the entry “Philadelphia-Atlantic City, PA-NJ” and its accompanying subordinate entries in its place.

The additions read as follows:

§ 81.339 Pennsylvania.

* * * * *

PENNSYLVANIA—2008 8-HOUR OZONE NAAQS
[Primary and secondary]

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
* * * * *				
Philadelphia-Atlantic City, PA-NJ ²		Nonattainment	6/3/2016	Marginal. ⁴
Bucks County				
Chester County				
Delaware County				
Montgomery County				
Philadelphia County				

¹ This date is July 20, 2012, unless otherwise noted.

² Excludes Indian country located in each area, unless otherwise noted.

*

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⁴ Attainment date is extended to July 20, 2016.

PENNSYLVANIA—2015 8-HOUR OZONE NAAQS
[Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
* * * * *				
Philadelphia-Atlantic City, PA-NJ		Nonattainment	7/30/2024	Serious.
Bucks County				
Chester County				
Delaware County				
Montgomery County				
Philadelphia County				

PENNSYLVANIA—2015 8-HOUR OZONE NAAQS—Continued
[Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
*	*	*	*	*

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

² This date is August 3, 2018, unless otherwise noted.

* * * * *

[FR Doc. 2026–11169 Filed 6–3–26; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION
AGENCY****40 CFR Part 70**

[EPA–R03–OAR–2025–1614; FRL–13044–
02–R3]

**Clean Air Act Title V Operating Permit
Program Revision; District of Columbia**

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the District of Columbia (DC, the District's) title V operating permits program, submitted on behalf of the District by the Department of Energy and Environment (DOEE). The revision will update the title V operating permit fees collected by DOEE in order to ensure that the title V operating program will continue to be adequately funded. The revision also reorganized some sections in Chapter 3 of 20 District of Columbia Municipal Regulations (20 DCMR) with no substantive change in content. The EPA is approving these revisions to the DC title V program in accordance with the requirements under section 502 of the Clean Air Act (CAA). **DATES:** This final rule is effective on July 6, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2025–1614. All documents in the docket are listed on the 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 www.regulations.gov, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Yongtian He, Permits Branch (3AD10), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2339. Mr. He can also be reached via electronic mail at he.yongtian@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

On January 8, 2026 (91 FR 654), the EPA published a notice of proposed rulemaking (NPRM) for the District of Columbia. In the NPRM, the EPA proposed the approval of a revision to the DC title V program codified in 20 DCMR Chapter 3 to update title V operating permit fees collected by DOEE in order to ensure that the title V operating program will continue to be adequately funded. The formal title V program revision request was submitted by DOEE on May 30, 2024.

DOEE's updated fee collection schedule is designed to ensure sufficient funding for its title V program, in order to cover all reasonable costs required to implement and administer the DOEE Title V Operating Permit Program as required by 40 CFR 70.9(a) and (b). Under 40 CFR 70.9(a), an approved state or local title V operating permits program must require that the owners or operators of 40 CFR part 70 sources pay annual fees, or the equivalent over some other period, that are sufficient to cover the permit program costs and ensure that any fee required under 40 CFR 70.9 is used solely for permit program costs. The fee schedule must result in the collection and retention of revenues sufficient to cover the permit program implementation and oversight costs. See 40 CFR 70.9(b).

II. Summary of SIP Revision and EPA Analysis

In its May 30, 2024 submittal, DC sought the EPA's approval of its revisions to 20 DCMR Chapter 3 into its title V program. DC's revisions to 20 DCMR Chapter 3 revised fees (section 305) for its title V operating permit program. The revision reorganized three sections in Chapter 3 with no substantive change in content, including section 300 on applicability, section 301 on permit applications, and section 303 on permit issuance, renewal, reopening, and revision. The revision also clarified and resolved errors in the existing regulations, including adding a definition for the term "relevant emission units."

The EPA reviewed DOEE's submittal for consistency with the presumptive minimum fee rate outlined in the September 17, 2024, EPA Office of Air Quality Planning and Standards memorandum, as well as the requirements of 40 CFR 70.9(b)(2), and determined that DOEE met the requirements of CAA section 502. The EPA also determined the submittal is consistent with applicable EPA requirements in the title V operating permit program of the CAA and 40 CFR 70.9 for the collection of sufficient title V fees to cover permit program implementation and oversight costs. This action approves DC's revision of its title V fees in order to ensure the fees collected are sufficient to fund DC's title V program.

Other specific requirements of this revision to the DC title V program and the rationale for the EPA's proposed rulemaking are explained in the NPRM and will not be restated here.

III. The EPA's Response to Comments Received

The EPA received two sets of comments on its January 8, 2026 proposed rulemaking to approve revisions to the DC title V program. Both of these comments supported the proposed rulemaking, thus no further response is needed from the EPA. A full

set of these comments is provided in the docket for this final action.

IV. Final Action

The EPA is approving the changes to the DOEE's title V permit program codified in 20 DCMR Chapter 3. The revisions meet the relevant requirements of section 502 of the CAA and 40 CFR 70.4 and 70.9.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air 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 Clean Air Act.

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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 3, 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 to approve the revisions to the DC title V program revision may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Amy Van Blarcom-Lackey,
Regional Administrator, Region III.

For the reasons stated in the preamble, the EPA amends 40 CFR part 70 as follows:

PART 70—STATE OPERATING PERMIT PROGRAMS

- 1. The authority citation for part 70 continues to read as follows:

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

- 2. Appendix A to part 70 is amended by adding paragraph (e) under "District of Columbia" to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permit Programs

*	*	*	*	*
District of Columbia				
*	*	*	*	*

(e) The District of Columbia submitted a program revision on May 30, 2024 to update the title V operating permit fees collected by the DOEE; approval effective on June 4, 2026.

* * * * *

[FR Doc. 2026-11170 Filed 6-3-26; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2024-0338; FRL-12118-04-R9]

Conditional Approval; Contingency Measure State Implementation Plan for the 2008 Ozone Standards; San Joaquin Valley, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to conditionally approve a state implementation plan (SIP) submission under the Clean Air Act (CAA or "Act") that addresses the contingency measure requirements for the 2008 ozone national ambient air quality standards (NAAQS or "standards") for the San Joaquin Valley ozone nonattainment area. The SIP submission, titled the "Ozone Contingency Measure State Implementation Plan Revision for the 2008 and 2015 8-hour Ozone Standards" ("2024 SJV Ozone Contingency Measure Plan," "Contingency Measure Plan," or "Plan") relies on two ozone contingency measures that the EPA has already approved in separate rulemakings. The approval is conditional because it relies on commitments by the State air agency and regional air district to supplement the 2024 SJV Ozone Contingency Measure Plan with submission of specific additional contingency measures within one year of the EPA's final conditional approval. The EPA is taking final conditional approval action of the SIP submission because the Agency has determined that the existing approved contingency measures, the commitments to submit additional contingency measures, and the justification for not adopting contingency measures that would achieve the recommended amount for such measures, meet the applicable requirements for such SIP submissions for the San Joaquin Valley for the 2008 ozone NAAQS. This conditional approval adds the 2024 SJV Ozone Contingency Measure Plan to the federally enforceable California SIP.

DATES: This rule is effective July 6, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2024-0338. 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: Andrew Ledezma, Air Planning Office (ARD-2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, telephone number: (415) 972-3985, or by email at ledezma.andrew@epa.gov.

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

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I. Summary of Proposed Action

On October 25, 2024 (89 FR 85119) (herein, “proposed rule”), the EPA proposed to conditionally approve California’s contingency measure SIP submission for the 2008 ozone NAAQS submitted by the California Air Resources Board (CARB) for the San Joaquin Valley nonattainment area in California. Specifically, we proposed to conditionally approve the “Ozone Contingency Measure State Implementation Plan Revision for the 2008 and 2015 8-hour Ozone Standards (April 25, 2024)” (herein referred to as the “2024 SJV Ozone Contingency Measure Plan,” “Contingency Measure Plan,” or “Plan”) as it pertains to the 2008 ozone NAAQS. CARB submitted the 2024 SJV Ozone Contingency Measure Plan on April 29, 2024,¹ as a revision to the California SIP.

The 2024 SJV Ozone Contingency Measure Plan relies on two specific contingency measures that the EPA has previously approved and includes commitments to adopt five additional contingency measures. The previously-approved contingency measures include a contingency for the vehicle inspection and maintenance (“Smog Check”) program, referred to herein as CARB’s “Smog Check Contingency Measure,” and amendments to the San Joaquin Valley Unified Air Pollution Control District’s (SJVUAPCD’s or “District’s”) architectural coatings rule (District Rule 4601) to include a contingency measure for the 2008 ozone NAAQS (“Architectural Coatings Contingency Measure”).² The commitments for additional contingency measures relate to further amendments to District Rule 4601 (Architectural Coatings) (“Architectural Coatings Rule”) and amendments to District Rule 4603 (Surface Coating of Metal Parts and Products, Plastic Parts and Products, and Pleasure Crafts) (“Surface Coating of Metal Parts and Products Rule”), District Rule 4604 (Can and Coil Coating Operations) (“Can and Coil Coatings Rule”), District Rule 4653 (Adhesives and Sealants) (“Adhesives and Sealants Rule”) and District Rule 4663 (Organic Solvent Cleaning, Storage, and Disposal) (“Solvent Cleaning Rule”).

On the same day we published our proposed conditional approval of the 2024 SJV Ozone Contingency Measure Plan, we issued an interim final determination that California had submitted revisions to the California SIP that correct the deficiency that had prompted the partial disapproval of previous SIP submissions addressing contingency measure requirements for the 2008 ozone NAAQS in San Joaquin Valley.³ Our interim final determination was based on the proposed conditional approval that we are finalizing in this action. The effect of the interim final determination is to stay the application of the offset sanction and to defer the application of the highway sanction that

through CARB Executive Order S-24-2003, and submitted the SIP revision to the EPA electronically on April 29, 2024, as an attachment to a letter dated April 26, 2024, from Steven S. Cliff, Ph.D., Executive Officer, CARB to Martha Guzman, Regional Administrator, EPA Region IX.

² 89 FR 56222 (July 9, 2024) (final approval of Smog Check Contingency Measure). The Architectural Coatings Contingency Measure is included in the District’s Rule 4601. The EPA approved the Architectural Coatings Contingency Measure at 87 FR 78544 (December 22, 2022).

³ 89 FR 85064 (October 25, 2024). Our partial disapproval of previous SIP submissions addressing the contingency measure requirements for the San Joaquin Valley for the 2008 ozone NAAQS was published at 87 FR 59688 (October 3, 2022).

were triggered by the EPA’s previous partial disapproval.

We proposed to conditionally approve the 2024 SJV Ozone Contingency Measure Plan because we preliminarily determined that the two approved contingency measures, the five contingency measures to which the District commits to adopt, and the justifications by the District and CARB for not adopting additional contingency measures collectively satisfy the contingency measure SIP requirements of CAA sections 172(c)(9) and 182(c)(9) for San Joaquin Valley for the 2008 ozone NAAQS. We proposed a conditional approval, as authorized under CAA section 110(k)(4), based on commitments by the District and CARB to adopt and submit the five additional contingency measures within one year of the conditional approval of the Plan.⁴

In section I of the proposed rule, we presented background information on the ozone NAAQS,⁵ the nonattainment designations and classifications of the San Joaquin Valley for the 2008 ozone NAAQS, and the resultant contingency measure SIP obligations, and we summarized our prior contingency measure (partial) disapproval for the San Joaquin Valley for the 2008 ozone NAAQS.⁶ In section II of the proposed rule, we summarized the contingency measure SIP requirements under the CAA, relevant EPA guidance, and legal precedent, including a brief discussion of relevant decisions by the Ninth Circuit Court of Appeals⁷ and the D.C. Circuit Court of Appeals.⁸

In addition, we described the EPA’s long-standing approach to contingency

⁴ Letter from Samir Sheikh, Executive Director/Air Pollution Control Officer, SJVUAPCD, to Dr. Steven S. Cliff, Executive Officer, CARB, and Martha Guzman, Regional Administrator, EPA Region IX, dated June 18, 2024; and letter from Michael Benjamin, D. Env., Division Chief, Air Quality Planning & Science Division, CARB, to Martha Guzman, Regional Administrator, EPA Region IX, dated June 24, 2024.

⁵ Ground-level ozone pollution is formed from the reaction of volatile organic compounds (VOC) and oxides of nitrogen (NO_x) in the presence of sunlight. These two pollutants, referred to as ozone precursors, are emitted by many types of sources, including on- and off-road motor vehicles and engines, power plants and industrial facilities, and smaller area sources such as lawn and garden equipment, architectural coatings, and other types of consumer products. This action relates to the 8-hour-average ozone NAAQS that the EPA established in 2008 and that is referred to as the “2008 ozone NAAQS” or “2008 ozone standard.” We also refer herein to the ozone NAAQS that the EPA established in 1997 (the “1997 ozone NAAQS”) and in 2015 (the “2015 ozone NAAQS”).

⁶ 87 FR 59688 (October 3, 2022).

⁷ *Bahr v. EPA*, 836 F.3d 1218, 1235–1237 (9th Cir. 2016) and *Association of Irrigated Residents v. EPA*, 10 F.4th 937, 946–47 (9th Cir. 2021) (“*AIR v. EPA*” or “*AIR*”).

⁸ *Sierra Club v. EPA*, 21 F.4th 815, 827–828 (D.C. Cir. 2021).

¹ CARB adopted the 2024 SJV Ozone Contingency Measure Plan as a SIP revision on April 26, 2024,

measures and the EPA's revised approach for addressing the contingency measure SIP requirements, as presented in the EPA's draft guidance, entitled "Draft: Guidance on the Preparation of State Implementation Plan Provisions that Address the Nonattainment Area Contingency Measure Requirements for Ozone and Particulate Matter (DRAFT—3/17/23—Public Review Version)," herein referred to as the "Draft Revised Contingency Measures Guidance."⁹ Two principal differences between the draft revised guidance and the previous guidance on contingency measures relate to the EPA's recommendations concerning the specific amount of emission reductions that implementation of contingency measures should achieve¹⁰ and the timing for when the emission reductions from the contingency measures should occur. The Draft Revised Contingency Measures Guidance also provides recommended procedures for developing a demonstration, if applicable, that the area lacks sufficient feasible measures to achieve one year's worth (OYW) of emissions reductions, building on existing guidance that the state should provide a reasoned justification for why the smaller amount of emissions reductions is appropriate.

Since publication of the proposed rule, the EPA has issued Final Revised Contingency Measures Guidance.¹¹ The Final Revised Contingency Measures Guidance carries forward the same basic principles included in the Draft Revised Contingency Measures Guidance. In this document, where the context does not warrant a distinction between the Draft and Final Revised Contingency Measures Guidance, we use the term "Revised Contingency Measures Guidance."

In section III of the proposed rule, we described in general terms the SIP submission that is the subject of this rulemaking and evaluated how the District and CARB complied with the procedural requirements for adopting SIP revisions. The District and CARB

adopted the 2024 SJV Ozone Contingency Measure Plan to respond to the EPA's partial disapproval of the previous contingency measure SIP submissions for San Joaquin Valley for the 2008 ozone NAAQS and to address the contingency measure SIP requirements for San Joaquin Valley for the 2015 ozone NAAQS. We specified that our proposed conditional approval action relates only to the 2024 SJV Ozone Contingency Measure Plan as it pertains to the 2008 ozone NAAQS.

In sections IV and V of the proposed rule, we provided a detailed summary of the 2024 SJV Ozone Contingency Measure Plan and discussed how the District and CARB had applied the revised approach to fulfilling the contingency measure SIP requirement in the context of the 2008 ozone NAAQS in the San Joaquin Valley, and we presented our evaluation thereof. Specifically, we discussed our evaluation of the District's and CARB's identification and evaluation of potential control measures, adoption of certain contingency measures, comparison of those contingency measures against OYW of emissions reductions, and reasoned justification for not adopting further contingency measures, which we summarize in the following paragraphs.

In the 2024 SJV Ozone Contingency Measure Plan, the District described its ongoing stationary source regulatory efforts, identified potential control measures as candidate contingency measures, and analyzed the technological and/or economic feasibility of each candidate measure, including the feasibility of implementing such measures within 60 days and achieving the resulting emission reductions within one to two years of the triggering event.¹² The District also provided more in-depth analysis of potential contingency measures for certain specific source categories, including biosolids, animal manure, and poultry litter operations; confined animal facilities; architectural coatings; surface coating of metal parts and products; can and coil coating operations; aerospace assembly and component coating operations; adhesives and sealants; organic solvent cleaning; polyester resin operations; and wine fermentation and storage tanks.¹³ Ultimately, the District adopted commitments to adopt contingency

measures for five source categories¹⁴ and provided a justification in the form of an infeasibility demonstration for not adopting contingency measures for the other source categories.

Similarly, CARB identified potential mobile source control measures, assessed whether each candidate measure could be implemented within 60 days of a triggering event and achieve emission reductions within one to two years, and then analyzed their technological and/or economic feasibility.¹⁵ Regarding timing of emission reductions from mobile sources, CARB concluded that new engine standards and fleet regulations are not appropriate for contingency measures given the time needed for manufacturers to design, develop, and deploy cleaner engines or equipment at scale, especially for zero-emission equipment.

As noted previously, the 2024 SJV Ozone Contingency Measure Plan relies on two contingency measures that were previously adopted by the District or CARB and approved by the EPA, including the District's Architectural Coatings Contingency Measure and CARB's Smog Check Contingency Measure. The District assessed how the emission reductions from these previously-adopted contingency measures would compare against OYW of progress as defined in the Revised Contingency Measures Guidance.¹⁶ As part of our evaluation and for the proposed rule, we prepared an independent assessment of the emission reductions from the previously adopted and approved contingency measures. In our proposed rule, we found that the two contingency measures, if triggered, would provide approximately two percent of OYW of progress for NO_x and approximately 19 percent of OYW for VOC.¹⁷

The 2024 SJV Ozone Contingency Measure Plan provides for five additional contingency measures that the District and CARB have committed to adopt and submit within one year of the EPA's conditional approval of the

⁹ 88 FR 17571 (March 23, 2023) (notice of availability of the EPA's Draft Revised Contingency Measures Guidance).

¹⁰ The EPA's long-standing recommendation was that states should adopt contingency measures sufficient to provide emission reductions equivalent to one year's worth (OYW) of reasonable further progress (RFP). In the Revised Contingency Measures Guidance, the EPA recommends a different amount that contingency measures should achieve—one that is defined in terms of OYW of "progress" rather than OYW of RFP. See, e.g., the EPA's Final Revised Contingency Measures Guidance at page 23.

¹¹ 89 FR 101602 (December 16, 2024) (notice of availability of final guidance, herein referred to as the EPA's "Final Revised Contingency Measures Guidance").

¹² 2024 SJV Ozone Contingency Measure Plan, p. 18.

¹³ 2024 SJV Ozone Contingency Measure Plan, section 5.12 ("Further Evaluation of Specific Categories").

¹⁴ The District's commitments to adopt contingency measures relate to the following source categories: architectural coatings, surface coating of metal parts and products, can and coil coating operations, adhesives and sealants and organic solvent cleaning.

¹⁵ 2024 SJV Ozone Contingency Measure Plan, section 5.11 ("CARB Reactive Organic Gases Area Source Measure Analysis") and 2024 SJV Ozone Contingency Measure Plan, appendix B ("California Smog Check Contingency Measure State Implementation Plan Revision"), specifically, appendix A ("Infeasibility Analysis") to the Smog Check Contingency Measure SIP.

¹⁶ 2024 SJV Ozone Contingency Measure Plan, pp. 89–90.

¹⁷ 89 FR 85119, 85129 (October 25, 2024).

Plan, but the Plan does not include emissions estimates for the five additional contingency measures. These additional contingency measures would increase the overall amount of reductions of VOC from contingency measures under the Plan but would be unlikely to collectively provide for OYW of progress for that ozone precursor.

Because the estimated NO_x and VOC emission reductions from the contingency measures fall short of OYW of progress, CARB and the District documented their control measure analyses across the wide range of source categories under each agency's respective jurisdiction (*e.g.*, on-road sources, off-road sources, stationary point sources, and area sources) to demonstrate that adoption of additional contingency measures would be infeasible. We described the District's and CARB's infeasibility demonstrations, and our evaluation thereof, in detail in the proposed rule and proposed to find that they adequately justify the contingency measures selected by CARB and the District for the 2008 ozone NAAQS in the San Joaquin Valley. In light of the two adopted contingency measures and five committal contingency measures, and reasoned justifications for not adopting additional contingency measures, we proposed to approve the 2024 SJV Ozone Contingency Measure Plan as meeting the contingency measure requirements of CAA sections 172(c)(9) and 182(c)(9) for the 2008 ozone NAAQS in the San Joaquin Valley.

Since publication of the proposed rule, the EPA determined that the San Joaquin Valley failed to attain the 1997 ozone NAAQS by the applicable attainment date.¹⁸ That determination triggered the Smog Check Contingency Measure, which was submitted as a contingency measure for multiple NAAQS, including the 1997 and 2008 ozone NAAQS, in San Joaquin Valley.

Under the current California Smog Check program, certain vehicles are exempt from the biennial inspection requirement, including vehicles eight or fewer model years old. Upon the EPA's determination of failure to attain, the Smog Check Contingency Measure reduced this exemption to vehicles seven or fewer model years old in the San Joaquin Valley.

As approved into the SIP, the Smog Check Contingency Measure provides for a second triggering event, and thus, the Smog Check Contingency Measure continues to be available as a

contingency measure for the 2008 ozone NAAQS in the San Joaquin Valley. Upon a second triggering event, the Smog Check Contingency Measure would further reduce the exemption from vehicles seven or fewer model years old to vehicles six or fewer model years old in the San Joaquin Valley.

We would expect a similar number of motor vehicles to be affected upon a second triggering event as are affected upon the first triggering event, and thus, we also expect a similar level of emissions impact from a second triggering event as has been estimated for the first triggering event. As such, the emissions reduction estimates from implementation of the Smog Check Contingency Measure that we relied upon for our evaluation of the 2024 SJV Ozone Contingency Measure Plan and that were based on a first triggering event continue to be valid for use in our final action on the Plan notwithstanding the occurrence of the first triggering event.

Please see our October 25, 2024 proposed rule (89 FR 85119) for more information on the 2024 SJV Ozone Contingency Measure Plan and our evaluation of the Plan for compliance with the applicable CAA requirements.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received comment letters from three organizations or groups and two individuals. CARB and the District submitted letters supporting the EPA's proposed action and related interim final determination.¹⁹ The individuals' comments also support the EPA's proposed action and related interim final determination. A group of four environmental, public health, and community organizations in the San Joaquin Valley (collectively, referred to herein as the "Valley Environmental Organizations") submitted comments objecting to our proposed action.²⁰ In

the following paragraphs, we summarize the comments objecting to our proposed action and provide our responses.

Comment 1: The Valley Environmental Organizations assert that the EPA's proposed approval of the 2024 SJV Ozone Contingency Measure Plan departs from the EPA's long-standing interpretation requiring OYW of reasonable further progress (RFP). They further state that the proposed approval based on the Revised Contingency Measures Guidance violates CAA section 172(c)(9) by severing the amount of required emission reductions from the parallel and related RFP requirement when the EPA shifts from its OYW of RFP to its new OYW of progress interpretation. The Valley Environmental Organizations further assert that the plain meaning does not allow, and the EPA cannot provide a reasoned justification for, an interpretation that requires less than that which the Act requires for RFP and that here, the ozone contingency measures plainly provide reductions far less than OYW of RFP.

Response to Comment 1: Regarding emissions reduction metrics (*i.e.*, the recommended amount of emissions reductions that contingency measures should achieve), we disagree with commenters as to what is required under the CAA and with the commenters' broader framing of contingency measures within the overall planning requirements for nonattainment areas. While there is a statutory link between RFP and the contingency measure requirements of CAA sections 172(c)(9) and 182(c)(9), it does not function as the commenter suggests (*i.e.*, to establish an amount of emission reductions that contingency measures should achieve).

CAA section 172(c)(9) ("Contingency measures") requires states to adopt SIP revisions for nonattainment areas that provide for the implementation of specific measures to be undertaken if the area fails to make RFP, or to attain

¹⁹ Letter dated November 22, 2024, from Edie Chang, Deputy Executive Officer, CARB, to Martha Guzman, Regional Administrator, EPA Region IX; and letter dated November 23, 2024, from Samir Sheikh, Executive Director/Air Pollution Control Officer, SJVUAPCD, to EPA Docket Center.

²⁰ Letter dated November 25, 2024, from the Central California Environmental Justice Network, Committee for a Better Arvin, Medical Advocates for Healthy Air, and Sierra Club, to Andrew Ledezma, Air and Radiation Division, EPA Region IX, including 13 exhibits. The Valley Environmental Organizations indicated that they were submitting comments on the proposed approval of the 2024 SJV Ozone Contingency Measure Plan (as it pertains to the 2008 ozone NAAQS), the Smog Check Contingency Measure, and the Architectural Coatings Contingency Measure. In our October 25, 2024 proposed rule, we

proposed action only on the 2024 SJV Ozone Contingency Measure Plan. We recognize that the 2024 SJV Ozone Contingency Measure Plan relies on the Smog Check Contingency Measure and the Architectural Coatings Measure, but we proposed and finalized approval of the individual contingency measures separately from our rulemaking on the 2024 SJV Ozone Contingency Measure Plan. See 88 FR 87981 (December 20, 2023) and 89 FR 56222 (July 9, 2024) (proposed and final approval of the Smog Check Contingency Measure); and see 87 FR 57161 (September 19, 2022) and 87 FR 78544 (December 22, 2022) (proposed and final approval of Architectural Coatings Contingency Measure). We are not reconsidering our approvals of the two contingency measures through our rulemaking on the 2024 SJV Ozone Contingency Measure Plan.

¹⁸ 90 FR 46065 (September 25, 2025).

the national primary ambient air quality standard by the attainment date. Section 172(c)(9) also specifies that such measures must be included in the SIP revision as contingency measures to take effect in any such case without further action by the state or the EPA. CAA section 182(c)(9) (“Contingency provisions”) applies to ozone nonattainment areas classified as Serious or higher, and it extends the contingency measure requirements under CAA section 172(c)(9) to failures to meet any applicable milestone.

Thus, while section 172(c)(9) requires contingency measures where an area fails to make RFP, the language does not specify what amount of emission reductions such measures should achieve (*i.e.*, does not explicitly tie the amount of reductions to RFP). Similarly, while section 182(c)(9) requires contingency measures where an area fails to meet any applicable milestone (which in turn is a discrete measure of RFP), the language similarly does not specify what amount of emission reductions such measures should achieve. Moreover, the statutory text also has a link to attainment, but it too does not specify what amount of emission reductions contingency measures should achieve.

While Congress did not specify an amount that contingency measures must achieve to comply with CAA sections 172(c)(9) and 182(c)(9), Congress must have intended the amount to be material because, without a specified amount, a state would not know how to comply with the requirement. Thus Congress must have at least implicitly delegated to the EPA the authority to determine an amount of emissions reductions that contingency measures should achieve and thereby give meaning to the requirement and provide states with a basis to comply with CAA sections 172(c)(9) and 182(c)(9) for a given nonattainment area.

The EPA has taken a policy approach to this question, and in the past, the EPA has indicated that the recommended amount is OYW of RFP but allowed states to provide a reasoned justification for adopting contingency measures that would provide less than the recommended amount. Under the Revised Contingency Measures Guidance, the EPA continues to take a policy approach but recommends OYW of progress (rather than OYW of RFP) and provides a specific analytical framework that states may use to develop a reasoned justification if the state is unable to identify and adopt contingency measures that can achieve

the recommended amount of emissions reductions.²¹

In support of our revised approach, we first note that, for both RFP and attainment purposes, contingency measures are intended to provide for continued progress in the event that an area fails to meet an RFP milestone or fails to attain the NAAQS by the applicable attainment date. Contingency measures are not themselves expected to provide for either RFP or attainment. With respect to RFP, the CAA provides certain remedies if the contingency measures do not make up the shortfall for a given RFP milestone.²² With respect to a failure to attain by the applicable attainment date, the CAA too provides a remedy by requiring a new attainment plan.²³

In reviewing our long-standing approach to contingency measures, the EPA observed that basing the amount of emission reductions on the annual amount of reductions needed to meet the separate RFP requirement—OYW of RFP—may in some cases lead to an amount that is greater than what typically would be needed to make up for a shortfall in RFP or for attainment purposes.²⁴ The OYW of RFP approach was unnecessarily conservative for estimating the amount of emission reductions needed for contingency measure purposes because a given percentage of the base year inventory tends to represent a much more significant portion of the attainment projected inventory.

In shifting to the OYW of progress approach, the EPA recognizes attainment of the NAAQS by the applicable attainment date as the primary objective of the nonattainment plan requirements (including the RFP requirement), and thus, the appropriate

²¹ OYW of RFP is calculated differently for ozone and particulate matter (PM). For ozone, annual RFP is essentially defined as three percent of the base year emissions inventory (EI). For PM, annual RFP is the average annual reductions between the base year EI and the projected attainment year EI (*i.e.*, the projected attainment inventory for the nonattainment area). In contrast, OYW of progress is calculated the same way for ozone and PM: by determining the average annual reductions between the base year EI and the projected attainment year EI, determining what percentage of the base year EI this amount represents, then applying that percentage to the projected attainment year EI to determine the amount of reductions needed to ensure ongoing progress if contingency measures are triggered. See also 88 FR 87988, 87994, the EPA’s Draft Revised Contingency Measures Guidance, pp. 21–23, and the EPA’s Final Revised Contingency Measures Guidance, pp. 23–27.

²² See CAA sections 182(g)(3) and 189(c)(3).

²³ See CAA section 179(d).

²⁴ EPA’s Draft Revised Contingency Measures Guidance, pp. 21–23. See also the EPA’s Final Revised Contingency Measures Guidance, pp. 23–27.

metric should be attainment-focused.²⁵ In the absence of a CAA-specified amount of emission reductions required for contingency measures, the EPA’s new approach is a better reading of the contingency measure SIP requirement given our understanding of the statutory purpose of contingency measures following a failure to meet an RFP milestone or to attain, which is to ensure uninterrupted progress toward attainment while the next steps unfold in response to the failure. In addition, for ozone, the recommended percentage of reductions represents appropriate progress toward attainment as opposed to a fixed amount. The annual rate of reductions (*i.e.*, the percentage) could be more or less than three percent, depending on the amount of reductions necessary to demonstrate attainment, and states should perform this calculation for both ozone precursors, VOC and NO_x.

Moreover, unlike the previous approach, the EPA’s new approach takes into account the declining emissions inventories between the base year and attainment year for a given nonattainment area and aligns the metric for determining the amount of emissions reductions that contingency measures should achieve for ozone and particulate matter (PM). The alignment between ozone and PM is a better reading of the statute considering that the relevant statutory provision, CAA section 172(c)(9), applies to all the NAAQS.²⁶

As to the specific SIP submission addressed in this document, we acknowledge that CARB and the District used the newly-recommended metric in preparing the 2024 SJV Ozone Contingency Measure Plan for which the EPA is now finalizing conditional approval but, in this instance, the SIP submission and the EPA’s evaluation thereof would have been the same in substance if the previous metric (*i.e.*, OYW of RFP) had been used instead. This is because, using either metric, the SIP submission relies on previously approved contingency measures that collectively provide for less than OYW of progress or RFP for both ozone precursors. The only difference is the extent to which the emission reductions

²⁵ CAA section 171(1) defines RFP as such annual incremental reductions in emissions of the relevant pollutant as are required under part D (of title I of the CAA) or may reasonably be required by the EPA for the purpose of ensuring attainment of the applicable NAAQS by the applicable attainment date. (emphasis added)

²⁶ The provisions of CAA section 182(c)(9) for Serious and above ozone nonattainment areas are similar to the section 172(c)(9) requirements except that the focus is on meeting emissions reductions milestones (CAA section 182(g)).

from the contingency measures fall short of each metric. Using the OYW of progress metric, the contingency measures are estimated to achieve approximately 19 percent and 2 percent of OYW of progress for VOC and NO_x, respectively, as compared to approximately 4 percent of OYW of RFP using the previously-recommended metric.²⁷ Using either metric, the EPA would have expected the State to provide a reasoned justification for not adopting contingency measures sufficient to achieve greater VOC and NO_x emission reductions. Consistent with the EPA's recommendations in the Revised Contingency Measures Guidance, CARB and the District provided a reasoned justification in their infeasibility demonstrations.

Comment 2: The Valley Environmental Organizations assert that the EPA's proposed approval of the 2024 SJV Ozone Contingency Measure Plan circumvents three recent court decisions²⁸ and unlawfully and arbitrarily a) lowers the amount of emission reductions required for contingency measures ("by severing the statutory link to [RFP]," *i.e.*, by shifting from OYW of RFP under the EPA's prior interpretation to OYW of progress under the EPA's revised interpretation), b) extends implementation of contingency measures from one year to two years, and c) invents a new feasibility exemption that does not appear in CAA section 172(c)(9).²⁹ The commenters state that the EPA's proposed approval relies on the Revised Contingency Measures Guidance "to replicate the arbitrary and capricious interpretation the [AIR] court invalidated."³⁰

Response to Comment 2: In relevant part, the *Bahr* and *Sierra Club* decisions stand for the proposition that contingency measures under CAA section 172(c)(9) must be conditional and prospective, and thus, already-implemented control measures cannot serve as contingency measures. The *AIR* decision stands for the proposition that

surplus emission reductions from already-implemented measures cannot be relied upon as a justification for adoption of contingency measures that provide for less than the recommended amount of emission reductions for such measures. However, none of the cited court decisions bear on the questions of the amount of emission reductions that contingency measures must achieve to comply with the CAA, the timeline for achieving the emission reductions from contingency measures, or the consideration of infeasibility as justification for not adopting contingency measures sufficient to achieve the recommended amount of such measures.

Moreover, our proposed approval of the 2024 SJV Ozone Contingency Measure Plan is consistent with the three cited decisions in that the SIP relies on two contingency measures (Architectural Coatings Contingency Measure and the Smog Check Contingency Measure) that are designed to be conditional and prospective. In addition, as discussed further in the following paragraph, the State has not relied on emission reductions from already-implemented measures.

The rationale for our approval of the 2024 SJV Ozone Contingency Measure Plan is not the same as the rationale for our approval, later withdrawn in response to the *AIR* decision, of the contingency measure element for the San Joaquin Valley for the 2008 ozone NAAQS that was at issue in the *AIR* case. In the case of the contingency measure element for the 2008 ozone NAAQS, the EPA took into account the surplus emission reductions from already-implemented measures in the milestone years and the years following the attainment date, not as constituting contingency measures per se, but rather, as justification for approving a contingency measure element that included a single contingency measure that would provide for far less than the recommended amount.

The Court found that, by doing so, the EPA had "severed the relationship between the requirement of contingency measures and the benchmark of reasonable further progress, without an adequate explanation of why the new—and far more modest—contingency measure is reasonable."³¹ The Court did not indicate that the Agency could not depart from previous guidance but cautioned that the EPA "must give a reasoned explanation for departing from agency practice or policy."³² The Court concluded that "[I]f already-

implemented measures cannot themselves be contingency measures—and *Bahr* makes clear that they cannot—then neither can they be a basis for declining to establish contingency measures that would otherwise be appropriate."³³ The Court rejected the EPA's rationale for allowing consideration of surplus emission reductions from already-implemented measures, reasoning that the EPA could not approve a contingency measure element "lacking robust contingency measures by assuming that they will not be needed. Because the agency did not provide a reasoned explanation for approving the state plan, the rule is arbitrary and capricious."³⁴

In the wake of the *Sierra Club* and *AIR* decisions, the EPA undertook an internal process to reconsider previous guidance provided by the Agency to states for preparation of SIP submissions to meet the contingency measure requirements—a process that led to the publication of the Revised Contingency Measures Guidance. Among other things, in the Revised Contingency Measures Guidance, the EPA explains why the Agency believes that it is appropriate to update its prior guidance with respect to the recommended amount of emission reductions that contingency measures should achieve and the considerations that states could use to justify adoption of contingency measures that do not provide for the recommended amount of emission reductions.³⁵ We found that an update to our contingency measures guidance was justified in light of changed factual circumstances³⁶ and a current understanding of what remaining controls may be available for states to adopt as contingency measures. For a more detailed explanation of our rationale for updating the metric, see

³³ *Id.*

³⁴ *Id.* at 947.

³⁵ EPA's Draft Revised Contingency Measures Guidance, pp. 21–28 (revised metric) and pp. 29–40 (reasoned justification for adoption of contingency measures that provide for less than the recommended amount of emission reductions). See also the EPA's Final Revised Contingency Measures Guidance, pp. 23–33 (revised metric) and pp. 33–45 (reasoned justification for adoption of contingency measures that provide for less than the recommended amount of emission reductions).

³⁶ By "changed circumstances," we are referring to court decisions that have invalidated key aspects of EPA's historical approach to implementing the contingency measure requirement and the evolution toward more stringent control programs in the 30 years since the EPA first articulated its contingency measures guidance. As described in Response to Comment 3, the progressively stringent control measures adopted to meet prior attainment and RFP planning requirements are already implemented measures and therefore ineligible to serve as contingency measures, resulting in a narrowing pool of candidate contingency measures.

²⁷ The estimate of approximately 4 percent of OYW of RFP is based on estimated reductions of 0.355 tpd of VOC and 0.079 tpd of NO_x from contingency measures and estimates of OYW of RFP of 11.4 tpd of VOC and 11.3 tpd of NO_x, which represent 3 percent of the baseline emissions estimates for 2011 of 378.7 tpd of VOC and 375.6 tpd of NO_x. See 83 FR 61346, 61353 (November 29, 2018) (proposed approval of RFP demonstration for San Joaquin Valley for the 2008 ozone NAAQS); finalized at 84 FR 11198 (March 25, 2019).

²⁸ The commenter cites *Bahr v. EPA*, 836 F.3d 1218 (9th Cir. 2016) ("*Bahr*"); *Sierra Club v. EPA*, 21 F.4th 815 (D.C. Cir. 2021) ("*Sierra Club*"); *AIR v. EPA*, 10 F.4th 937 (9th Cir. 2021) ("*AIR*").

²⁹ Valley Environmental Organizations Letter, pp. 12 and 14.

³⁰ Valley Environmental Organizations Letter, p.14.

³¹ *AIR v. EPA*, 10 F.4th 937, 946 (9th Cir. 2021).

³² *Id.*

Response to Comment 1, and for a more detailed explanation for allowing for consideration of feasibility, see Response to Comment 4.

With respect to this action, CARB and the District have adopted a contingency measure element that relies on two contingency measures that would not collectively achieve the recommended amount of emission reductions for the two precursors at issue (VOC and NO_x), and they have provided a reasoned justification in the form of infeasibility demonstrations for adopting contingency measures that provide for less than the recommended amount. The EPA's approval of a contingency measure element that relies, in part, on CARB and the District's infeasibility demonstrations, rather than relying on surplus emission reductions from already-implemented measures, stands in contrast to the EPA action on the SIP submission at issue in *AIR*. The EPA does not assume that contingency measures would not be needed for San Joaquin Valley but, rather, that CARB and the District have adequately demonstrated that there are no feasible contingency measures for VOC or NO_x that are left to adopt or that could be implemented within one to two years of the triggering event.

Comment 3: For areas with more severe air pollution, such as Extreme ozone nonattainment areas, the commenters state that the EPA has not articulated a reasoned justification for why OYW of progress is consistent with the CAA remedial scheme that imposes more stringent requirements on such areas. They suggest that a voluntary reclassification of an area (*e.g.*, from Serious to Extreme for ozone) would lower the average annual reductions needed for contingency measures (*e.g.*, if the same attainment year inventory applied for a Serious or Extreme areas, then the annual average reduction would be lower due to averaging over more years).

In addition, the commenters illustrate a purported fatal flaw in the EPA's interpretation of OYW of progress using a table that shows OYW of progress for NO_x in a hypothetical ozone reclassification from Serious to Extreme (in tons per day of NO_x) and state that a lesser amount of emission reductions for contingency measures for such hypothetical Extreme ozone nonattainment area runs contrary to the structure of the Act.

Response to Comment 3: As explained in more detail in our Response to Comment 1, with respect to this specific action, the reliance on the new OYW of progress metric (rather than the previously-recommended metric of

OYW of RFP) does not materially impact our approval because the 2024 SJV Ozone Contingency Measure Plan falls short of the emissions reductions recommended under either metric. However, we note that, contrary to commenters' assertions, the EPA's interpretation of the contingency measure requirement under CAA sections 172(c)(9) and 182(c) is consistent with the CAA's general scheme of subjecting areas with higher classifications to more stringent requirements. More specifically, the increased stringency relates to the types of measures that qualify as contingency measures rather than the amount of emissions reductions that such measures must achieve.

Under the EPA's interpretation of the contingency measure requirement, contingency measures must be designed to provide emissions reductions (if triggered) that are not otherwise required to meet other attainment plan requirements and not relied upon to demonstrate RFP or attainment. Thus, for example, contingency measures in ozone nonattainment areas classified as Serious, which must require implementation of Reasonably Available Control Technology (RACT) for all stationary sources that emit, or have the potential to emit, 50 tons per year or more of VOC or NO_x, must be measures that go beyond the RACT requirement whereas contingency measures in ozone nonattainment areas classified as Extreme (for which the threshold for the RACT requirement is 10 tons per year) must be measures that go beyond the more stringent RACT requirement.³⁷ In other words, reclassification of an area to a higher classification shrinks the pool of candidate contingency measures because some of the candidate contingency measures will be required to be adopted and implemented in the reclassified area to meet the specific control requirements for that classification and, thus, will be unavailable for adoption as contingency measures. The candidate contingency measures that remain eligible to meet the contingency measures SIP requirement under the higher classification are more stringent than those that had been available to meet the requirement under the lower classification. While more stringent measures would achieve further emission reductions, if triggered, they may achieve a smaller scale of emission reductions than the prior iterations of increasingly stringent control measures on a given emission source; stringency

³⁷ CAA sections 182(b)(2)(C), 182(c), 182(e) and 182(f).

(a relative measure) is not the same as tons per day of emission reductions (an absolute measure).

Regarding the commenters' assertion that areas with more severe air pollution should have contingency measures that achieve a larger amount of emissions reductions (*i.e.*, one year's worth of RFP), we look once more to the broader framing of contingency measures within the overall planning requirements for nonattainment areas. The EPA finds that the statutory and regulatory requirements to demonstrate attainment as expeditiously as practicable, and the absence of a specific statutory metric for how much emissions reductions contingency measures should achieve, give priority to adopting control measures to attain in the first place, even if that leaves fewer options for contingency measures in the event of a failure to attain or to make RFP.

In the 2024 SJV Ozone Contingency Measure Plan, CARB and the District elaborate further on using an attainment-focused metric by highlighting the scarcity of potential control measures that would qualify as contingency measures given the facts and circumstances of the San Joaquin Valley,³⁸ where the progressively stringent set of control measures adopted to meet prior attainment and RFP planning requirements are already implemented measures and therefore ineligible to serve as contingency measures.³⁹ This scarcity concept echoes the tension between the CAA requirements for attainment and contingency measures and the prioritization of adopting measures to attain in the first place. Nonetheless, the EPA does not endorse the scarcity concept as a starting point but rather recommends the detailed analytical approach to identifying and evaluating potential control measures that can serve as contingency measures, as described in the Revised Contingency Measures Guidance and that CARB and the District employed in developing the 2024 SJV Ozone Contingency Measure Plan.

Regarding the commenters' suggestion that a State could reduce the amount of emissions reductions needed for contingency measures by requesting a

³⁸ 2024 SJV Ozone Contingency Measure Plan, section 4.1 ("Stringency of District and CARB's Regulatory Program") and appendix B ("California Smog Check Contingency Measure State Implementation Plan Revision"), section 2 ("CARB's Opportunities for Contingency Measures").

³⁹ 2024 SJV Ozone Contingency Measure Plan, appendix B ("California Smog Check Contingency Measure State Implementation Plan Revision"), section 2 ("CARB's Opportunities for Contingency Measures").

voluntary reclassification that would extend the amount of time to attain while relying on the same level of emissions reductions, we disagree that such an action runs contrary to the general remedial scheme of the CAA that imposes more stringent requirements on reclassified areas.⁴⁰ In support of our conclusion in this regard, we have reviewed the commenter's hypothetical scenario purportedly illustrating a fatal flaw in the OYW of progress metric and disagree that it shows that the OYW of progress metric runs contrary to the structure of the CAA. The scenario compares two ozone areas, one is a Serious nonattainment area and the other is an Extreme ozone nonattainment area, and assumes that each area has base year emissions of 200 tons per day (tpd) and requires emissions reductions of 100 tpd to attain. The Serious area has a maximum of 9 years to attain, whereas the Extreme area has a maximum of 20 years to attain. The commenter estimates OYW of progress at 5.7 tpd for the Serious area and 2.5 tpd for the Extreme area and asserts that the structure of the CAA would suggest that the Extreme area should be subject to a greater burden to achieve emissions reductions as compared to the lower classified area, not a lesser burden.⁴¹

While the EPA is generally required to approve voluntary reclassification requests (for ozone areas), and reclassifications do provide for a greater timeline for attainment, there is no guarantee that the EPA will approve an attainment demonstration that provides for attainment by the maximum allowable attainment date. This is because the CAA and the EPA's regulations require states to provide for

attainment "as expeditiously as practicable" but no later than the maximum allowable attainment date.

Thus, under this scenario, we must assume that the nine years represents "expeditious attainment" for the Serious area, whereas 20 years represents "expeditious attainment" for the Extreme area. As such, the Serious area has identified control measures sufficient to achieve approximately 11.12 tpd reduction on an annual basis over the nine-year period from the base year to the attainment year. In contrast, the Extreme area has identified control measures sufficient to achieve approximately 5 tpd reduction on an annual basis over the 20-year period.

This suggests that the Serious area has a greater number of feasible control measures available to adopt and, in the event of a failure to attain, that a higher burden to continue that rate of progress after the attainment year is appropriate. Conversely, the Extreme area would appear to have fewer feasible options available and, in the event of a failure to attain, that a lower burden (compared to the Serious area) to maintain the lower rate of progress after the attainment year is also appropriate. For these reasons, we do not agree that the scenario provided by the commenter shows that our revised interpretation, as set forth in the Revised Contingency Measures Guidance, of the amount of emissions reductions that states should achieve to meet the CAA's contingency measure SIP requirement runs contrary to the structure of the CAA.

For these reasons, as well as those described in Response to Comment 1 of this document, we conclude that the EPA's revised metric for contingency measure emission reductions (OYW of progress) does not run contrary to the general remedial scheme of the CAA that imposes more stringent requirements on areas reclassified to a higher classification.

Comment 4: Regarding feasibility assessments, the Valley Environmental Organizations state that the CAA does not subject the contingency measure requirements to a feasibility standard and reject the State's and the EPA's proposed reliance on infeasibility demonstrations. The commenters argue that Congress made no exceptions to the contingency measure requirements, nor did it provide authority to relax those requirements based on technological or economic challenges. They state that the CAA requirements for reasonably available control measures (RACM) or RACT include a "reasonably available" qualifier and that those for most stringent measures (MSM) are expressly limited to "feasible" measures, while

such terms do not appear in the CAA requirements for contingency measures. They contend that the EPA conflates the contingency measure requirements with the primary requirements to attain the NAAQS in the first place. They further state that Congress expressly provided limited authority to relax the CAA requirements for RFP but did not do so for contingency measures.

The commenters state that the RACM requirements (under CAA sections 172(c)(1), 182(b)(2)) require that the primary attainment strategy include "all" RACM and other available control measures that would expedite attainment and that the MSM provision (for PM_{2.5} nonattainment areas) requires additional control measure implementation. They argue that contingency measures should not comprise the same controls that the CAA already requires for attainment and that failed to attain the NAAQS in the first place and that the EPA unlawfully and arbitrarily excuses contingency measures needed when the feasible measures the State has already adopted result in a failure to attain the NAAQS (citing *AIR*, 10 F.4th at 946).

Given these alleged flaws in the EPA's interpretation, the commenters state that the EPA's proposed approval violates the plain meaning of the CAA contingency measure requirement, fails to reasonably explain the Agency's relaxation of the emission reductions that contingency measures must provide, and is therefore arbitrary and capricious.

Response to Comment 4: As discussed in Response to Comment 1, Congress must have at least implicitly delegated to the EPA the authority to determine an amount of emissions reductions that contingency measures should achieve and thereby give meaning to the requirement and provide states with a basis to comply with CAA section 172(c)(9) for a given nonattainment area. The EPA continues to take a policy approach to this question and recommends OYW of progress (rather than OYW of RFP) and provides a specific analytical framework that states may use to develop a reasoned justification if the state is unable to identify and adopt contingency measures that can achieve the recommended amount of emissions reductions. More specifically, as stated in our proposed rule and the EPA's Revised Contingency Measures Guidance, where a state is unable to identify contingency measures that would provide approximately OYW of emission reductions, the state should provide a reasoned justification (referred to herein as an "infeasibility

⁴⁰ We further note that a voluntary reclassification would result in stationary sources in the area being subject to more stringent (lower) permitting thresholds and lower applicability thresholds for Reasonably Available Control Technology (RACT) requirements.

⁴¹ For comparison purposes, under the commenter's scenario, the previously-recommended metric of OYW of RFP for both the Serious and Extreme ozone areas would be 6.0 tpd of VOC, although NO_x could be substituted for VOC on an equivalent percentage basis. Under the Revised Contingency Measures Guidance, the contingency measures for the Serious ozone area should provide for OYW of progress for VOCs in addition to the 5.7 tpd of NO_x. For the Extreme area, the comparison is between 6.0 tpd of VOC (under the previously-recommended metric of OYW of RFP) and 2.5 tpd of NO_x, but again, under the Revised Contingency Measures Guidance, the recommended amount of reductions would include both OYW of VOC in addition to the 2.5 tpd of NO_x. The comparison illustrates that the EPA's newly-recommended metric does not, in all instances, lessen the burden on states to comply with the contingency measure requirement, let alone eviscerate the requirement, as asserted by the commenters.

demonstration”) that explains and documents how it has evaluated all existing and potential control measures relevant to the appropriate source categories and pollutants in the nonattainment area and has reached reasonable conclusions regarding whether such measures are feasible.⁴² Thus, while the EPA acknowledges that CAA section 172(c)(9) does not explicitly provide for consideration of whether specific measures are feasible, the EPA does not read the statute to require air agencies to adopt and impose infeasible measures.⁴³

As stated in the proposed rule, the statutory provisions applicable to other nonattainment area plan control measure requirements, including RACM/RACT, best available control measures/best available control technology (BACM/BACT), and MSM, allow air agencies to exclude certain control measures that are deemed unreasonable or infeasible (depending on the requirement).⁴⁴ For example, the MSM provision in CAA section 188(e) requires plans to include “the most stringent measures that are included in the implementation plan of any state or are achieved in practice in any state, and can feasibly be implemented in the area.” While the contingency measures provisions do not include such caveats, the EPA does not conclude that the contingency measures provisions should be read to require plans to include infeasible measures. Thus, the EPA anticipates that a demonstrated lack of feasible measures would be a reasoned justification for adopting contingency measures that achieve less than the recommended amount of emission reductions.⁴⁵

⁴² 89 FR 85119, 85123 (October 25, 2024) and EPA’s Draft Revised Contingency Measures Guidance, p. 29. See also the EPA’s Final Revised Contingency Measures Guidance, p. 33.

⁴³ Id.

⁴⁴ Id. RACM/RACT requirements are set forth at CAA sections 172(c)(1) (applicable to nonattainment areas for all the NAAQS), 182(b)(2) (specific RACT requirements for ozone nonattainment areas), 189(a)(1)(C) (specific RACM requirements for PM nonattainment areas). BACM/BACT requirements are set forth in CAA section 189(b)(1)(B) (Serious PM nonattainment areas), and MSM requirements are set forth in CAA section 188(e) (certain PM nonattainment areas).

⁴⁵ Moreover, we note that contingency measures under CAA section 172(c)(9), once triggered, are generally permanent and become one of the baseline control measures for the next milestone demonstration or the new attainment plan that must be adopted and submitted by the state for an area that has failed to attain the NAAQS by the applicable attainment date. As noted in this document, technological and economic feasibility is a hallmark of such control measures. In contrast, CAA section 110(a)(2)(G) requires states to adopt and submit contingency plans to address emergency episodes as part of their SIPs, and the contingency plans for emergency episodes identify emission

The EPA does not, as the commenters suggest, simply conflate the contingency measure requirements with other control requirements (e.g., RACM/RACT, BACM/BACT, and MSM) that are integral to demonstrating attainment of the ozone and/or PM_{2.5} NAAQS. Rather, while the analytical approach to identifying and evaluating existing and potential control measures may be similar to those used for RACM/RACT, BACM/BACT, and MSM (e.g., identifying the universe of control devices that can reduce NO_x emissions from combustion equipment and whether they are technologically and economically feasible as applied to a specific type of emissions source in the area), the EPA expects that the state “should not simply repeat the control strategy’s infeasibility showing.”⁴⁶ The contingency measure requirement is in addition to the other control measure requirements.

A conclusion that a measure is not reasonable or feasible, for example, for RACM does not automatically disqualify it as a potential contingency measure. If the state identifies control measures that it determines are not needed to attain nor to collectively advance attainment, those measures would not be required to satisfy the RACM requirement but would remain as candidates for contingency measures. To the extent that the adopted contingency measures achieve a small amount of emission reductions, the state should provide a more robust infeasibility showing that there are no additional feasible contingency measures that could achieve the recommended amount of reductions.⁴⁷ Furthermore, to the extent that the state’s analyses and development of contingency measures occur after the state’s analyses and development of the SIP submissions to meet the attainment control strategy

control actions to be taken at different episode levels, which are much higher than the NAAQS, without consideration of economic or technological feasibility. See, generally, 40 CFR 51.150–51.152 and appendix L to 40 CFR part 51. One significant difference, however, between the emission control actions for emergency episode plans under CAA section 110(a)(2)(G) and the control measures relied upon for RFP and attainment is that the former are temporary and are implemented only while the emergency episode persists whereas the latter are, as noted, permanent controls for the area.

⁴⁶ EPA’s Draft Revised Contingency Measures Guidance, p. 31. At p. 36, the EPA’s Final Revised Contingency Measures Guidance states: “The EPA expects that justifications establishing that control measures evaluated as potential CMs are infeasible could be similar to analyses evaluating the feasibility of the measures to meet other CAA requirements such as RACM/RACT, but should not simply repeat the prior infeasibility showing.”

⁴⁷ EPA’s Draft Revised Contingency Measures Guidance, p. 31. See also the EPA’s Final Revised Contingency Measures Guidance, p. 37.

requirements of the CAA (including associated control requirements and RFP), the state should update their analyses to reflect the latest potential control measures.

In the case of the 2024 SJV Ozone Contingency Measure Plan, CARB and the District documented their analyses to identify and evaluate potential control measures that might serve as contingency measures. These analyses are updated relative to their 2023 submission of the SJV PM_{2.5} Contingency Measure SIP, the 2021 submission of the Serious area attainment plan for the 1997 annual PM_{2.5} NAAQS, the 2019 submissions of the Serious area attainment plan for the 1997 24-hour PM_{2.5} NAAQS (including BACM demonstration), Serious area plan for the 2006 24-hour PM_{2.5} NAAQS (including demonstrations for BACM and MSM), Moderate area plan for the 2012 annual PM_{2.5} NAAQS (including RACM demonstration), and 2016 submission of the attainment plan for the 2008 ozone NAAQS (including the RACM demonstration). The EPA has approved these contingency measure plans and attainment plan control strategies in successive actions⁴⁸ and they represent an overall stringent set of control requirements. The State did not set aside measures because they are not available to collectively advance attainment (as might be possible in theory, e.g., for RACM for an ozone nonattainment area).

In their updated analyses, CARB and the District considered the wide range of emissions sources under their primary jurisdiction, identified potential control measures, analyzed their technological and economic feasibility, and assessed whether they could achieve emissions reductions within one to two years of a triggering event, consistent with the EPA’s discussion of the timing objective inherent to the contingency measure requirement.⁴⁹ For the potential control measures identified through this

⁴⁸ 89 FR 80749 (October 4, 2024) (approving the SJV PM_{2.5} Contingency Measure SIP); 88 FR 86581 (December 14, 2023) (approving the State’s demonstrations for BACM and five percent annual emission reductions under CAA section 189(d) for the 1997 annual PM_{2.5} NAAQS); 87 FR 4503 (January 28, 2022) (approving the State’s BACM demonstration for the 1997 24-hour PM_{2.5} NAAQS); 85 FR 44192 (July 22, 2020) (approving the State’s demonstrations for BACM and MSM for the 2006 24-hour PM_{2.5} NAAQS); and 84 FR 3302 (February 12, 2019) (approving the RACM demonstration for the 2008 ozone NAAQS).

⁴⁹ 89 FR 85119, 85127–85129 (October 25, 2024) (summary of District’s and State’s feasibility analyses), and 85130–85134 (the EPA’s evaluation of the State’s feasibility analyses). See also Draft Revised Contingency Measures Guidance, pp. 40–42 and Final Revised Contingency Measures Guidance, pp. 45–48.

process, the District further analyzed possible contingency measures for biosolids, animal manure, and poultry litter operations; confined animal facilities; architectural coatings; surface coating of metal parts and products, plastic parts and products, and pleasure crafts; can and coil coating operations; aerospace assembly and component coating operations; adhesives and sealants; organic solvent cleaning, storage, and disposal; polyester resin operations; and wine fermentation and storage tanks. The District ultimately adopted commitments for contingency provisions related to architectural coatings, surface coating of metal parts and products, can and coil coatings, adhesives and sealants, and solvent cleaning.⁵⁰ These additional contingency measures will supplement the two existing approved contingency measures: the District's Architectural Coatings Contingency Measure and CARB's Smog Check Contingency Measure.

CARB, in turn, made a reasonable case that new engine standards and new fleet requirements require more time to implement than would be appropriate for contingency measures (*i.e.*, would exceed one to two years after a triggering event) and that the State's technology-forcing nature of its mobile source regulations reduce or eliminate opportunities for yet-further emission reductions that could qualify as contingency measures.⁵¹ In contrast to new engine standards and new fleet requirements, CARB's feasibility evaluation for in-use motor vehicles led to the identification and adoption of the Smog Check Contingency Measure, which the EPA has approved as part of the California SIP.

The two approved contingency measures and commitments for five additional contingency measures stand in contrast to the commenters' argument that the feasibility assessment process put forward in the EPA's Revised Contingency Measures Guidance, in the State's 2024 SJV Ozone Contingency Measure Plan, and the EPA's proposed conditional approval thereof would simply re-employ the control measures originally employed to attain the ozone and PM_{2.5} NAAQS in the San Joaquin Valley.

Furthermore, in many instances the reason for which the EPA agreed with the State for not adopting a potential control measure as a contingency measure was not based on any affirmation that a measure was

economically infeasible, but rather it was based on other reasons. For example, for the potential control measure of requiring electric water heaters and furnaces at point of sale, the EPA determined that such a measure would not be feasible because we expect that it would result in negligible emission reductions within two years after trigger, consistent with the District's suggestion that the attrition-based nature of implementation of this contingency measure option deems the measure infeasible.⁵²

For the potential control measure of lower NO_x emissions limits on oil and gas production equipment with a total rated heat input of greater than 5.0 million Btu per hour, the EPA determined that it would be technologically infeasible to meet the lower limits within the two-year timeframe for contingency measures due to the likely requirement that affected units would need to install selective catalytic reduction (SCR) devices to meet the lower limits (*i.e.*, the planning, engineering, and installation of SCR would take more than two years).⁵³ Similarly, for the potential control measure of lower NO_x emission limits for boilers, steam generators, and process heaters with a total rated heat input of 5.0 million Btu per hour or less, the EPA expects that units required to meet lower limits than those already adopted in Rules 4307 and 4308 would require installation of SCR, which cannot be feasibly achieved within the two-year timeframe for contingency measures.⁵⁴

In sum, the EPA maintains that it does not read the statute to require air agencies to adopt and impose infeasible measures. Furthermore, as applied to the 2024 SJV Ozone Contingency Measure Plan, we continue to find that the District's and State's two existing contingency measures for the San Joaquin Valley for the 2008 ozone NAAQS, in conjunction with the District's and State's commitments to adopt and submit five additional contingency measures and the District's and State's infeasibility demonstrations that adequately justify the contingency measures selected by the District and State, meet the contingency measure requirements under CAA sections 172(c)(9) and 182(c)(9).

Comment 5: The Valley Environmental Organizations assert that the EPA unlawfully and arbitrarily

proposes approval of the 2024 SJV Ozone Contingency Measure Plan based on the Agency's new interpretation in the Revised Contingency Measures Guidance by extending the implementation period from one year to two years.

Response to Comment 5: With respect to the issue of extending the period in which the emissions reductions from contingency measures can be considered in meeting the contingency measure SIP requirement, we note that the commenters raise this particular objection to the EPA's proposed approval in a single sentence and fail to elaborate on how extending the time period for achieving the emission reductions from contingency measures from one to two years conflicts with the CAA.

In this instance, we proposed conditional approval of the 2024 SJV Ozone Contingency Measure Plan, which relies on two approved contingency measures (the District's Architectural Coatings Contingency Measure and CARB's Smog Check Contingency Measure) and commitments to adopt and submit five additional contingency measures. The District's Architectural Coatings Contingency Measure is designed to be implemented within 60 days of a triggering event, but architectural coatings sold, supplied, or offered for sale prior to that time in a container with a volume of one liter or less may be applied after that time so long as the coating complied with the standards in effect at the time the coating was manufactured.⁵⁵ Nonetheless, we would generally expect the full emissions reductions estimated for the Architectural Coatings Contingency Measure to be achieved within a year of the triggering event.

As explained in the EPA's final rule on CARB's Smog Check Contingency Measure, the emission reductions from the Smog Check Contingency Measure may not be fully achieved until the second year after the triggering event.⁵⁶ However, as further explained in that final rule, and consistent with the Revised Contingency Measures Guidance, in instances where there are insufficient contingency measures available to achieve the recommended amount of emission reductions within one year of the triggering event, contingency measures that provide reductions within two years of the triggering event could be appropriate to consider toward achieving the recommended amount of emission

⁵⁰ 2024 SJV Ozone Contingency Measure Plan, sections 5.12 and 6.

⁵¹ 89 FR 85119, 85133–85134 (October 25, 2024).

⁵² 89 FR 85119, 85132 (October 25, 2024), and EPA's Reasoned Justification TSD, pp. 43–51.

⁵³ 89 FR 85119, 85132 (October 25, 2024), and EPA's Reasoned Justification TSD, pp. 9–22.

⁵⁴ 89 FR 85119, 85132 (October 25, 2024), and EPA's Reasoned Justification TSD, pp. 9–22.

⁵⁵ District Rule 4601, sections 4.2, 4.3 and 5.3.

⁵⁶ 89 FR 56222, 56224–56225 (July 9, 2024).

reductions.⁵⁷ Contingency measures that result in additional emissions reductions during the second year following the triggering event, as contemplated by the Revised Contingency Measures Guidance, can still serve the important purpose of contingency measures to continue progress toward attainment, as the State develops and submits, and the EPA acts on, a SIP submission to address the underlying condition (*e.g.*, failure to make RFP or to attain by the applicable attainment date) that triggered the contingency measures in the first place.⁵⁸

Comment 6: The Valley Environmental Organizations state that the EPA unlawfully and arbitrarily proposes to approve the 2024 SJV Ozone Contingency Measure Plan even though it relies on a contingency measure (CARB's Smog Check Contingency Measure) that provides for only two triggering events yet serves as a contingency measure for multiple NAAQS without requiring supplementation of the SIP with additional contingency measures. The Valley Environmental Organizations contend that such approval by the EPA unlawfully and arbitrarily allows California discretion in adopting further contingency measures and fails to evaluate whether the emission reductions to follow a second triggering event would meet either OYW of RFP or OYW of progress.

Response to Comment 6: Our approval relates to the SIP requirements for contingency measures under CAA sections 172(c)(9) and 182(c)(9) for the 2008 ozone NAAQS. Under the applicable requirements, states with ozone nonattainment areas classified as Serious and above must provide contingency measures that can be triggered in the event of a failure to meet any RFP milestone or to attain the 2008 ozone NAAQS by the applicable attainment date.

Neither the CAA nor the EPA's regulations specify a minimum number of contingency measures or prescribe separate contingency measures for different contingency measure triggers. The CAA and the EPA's regulations also do not preclude the reliance on the same contingency measures for separate NAAQS, and the commenter does not identify any specific statutory or regulatory requirement that does so. Moreover, it is not uncommon for a state or district to rely on a core set of control

measures for multiple NAAQS. For example, the State and District rely on a core set of NO_x control measures as part of the control strategies for demonstrating RFP and attainment for both ozone and PM_{2.5} in the San Joaquin Valley. Regardless, we acknowledge that neither the State nor District has submitted an enforceable commitment to submit additional contingency measures in response to the triggering of the contingency measures. The EPA does not believe that such commitment is required.

In this instance, the 2024 SJV Ozone Contingency Measure Plan relies on two approved contingency measures, only one of which (CARB's Smog Check Contingency Measure) provides for a second triggering event and relates to NAAQS in addition to the 2008 ozone NAAQS.⁵⁹ Unlike the District's Architectural Coatings Contingency Measure, CARB's Smog Check Contingency Measure relates to multiple ozone and PM_{2.5} NAAQS but is structured so as to provide not just for implementation of more stringent requirements upon a first triggering event, but also to provide for implementation of yet more stringent requirements upon a second triggering event (*i.e.*, further tightening of the requirements beyond that triggered by the first event). As described previously in this document, the Smog Check Contingency Measure has been triggered once but remains viable for the 2008 ozone NAAQS because it is structured to provide for a second triggering event.

If the Smog Check Contingency Measure were to be triggered a second time, then it would no longer be available as a contingency measure for the 2008 ozone NAAQS. In that event, we would expect CARB and the District to update their feasibility evaluations and adopt and submit a remedial SIP revision within one year of the triggering event. We would also expect the SIP revision to take into account the emission reductions from the remaining contingency measures (the Architectural Coatings Contingency Measure and

additional contingency measures that the District has committed to adopt) and to include any additional feasible contingency measures as needed to ensure that the San Joaquin Valley continues to meet the contingency measure requirements of CAA sections 172(c)(9) and 182(c)(9) for the 2008 ozone NAAQS.

Comment 7: The Valley Environmental Organizations contend that the proposed approval of the 2024 SJV Ozone Contingency Measure Plan violates CAA section 110(l). According to the commenters, this is because approval of a contingency measure element that plainly does not provide for OYW of RFP weakens the amount of reductions required by contingency measure elements and, thereby, constitutes unlawful backsliding under CAA section 110(l). In the alternative, the commenters assert that the EPA has unlawfully and arbitrarily failed to consider and make a finding with respect to whether the approval of the 2024 SJV Ozone Contingency Measure Plan constitutes illegal backsliding.

Response to Comment 7: CAA section 110(l) prohibits the EPA from approving a SIP revision if it would interfere with any applicable requirement concerning attainment and RFP progress or any other applicable requirement of the Act.

The EPA acknowledges that the Agency did not make any specific determination with respect to CAA section 110(l) in evaluating the 2024 SJV Ozone Contingency Measure Plan. This is because the 2024 SJV Ozone Contingency Measure Plan does not relax any control requirements previously approved as part of the California SIP and thus does not represent "backsliding" in that sense.⁶⁰ Also, by definition, contingency measures must be measures that go beyond the measures that provide for RFP and attainment, and thus, approval of contingency measures would not interfere with either of those separate requirements.

Furthermore, the EPA evaluated the 2024 SJV Ozone Contingency Measure Plan specifically with respect to the SIP requirements for contingency measures under CAA sections 172(c)(9) and 182(c)(9) and, for the reasons given in

⁵⁹ The District's Architectural Coatings Contingency Measure is fully triggered upon a single triggering event (*i.e.* finding of failure to meet an RFP milestone or failure to attain by the applicable attainment date) that relates solely to the 2008 ozone NAAQS. See section 4.3 of District Rule 4601. In contrast, CARB's Smog Check Contingency Measure accommodates two triggering events and has been triggered by a determination by the EPA that the San Joaquin Valley failed to attain the 1997 ozone NAAQS by the applicable attainment date. However, because the Smog Check Contingency Measure provides for a second triggering event, it remains a viable contingency measure for the 2008 ozone NAAQS. See p. 3 of the Smog Check Contingency Measure (included as Appendix B of the 2024 SJV Ozone Contingency Measure Plan).

⁵⁷ 89 FR 56222, 56224–56225 (July 9, 2024); and Final Revised Contingency Measures Guidance, p. 47.

⁵⁸ *Id.*

⁶⁰ To the extent that the commenters assert that the EPA approved an emissions level that contingency measures in the San Joaquin Valley for the 2008 ozone NAAQS must achieve when we approved the contingency measure element in 2019, and that we are now approving a SIP revision that establishes a lower emissions level, we note that we withdrew our 2019 conditional approval of the contingency measure element for San Joaquin Valley for the 2008 ozone NAAQS with the exception of the Enhanced Enforcement Activities Program measure at 87 FR 59688 (October 3, 2022).

the proposed rule, preliminarily determined that the 2024 SJV Ozone Contingency Measure Plan, considered together with the two existing contingency measures and the five additional contingency measures to which the District and CARB have committed, meets those requirements. As such, approval of the 2024 SJV Ozone Contingency Measure Plan would not interfere with the applicable contingency measure requirement. The commenters do not identify any other applicable CAA requirements implicated by the EPA's proposed conditional approval of the 2024 SJV Ozone Contingency Measure Plan.

Comment 8: The Valley Environmental Organizations contend that the EPA unlawfully and arbitrarily proposed to approve the 2024 SJV Ozone Contingency Measure Plan based on a 2012 base year emissions inventory, whereas 2011 is the approved RFP baseline year that was the basis for the EPA's 2019 approval of the contingency measure element. The Valley Environmental Organizations view the EPA's proposed approval as shifting the baseline year for contingency measures from 2011 to 2012 and assert that the EPA fails to explain why this change in the baseline inventory for the purposes of contingency measures is more consistent with the Act or with *South Coast Air Quality Management District v. EPA*, 882 F.3d 1138 (D.C. Cir. 2018).⁶¹

Response to Comment 8: The 2024 SJV Ozone Contingency Measure Plan uses the 2012 base year emission inventory and the attainment year emissions inventory to calculate OYW of progress, the amount of emissions reductions that EPA recommends that states achieve to meet the contingency measure SIP requirement.⁶² This approach is consistent with the corresponding recommendations in the EPA's Revised Contingency Measures Guidance.

In 2019, when the EPA first approved (conditionally) the contingency measure element for the 2008 ozone NAAQS for San Joaquin Valley, the EPA was

recommending that states adopt contingency measures that provide the equivalent of OYW of RFP.⁶³ With respect to the 2008 ozone NAAQS, as commenters note, OYW of RFP is three percent of the 2011 VOC RFP baseline emissions inventory. In 2022, the EPA withdrew its 2019 (conditional) approval of the contingency measure element for the 2008 ozone NAAQS for San Joaquin Valley, with the exception of the Enhanced Enforcement Activities Program measure.⁶⁴

The change in the baseline inventory used to determine the amount of emissions reductions that contingency measures should achieve for San Joaquin Valley for the 2008 ozone NAAQS reflects the change in EPA guidance on contingency measures. CARB and the District prepared the original contingency measure element (now withdrawn) in light of EPA guidance available at that time (and that recommended that contingency measures achieve OYW of RFP), and CARB and the District prepared the 2024 SJV Ozone Contingency Measure Plan in light of the Revised Contingency Measures Guidance (that recommends that contingency measures achieve OYW of progress). We discuss why we believe the new approach to the recommended amount of emissions reductions that contingency measures should achieve is the best reading of the CAA in Response to Comment 1.

Lastly, we note that the *South Coast Air Quality Management District v. EPA* decision cited by commenters does not speak to the contingency measure SIP requirements under CAA sections 172(c)(9) and 182(c)(9), which are the relevant statutory provisions for the EPA's review and evaluation of the 2024 SJV Ozone Contingency Measure Plan, and thus there is no need to discuss the consistency between our action and that particular court decision.

Comment 9: The Valley Environmental Organizations state that the EPA's proposed approval of the State's contingency measures ignores Presidential orders that direct the EPA and other federal agencies to prioritize environmental justice, including Executive Order 14008, "Tackling the Climate Crisis at Home and Abroad," (January 27, 2021) and Executive Order 14096, "Revitalizing our Nation's Commitment to Environmental Justice for All" (April 21, 2023).⁶⁵ They further argue that the EPA exacerbates the

"environmental justice crisis" by denying the residents of the San Joaquin Valley meaningful pollution reductions that should happen upon a failure to attain the 2008 ozone NAAQS. To convey the magnitude of this concern, the commenters cite to American Lung Association rankings of counties for ozone pollution (where many San Joaquin Valley counties rank among the worst in the nation) and the EPA's review of environmental justice indices (where many San Joaquin Valley counties exceed the 90th percentile) and describe the sequence of failures to attain the NAAQS by the applicable attainment dates in San Joaquin Valley, as well as recent air quality design values for the 1997 and 2008 ozone NAAQS that portend the same. Lastly, they contend that the EPA's statement in the proposed rule that the action is expected to have a neutral to positive impact on the air quality of the affected area lacks credulity because the EPA is proposing to approve a weakening of its contingency measures interpretation and lacks factual support.

Response to Comment 9: Executive Orders 14008 and 14096 were rescinded on January 20, 2025.⁶⁶ In the proposed rule, we indicated that the action is expected to have a neutral to positive impact because the approved ozone contingency measures, including the Architectural Coatings Contingency Measure and the Smog Check Contingency Measure, and the additional contingency measures to which the District and CARB have committed to adopt and submit would, following a triggering event, reduce emissions from various VOC sources and light-duty vehicles across the San Joaquin Valley. These reductions would contribute to reduced negative environmental and health impacts on all populations in the San Joaquin Valley.

To the extent that the commenters disagree with the EPA's Revised Contingency Measures Guidance or our application of the guidance to the facts and circumstances of the San Joaquin Valley, we maintain that the 2024 SJV Contingency Measure Plan, including the related commitments to adopt additional contingency measures and infeasibility demonstrations for further contingency measures, considered together with the two existing and approved ozone contingency measures, meets the contingency measure SIP requirements of CAA sections 172(c)(9) and 182(c)(9). Under the CAA, the EPA is required to approve a SIP submission

⁶¹ The 2008 Ozone SIP Requirement Rule (SRR) requires the RFP baseline year to be the most recent calendar year for which a complete triennial inventory was required to be submitted to the EPA. For the purposes of developing RFP demonstrations for the 2008 ozone standards, the applicable triennial inventory year is 2011. The 2008 Ozone SRR provided states with the opportunity to use an alternative baseline year for RFP but that particular aspect of the 2008 Ozone SRR was vacated by the D.C. Circuit in the *South Coast Air Quality Management District v. EPA* decision cited by the commenters.

⁶² 2024 SJV Ozone Contingency Measure Plan, pp. 6–7.

⁶³ 84 FR 11198, at 11205 (March 25, 2019).

⁶⁴ 87 FR 59688 (October 3, 2022).

⁶⁵ Valley Environmental Organizations Comment Letter, pp. 4–6. See also, 86 FR 7619 (February 1, 2021) (Executive Order 14008) and 88 FR 25251 (April 26, 2023) (Executive Order 14096).

⁶⁶ Executive Order 14148 (January 20, 2025). See 90 FR 8237 (January 28, 2025).

that meets the requirements of the CAA and applicable federal regulations.

Comment 10: The Valley Environmental Organizations allege that, following the 2021 Ninth Circuit Court decision in *AIR v. EPA*, the EPA began to work with CARB and California air districts to weaken the contingency measure requirement. The Valley Environmental Organizations further state that, during meetings of a workgroup called the “Padilla Contingency Measures Subgroup,” the EPA committed to revise its long-standing interpretation of the contingency measure requirements, including specific elements that would relax emissions reduction requirements, and contend that the EPA’s commitment led to the Revised Contingency Measures Guidance.⁶⁷ The commenters also contend that the EPA now proposes, as it allegedly agreed to during the Padilla Contingency Measures subgroup proceedings, to “eviscerate the amount of emissions reductions such measures should provide” and that the “EPA has predetermined the outcome of these proposed rulemakings in an agreement with CARB and the air districts during the Padilla Contingency Measures Subgroup proceedings,” thereby violating the procedural due process clause of the Fifth Amendment to the U.S. Constitution, CAA section 307, the Administrative Procedure Act, and Executive Orders 14008 and 14096.⁶⁸

The Valley Environmental Organizations include several documents obtained from the EPA via a Freedom of Information Act request to support their allegation of improper consultation and coordination.⁶⁹ These include, among other things, documents relating to EPA engagement in 2021–2023 with the California Air Pollution Control Officers Association (CAPCOA), the “Padilla Contingency Measures Subgroup,” a letter from South Coast Air Quality Management District, discussions with California air districts and CARB senior staff, and an email from EPA Region IX to the SJVUAPCD. The commenters state that these documents indicate that the EPA worked closely with California air agencies to fashion an agreement to weaken the contingency measure requirement and that the EPA shared its revised guidance with the California agencies several months before releasing the revised guidance to the general

public without regard for the public health consequences from weakening the contingency measure requirement.⁷⁰

Response to Comment 10: We disagree that the EPA improperly communicated with California air agencies to reconsider the contingency measure requirement following the 2021 *AIR v. EPA* decision by the Ninth Circuit Court of Appeals, and we disagree that the EPA reconsidered the contingency measure requirement for the purpose of weakening it.

The CAA is referred to as a model of cooperative federalism. Under the CAA, the EPA is responsible for establishing the NAAQS, and the states are responsible for developing SIPs and SIP revisions to provide for implementation, maintenance, and enforcement of the NAAQS. In turn, the EPA is responsible for promulgating regulations establishing SIP requirements and for providing guidance to the states in developing SIPs and SIP revisions to meet the various requirements under the CAA and our implementing regulations.

In that capacity, it is appropriate for the EPA to reconsider previously-issued guidance in the wake of court decisions that bear on EPA actions on SIPs that relied on that guidance.⁷¹ In this instance, as discussed in the Revised Contingency Measures Guidance, we issued the revised guidance document because recent court decisions had invalidated key aspects of EPA’s historical approach to implementing the contingency measure requirement, and these court decisions had the effect of prohibiting an approach that many air agencies have historically used to meet the contingency measure requirement.⁷²

The EPA developed the Revised Contingency Measures Guidance based on the recommendations of an ad hoc internal working group, referred to as the Contingency Measure Task Force, that the EPA assembled soon after the D.C. Circuit Court of Appeals decision in *Sierra Club v. EPA*.⁷³ The

Contingency Measure Task Force was composed of EPA program staff and attorneys from both the EPA regions and headquarters. During the process of preparing the Revised Contingency Measures Guidance, California air agencies made their views known to the EPA, but those agencies played no part in the drafting or review of the recommendations made by the Contingency Measure Task Force to EPA management or the substance of the Revised Contingency Measures Guidance itself.

Also in the spirit of cooperative federalism, the EPA routinely communicates with state and local air agencies responsible for SIPs and SIP revisions regarding compliance with SIP requirements. Again, the states are responsible for adoption and submission of SIPs and SIP revisions and there are consequences for failure to meet SIP submission deadlines.

In this instance, the EPA engaged with state and local air agencies to hear their concerns about meeting the contingency measure SIP requirements and to provide a description of the types of revisions to the contingency measures guidance that EPA staff were developing for consideration by EPA management. The impetus for heightened interest on the part of state and local air agencies was the need to meet near-term deadlines for submission of SIP revisions addressing the contingency measure SIP requirements for multiple ozone and PM_{2.5} NAAQS. Documents cited by the commenter as evidence of improper coordination simply reveal that the EPA was responsive to state and local agency requests for insight as to what the contingency measures guidance revisions might entail if and when approved by EPA management. Thus the air agencies that developed SIP revisions in reliance on the descriptions by EPA staff of not-yet-approved revisions to the contingency measures guidance were taking a risk that the guidance, once made publicly available, would differ in material ways from what EPA staff had described.

With respect to the commitments that the EPA made in connection with the Padilla Contingency Measures Subgroup,⁷⁴ the EPA did not commit to

measures for the purposes of CAA section 172(c)(9). *Sierra Club v. EPA*, 21 F.4th 815, 827–28 (D.C. Cir. 2021) and *Bahr v. EPA*, 836 F.3d 1218 (9th Cir. 2016).

⁷⁴ The Padilla Contingency Measures Subgroup was one of several such ad hoc groups assembled in response to an inquiry from U.S. Senator Padilla. See the letter dated December 3, 2021, from Joseph Goffman, Principal Deputy Assistant Administrator to U.S. Senator Alex Padilla, responding to letter dated October 19, 2021, from U.S. Senator Alex Padilla to Michael Regan, Administrator, EPA.

⁶⁷ Valley Environmental Organizations Comment Letter, p. 2.

⁶⁸ Valley Environmental Organizations Comment Letter, pp. 2 and 11.

⁶⁹ Valley Environmental Organizations Comment Letter, Exhibits 3 through 12.

⁷⁰ Valley Environmental Organizations Comment Letter, pp. 8–11.

⁷¹ See, for example, EPA Office of Transportation and Air Quality, “Implementing Clean Air Act Section 182(d)(1)(A): Transportation Control Measures and Transportation Control Strategies to Offset Growth in Emissions Due to Growth in Vehicle Miles Travelled,” EPA–420–B–12–053, August 2012 (revised guidance in light of the Ninth Circuit Court of Appeals decision in *Association of Irrigated Residents v. EPA*, 632 F.3d 584, at 596–597 (9th Cir. 2011), reprinted as amended on January 27, 2012).

⁷² Draft Revised Contingency Measures Guidance, p. 2. See also the EPA’s Final Revised Contingency Measures Guidance, p. 2.

⁷³ The *Sierra Club v. EPA* decision adopted the rationale of an earlier decision by the Ninth Circuit Court of Appeals in *Bahr v. EPA* that invalidated already-implemented measures as contingency

making any specific revisions to the contingency measures guidance or to making any revisions to the guidance that are inconsistent with the CAA or case law. Rather, the Agency committed “to explore interpretations and approaches that are consistent with the court decisions” and, among other things, “to revisit” the general bases for calculating the amount of emission reductions that contingency measures should provide,⁷⁵ but as noted previously, the EPA did not commit to any particular outcome. The Contingency Measure Task Force followed through on these commitments through meetings and review of draft documents that were internal to the EPA and eventual publication of notice in the **Federal Register** of the availability of the Draft Revised Contingency Measures Guidance for public review and comment. We believe the revised draft guidance provides an approach that state and local air agencies may use to meet the contingency measure SIP requirements under the CAA.

The EPA issued the Draft Revised Contingency Measures Guidance on March 17, 2023, and sought public comment on section 3 (“Showing that the CMs Achieve Sufficient Reductions”), section 4 (“Reasoned Justification for Less Than OYW of Progress”), and section 5 (“Guidance on Timing of Reductions from CMs”) of the draft guidance over a 30-day period ending April 24, 2023.⁷⁶ We applied the underlying concepts of the draft guidance in our evaluation of the 2024 SJV Ozone Contingency Measure Plan, described as much in our proposed rule, and provided a 30-day comment period ending November 25, 2024, consistent with the public notice requirements of the CAA and the Administrative Procedure Act.⁷⁷

For this action, we considered the sum of the emissions reductions from the two approved ozone contingency measures (the District’s Architectural Coatings Contingency Measure and CARB’s Smog Check Contingency Measure) relative to the recommended amount we have indicated contingency measures should achieve. Because the measures, considered together, would not achieve the recommended amount of emissions reductions for VOC or

NO_x, CARB and the District submitted infeasibility demonstrations documenting the unavailability of additional feasible contingency measures for those ozone precursors.

We reviewed and evaluated the infeasibility demonstrations and, in our proposed rule, provided the rationale for our preliminary conclusion that the approved contingency measures, considered together with the commitments made by the District and CARB for five additional contingency measures, meet the applicable requirements for such measures and that CARB and the District had provided a reasoned justification, through the infeasibility demonstrations, for not adopting contingency measures sufficient to achieve the recommended amount of emission reductions for VOC and NO_x.

In this action, we are finalizing our approval of the 2024 SJV Ozone Contingency Measure Plan for the reasons given in the proposed rule, as clarified and supplemented in responses to comments. While the Valley Environmental Organizations object to the consideration of feasibility in connection with the contingency measure SIP requirement, the commenters have raised no specific objection to our evaluation of the infeasibility demonstrations from CARB and the District upon which our final approval rests, with the exception of our evaluation of the District’s infeasibility demonstration for confined animal facilities. We address the comment related to confined animal facilities in the following response.

In summary, in our proposed rule on the State’s contingency measure SIP submission for the 2008 ozone NAAQS in the San Joaquin Valley, as well as our Revised Contingency Measures Guidance, we articulated a reasoned justification for the change in EPA policy as to how states may comply with the contingency measure SIP requirements. We have responded in this document to comments opposing those policy changes, and we explained how we were reviewing the 2024 SJV Ozone Contingency Measure Plan in light of the new guidance. The EPA believes that such actions satisfy the applicable requirements for public process under the CAA and Administrative Procedure Act, as well as our responsibilities to engage state and local air agencies on CAA requirements, generally, and the development of SIP revisions in the wake of court decisions that bear on questions of CAA interpretation, specifically.

Comment 11: The Valley Environmental Organizations object to the EPA’s approval of the infeasibility demonstration with respect to confined animal facilities. Citing information presented in the proposed rule, the commenters note the extent to which VOC emissions in San Joaquin Valley come from the farming operations source category and are associated with livestock husbandry, particularly silage at dairies and dairy cattle waste. Commenters contend that the District did not perform an economic or technological feasibility analysis of contingency measures from the source category. Rather, the commenters contend, because the District claims Rule 4570 is the most stringent rule in the nation, the District found that the District is currently implementing the most stringent feasible measure. The commenters further contend that the EPA fails to consider or explain whether contingency measures from a category that represents such a large percentage of the VOC emission in the Valley are not technologically or economically feasible. Further, they contend that, while Rule 4570 may be the only such rule in the country or the most stringent, that does not mean that additional emissions reductions are not feasible and that EPA’s cursory dismissal of contingency measures for this category as infeasible is thus arbitrary and capricious.

Response to Comment 11: The EPA generally agrees with the commenters as to the extent to which the farming operations such as livestock husbandry, particularly silage and dairy cattle waste, contribute to Valley-wide VOC emissions inventories. We also agree that the District’s conclusion that there are no feasible contingency measures for confined animal facilities, with which we proposed to agree in our proposed rule, rests on the contention that the District’s rule that applies to this source category, Rule 4570 (Confined Animal Facilities), contains, as a practical matter, the most stringent requirements of any analogous air pollution control rules.⁷⁸

While we believe that the fact that a rule is the most stringent measure for a given source category is an indicator that additional controls may not be feasible, we agree that, in this instance, additional information and evaluation is warranted. Thus, we requested additional information and analysis from the District, and the District responded in a letter and attachment that we have evaluated and included in

⁷⁵ Email from Elizabeth Adams, Director, Air & Radiation Division, EPA Region IX, to Philip Fine, Bay Area Air Quality Management District, March 29, 2023, and attachment titled “Padilla Subgroup Focus Area Summaries.” The Valley Environmental Organizations included this email and attachment with their comment letter and identified it as Exhibit 7.

⁷⁶ 88 FR 17571 (March 23, 2023).

⁷⁷ 89 FR 85119 (October 25, 2024).

⁷⁸ 2024 SJV Ozone Contingency Measure Plan, pp.79–80; 89 FR 85119, at 85133.

the docket for this rulemaking.⁷⁹ Herein, we refer to the letter and attachment collectively as the “Confined Animal Facilities Supplement.”

In the Confined Animal Facilities Supplement, the District first discusses Rule 4570’s menu-based approach, where CAF operators must select from a limited menu of mitigation measures. The District contends that the menu-based approach is necessary because CAFs in the San Joaquin Valley vary significantly compared to traditional industrial sources.⁸⁰ As a result, it is not feasible for all operators to implement identical mitigation measures given the differences in infrastructure, climate, permitting requirements, water availability and water board regulations, production contracts, and other limitations. Furthermore, the District reasons that requiring all measures from the menu would be duplicative and would not result in additional emissions reductions, as the measures control emissions through the same mechanisms. The EPA concurs with the District’s menu-based approach for this source category and agrees that requiring implementation of additional mitigation measures from the menu in Rule 4570 as a contingency measure would be duplicative and would not result in increased emissions reductions.

The District then discusses the feasibility of Class Two Mitigation Measures from the pre-2010 version of Rule 4570 as contingency measures. The District explains that Class Two mitigation measures referred to practices that could potentially achieve emissions reductions equal to or greater than those achieved by Class One mitigation measures and were originally included in Rule 4570 to encourage CAF operators to go beyond the basic rule requirements and implement innovative practices to further reduce emissions.⁸¹ However, the District notes that many of the Class Two Mitigation Measures were theoretical measures that had not been demonstrated in practice at CAFs. The District points to its previous evaluation of these Class Two Mitigation Measures in its “2010 Final Staff Report for the Revised Proposed Amendments to Rule 4570,”⁸² where the Class Two

Mitigation Measures were found to be technologically or economically infeasible and subsequently removed from Rule 4570. The District highlights the specific example of venting silage to a control device as a Class Two Mitigation Measure found to be infeasible and explains that it is infeasible because active venting introduces air into the silage, whereas silage preservation requires anaerobic conditions.⁸³

The next step in the District’s analysis was to evaluate the feasibility of adopting certain specific additional mitigation measures as contingency measures in Rule 4570. The District evaluated mitigation measure categories applicable to the San Joaquin Valley, including litter amendments and additives, biofilters, wet scrubbers, anaerobic digestion, injection of liquid and slurry manure, reducing crude protein for beef cattle, reducing crude protein content for dairy cattle, and increased grazing time for dairy cattle. For each mitigation measure, the District evaluated the technological and economic feasibility to determine whether the measure would be feasible for adoption as a contingency measure.⁸⁴

With respect to litter amendments and manure additives, the District separately analyzed acidifying amendments and additives for poultry litter, manure additives, and microbial additives.⁸⁵ With respect to acidifying amendments and additives for poultry litter, the District notes that emissions reductions from acidifying amendments and additives for poultry litter have not been quantified in regard to VOC. Furthermore, the District contends that many additives to litter and manure require approval from the CA Regional Water Quality Control Board (RWQCB), may not be allowed, or may be toxic to handle.⁸⁶ The District then performed an economic analysis of using aluminum sulfate, commonly referred to as “alum,” as an additive to reduce VOC from poultry litter. Based on this analysis, the District concludes that it is not viable to adopt the measure as a contingency requirement to reduce VOC emissions. For manure additives for liquid and slurry manure, the District

states that the measure is infeasible due to pH, hydrogen sulfide emissions, and salinity concerns. The District contends that microbial additives are not feasible or practical for operations in the Valley. Citing a study by the National Hog Farmer,⁸⁷ the District contends that the effectiveness of microbial manure additives for VOC emissions reduction remains unproven.⁸⁸

When a biofilter is used, exhaust air containing pollutants passes through media that contain an established, diverse population of aerobic microorganisms that oxidize organic contaminants, ammonia, and sulfur compounds. Biofilters have been successfully used to control odors and emissions from industrial sources, and the “Agricultural Air Quality Conservation Measures, Reference Guide for Poultry and Livestock Systems” (“USDA Reference Guide”) identifies biofilters as a potential method to control VOC emissions at CAFs.⁸⁹ However, the USDA Reference Guide also notes several considerations that must be taken into account when using biofilters to control emissions from CAFs, including the substantial costs involved. The District has evaluated the potential for greater use of biofilters to reduce VOC emissions from CAFs but finds that using biofilters to treat all the exhaust air from CAFs in the San Joaquin Valley is impractical due to the size of the biofilters that would be needed, the energy required to overcome the airflow resistance they create, and the airflow required to cool the enclosed spaces effectively.⁹⁰ The District also notes certain other practical difficulties, particularly in connection with biofilter maintenance. In light of all of these considerations, the District concludes that requiring the installation and use of biofilters as a contingency measure to control VOC emissions at CAFs is not feasible.

Wet scrubbers are capable of reducing particulate matter and gas emissions from animal production houses that are mechanically ventilated by physically trapping the particulate matter on wet surfaces and absorbing gases into a liquid. Many of the same technical difficulties posed by installation and maintenance of biofilters at CAFs also

⁷⁹ Letter dated January 30, 2026, from Matthew Lakin, Chief, Air Quality Planning and Science Division, CARB, to Anita Lee, Acting Director, Air & Radiation Division, EPA Region IX with the following attachment: “Technical Clarification and Additional Information for the 1997, 2008, and 2015 8-Hour Ozone NAAQS Contingency Measures.”

⁸⁰ Confined Animal Facilities Supplement, p. 3.

⁸¹ Confined Animal Facilities Supplement, p. 4.

⁸² SJVAPCD. San Joaquin Valley Air Pollution Control District Final Staff Report for the Revised

Proposed Amendments to Rule 4570, (October 21, 2010). Retrieved from: https://ww2.valleyair.org/media/ytbe5gaj/agenda_item_7_oct_21_2010.pdf and included in the docket for this rulemaking.

⁸³ Confined Animal Facilities Supplement, p. 5.

⁸⁴ Confined Animal Facilities Supplement, pp. 5–22.

⁸⁵ Confined Animal Facilities Supplement, pp. 6–11.

⁸⁶ Confined Animal Facilities Supplement, pp. 7–8.

⁸⁷ National Hog Farmer. Evaluating Manure Additives for Odor Mitigation. (February 2, 2021) Retrieved from: <https://www.nationalhogfarmer.com/manure/evaluating-manure-additives-forodor-mitigation> and included in the docket for this rulemaking.

⁸⁸ Confined Animal Facilities Supplement, p. 10.

⁸⁹ USDA and EPA, Agricultural Air Quality Conservation Measures Reference Guide for Poultry and Livestock Production Systems. (September 2017).

⁹⁰ Confined Animal Facilities Supplement, p. 12.

apply to installation and maintenance of wet scrubbers at CAFs. Specifically, the District notes that, similar to biofilters, the practicality of scrubbers is limited as a result of their potential to compromise the ventilation airflow rate needed to control temperature in production houses and ensure animal health.⁹¹ Citing the USDA Reference Guide, the District finds that a high air flow rate in the summer, animal housing differences, ongoing maintenance, and water demand make this mitigation measure infeasible.⁹² Additionally, the District notes that they previously demonstrated the economic infeasibility of using wet scrubbers to control emissions from CAFs in the District's "Ammonia: Supplemental Information for EPA in Support of 15 µg/m³ annual PM_{2.5} Standard, Appendix B" ("Ammonia Technical Supplement").⁹³

Anaerobic digesters are systems that break down manure in oxygen-free tanks to produce biogas. In the process of anaerobic digestion, most of the VOC compounds in the substrate are converted to methane, carbon dioxide, and water. The District reports that the California Department of Food and Agriculture (CDFA) has funded the installation of anaerobic digesters at certain dairy CAFs in the Valley. The District notes that a significant obstacle to wider installation and use of anaerobic digesters at CAFs is the high initial and ongoing maintenance costs. The District cites a CDFA reference for the figure of \$7.5 million as the average cost for dairy digester projects in California.⁹⁴ As such, the District concludes that installation of additional anaerobic digesters in the San Joaquin Valley as a contingency measure is economically infeasible without a stable funding source.⁹⁵

Injection of liquid or slurry manure is generally accepted as a method to reduce emissions relative to traditional surface broadcasting. However, the District notes that nearly all liquid manure in the San Joaquin Valley is already diluted and applied via surface gravity irrigation systems, such as flood and furrow irrigation. The District further notes that this application method reduces emissions because the diluted liquid manure has much lower concentration of VOCs, and liquid

manure in furrow and flood irrigation systems emits significantly less VOCs compared to broadcasting.⁹⁶ Furthermore, the District contends that no research has quantified VOC emissions reductions from different methods of land application of manure. Finally, the District notes that to avoid damaging growing crops and to protect water quality, farmers must restrict the frequency, timing, and amount of nitrogen that they can apply to cropland in certain portions of the San Joaquin Valley.⁹⁷ Such restrictions further reduce the potential of injection of liquid or slurry manure for adoption as a contingency measure in the San Joaquin Valley.

Reducing the crude protein content for beef and dairy cattle feed has been evaluated as potential measures to reduce ammonia emissions during certain phases of beef and dairy production, and for that reason, the District has evaluated them as potential contingency measures for VOC. The District notes that the potential VOC reductions from these measures have not been quantified, and achievable reductions are uncertain.⁹⁸ For beef cattle, the District notes that reducing the crude protein content of the feed as a means of reducing ammonia has only been tested for the finishing cycle of beef cattle lives, and that there are limited opportunities to implement this measure as there are very few finishing cycle feeder beef cattle in the San Joaquin Valley.⁹⁹ Furthermore, the District notes that there may be no net reduction in VOC emissions over the life of the cattle because any VOC reductions from reducing the crude protein content of beef cattle feed may be offset due to the longer time necessary to reach market weight.¹⁰⁰

For dairy cattle, the District notes significant gaps in knowledge of what would occur if crude protein were reduced in dairy cattle, specifically in the San Joaquin Valley. Higher levels of milk production require higher levels of protein, so reducing the crude protein content of feed will probably reduce milk yields.¹⁰¹ Citing communications with Dr. Peter Robinson, University of California at Davis Extension Specialist,

Dairy Cattle Nutritional Management Department of Animal Science, the District contends that lowering crude protein below required levels results in an immediate negative impact on milk production.¹⁰² The District reasoned, for both of these measures, it is not feasible to adopt the measures as contingency requirements, given the remaining uncertainties about VOC emissions reductions, the impacts on milk production and animal health, and overall costs.¹⁰³

Increasing the amount of time dairy cows spend grazing is considered a potential VOC mitigation measure because it could reduce ammonia emissions due to less silage consumption and may thus also reduce VOC emissions. Based on a number of assumptions for such parameters as the number of acres of pasture required to allow a mature dairy cow to graze per unit of time, the District estimates that 3.1 million acres of irrigated pasture would need to be available for dairy cows in the San Joaquin Valley to graze for the entire year. The land needed is significantly beyond that which is available. For this reason, the District concludes that increased grazing time for dairy cattle is not viable to adopt as a contingency requirement to reduce VOC emissions.¹⁰⁴

In summary, for all mitigation measures evaluated, the District did not identify any new measures capable of achieving VOC emissions reductions that are technologically and economically feasible. Based on our review of the supplemental analysis, we find that the District has evaluated an appropriate set of potential contingency measures for CAFs and presented a reasonable basis to conclude that the measures are not feasible for adoption as contingency measures at this time. Therefore, we continue to agree with the District's conclusion that there are no feasible contingency measures for this source category.

III. EPA Action

For reasons provided in our October 25, 2024 proposed rule and in our responses to comments included in this document, we are taking final action under CAA section 110(k)(4) to conditionally approve the 2024 SJV Ozone Contingency Measure Plan as a revision of the California SIP as it pertains to the 2008 ozone NAAQS. We are doing so based on our determination

⁹¹ Confined Animal Facilities Supplement, p. 13.

⁹² Confined Animal Facilities Supplement, p. 14.

⁹³ Ammonia: Supplemental Information for EPA in Support of 15 µg/m³ annual PM_{2.5} Standard, Appendix B. (March 2023). Retrieved from: <https://www.regulations.gov/document/EPA-R09-OAR-2023-0263-0114> and included in the docket for this rulemaking.

⁹⁴ Confined Animal Facilities Supplement, p. 15.

⁹⁵ Id.

⁹⁶ Confined Animal Facilities Supplement, p. 16.

⁹⁷ Id.

⁹⁸ Confined Animal Facilities Supplement, pp. 18–19.

⁹⁹ Confined Animal Facilities Supplement, p. 18.

¹⁰⁰ Journal of Animal Science. Effects of phase-feeding of crude protein on performance, carcass characteristics, serum urea nitrogen concentrations, and manure nitrogen of finishing beef steers (December 1, 2006).

¹⁰¹ Confined Animal Facilities Supplement, pp. 19–20.

¹⁰² University of California Agriculture and Natural Resources. Ecology and Management of Annual Rangelands Series Part 8: Grazing Management. (December 2020).

¹⁰³ Confined Animal Facilities Supplement, p. 20.

¹⁰⁴ Confined Animal Facilities Supplement, 22.

that, considered together with the existing approved contingency measures and the commitments to submit additional contingency measures, the 2024 SJV Ozone Contingency Measure Plan meets the contingency measure requirements of CAA sections 172(c)(9) and 182(c)(9) for the San Joaquin Valley for the 2008 ozone NAAQS. Thus, we find that the 2024 SJV Ozone Contingency Measure Plan, including the already adopted contingency measures and commitments, corrects the deficiencies in the previous contingency measure element submissions for San Joaquin Valley for the 2008 ozone NAAQS that we partially disapproved in October 2022.¹⁰⁵ Our approval is conditional because it relies on commitments by CARB and the District to supplement the 2024 SJV Ozone Contingency Measure Plan through submission of additional contingency measures within one year of final conditional approval.

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 CAA. Accordingly, this action merely takes action to conditionally approve a state plan 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 final 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 August 3, 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 it 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 22, 2026.

Michael Martucci,

Acting Regional Administrator, Region IX.

For the reasons discussed 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 F—California

■ 2. In § 52.220a, in paragraph (e), amend table 8 by adding an entry for “Ozone Contingency Measure State Implementation Plan Revision for the 2008 and 2015 8-hour Ozone Standards (April 25, 2024)” after the entry for “SJVUAPCD’s commitments to adopt, submit, and implement substitute rules that will achieve equivalent reductions in emissions of direct PM_{2.5} or PM_{2.5} precursors in the same adoption and implementation timeframes or in the timeframes needed to meet CAA milestones, as stated on p. 4 of San Joaquin Valley Unified APCD Resolution 2012–12–19, dated December 20, 2012 were revised by California Air Resources Board Resolution 20–15, dated May 28, 2020, in paragraph (c)(539)(ii)(A)(2) of this section” to read as follows:

§ 52.220a Identification of plan—in part.

* * * * *

(e) * * *

¹⁰⁵ In the same issue of the **Federal Register** that we published the proposed rule, we issued an interim final determination to stay application of the offset sanction and defer application of the highway sanction that were triggered by the EPA’s October 3, 2022 partial disapproval of SIP revisions submitted to address the contingency measure requirements for the 2008 ozone NAAQS for the San Joaquin Valley. 89 FR 85064 (October 25, 2024). All sanctions and any sanctions clocks associated with the October 3, 2022 partial disapproval will continue to be stayed or deferred unless and until the EPA proposes to or takes final action to convert the conditional approval of the 2024 SJV Ozone Contingency Measure Plan to a disapproval. See 40 CFR 52.31(d)(2)(ii) and CAA section 110(k)(4).

TABLE 8—SAN JOAQUIN VALLEY AIR BASIN

Name of SIP provision	Applicable geographic area	State submittal date	EPA approval date	Explanation
* Ozone Contingency Measure State Implementation Plan Revision for the 2008 and 2015 8-hour Ozone Standards (April 25, 2024).	* San Joaquin Valley.	* April 29, 2024	* June 4, 2026, 91 FR [IN-SERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	* Approval pertains to the 2008 ozone NAAQS. Submitted electronically on April 29, 2024, as an attachment to a letter dated April 26, 2024.
*	*	*	*	*

* * * * *

■ 3. Amend § 52.248 by adding paragraph (o) to read as follows:

§ 52.248 Identification of plan—conditional approval.

* * * * *

(o) The EPA is conditionally approving the California State Implementation Plan (SIP) for San Joaquin Valley for the 2008 ozone NAAQS with respect to the contingency measure requirements of CAA sections 172(c)(9) and 182(c)(9). The conditional approval is based on commitments included in a letter from the San Joaquin Valley Unified Air Pollution Control District (District) dated June 18, 2024 from Samir Sheikh, Executive Director/Air Pollution Control Officer, District, to Dr. Steven S. Cliff, Executive Officer, CARB and Martha Guzman, Regional Administrator, EPA Region IX, to adopt certain rule revisions, and commitments included in a letter from the California Air Resources Board (CARB) dated June 24, 2024 from Michael Benjamin, D. Env., Division Chief, Air Quality Planning & Science Division, CARB, to Martha Guzman, Regional Administrator, EPA Region IX, to submit the amended rules to the EPA within 12 months of the effective date of the final conditional approval. If the District or CARB fail to meet their commitments within one year of the effective date of the final conditional approval, the conditional approval is treated as a disapproval.

[FR Doc. 2026–11168 Filed 6–3–26; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 355

[Docket Number MARAD–2025–0087]

RIN 2133–AB90

Establishing United States Citizenship for MARAD Program Participation; Simplifying the Application Process

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: On July 1, 2025, MARAD published a Notice of Proposed Rulemaking (NPRM), titled “How to Best Evidence Corporate Citizenship: Policy and Regulatory Review,” soliciting public comment on actions MARAD could take to improve the process for evidencing U.S. citizenship. The final rule will simplify and modernize the process for establishing United States citizenship of corporations and other business formations participating in MARAD programs. In the interest of minimizing the unnecessary disclosure of personally identifiable information, the final rule will also eliminate the requirement to provide dates and places of birth of corporate executives, directors, and stock owners as required in the current form of affidavit of citizenship. The final rule will also amend the form of affidavit with respect to entities that are publicly traded by eliminating the requirement to provide certain information regarding registered owners of stock, eliminate the notarization requirement, and provide a simple and streamlined process for recertification.

DATES: This final rule is effective on June 4, 2026.

FOR FURTHER INFORMATION CONTACT: Michael C. Pucci, Office of the Chief Counsel, Division of Maritime Programs, (202) 366–5167 or via email at Michael.Pucci@dot.gov. Persons who

use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during business hours. The FIRS is available twenty-four hours a day, seven days a week, to leave a message or question. You will receive a reply during normal business hours. You may send mail to U.S. Department of Transportation, Maritime Administration, Office of the Chief Counsel, Division of Legislation and Regulations, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

This final rule and all comments may be viewed online through the Federal eRulemaking portal at www.regulations.gov. An electronic copy of this document may also be downloaded by accessing the Office of the Federal Register’s home page at: www.federalregister.gov.

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>.

Background

On July 1, 2025, MARAD published a Notice of Proposed Rulemaking (NPRM), titled “How to Best Evidence Corporate Citizenship: Policy and Regulatory Review,” soliciting public comment on actions MARAD could take to simplify and modernize the process for evidencing U.S. citizenship (90 FR 28513). Previously, on May 1, 2019, MARAD published an Advanced Notice of Proposed Rulemaking (ANPRM), titled “How to Best Evidence Corporate Citizenship: Policy and Regulatory Review” (84 FR 18468) soliciting public

comment seeking the same information and whether MARAD should revise its regulations.

MARAD received comments to the original ANPRM, but the only comment received to the NPRM was outside the scope of this rulemaking and is therefore not addressed in the discussion below. MARAD developed this final rule by incorporating many of the comments and recommendations received in response to the ANPRM.

Discussion of Comments Received

In response to the agency's ANPRM seeking ways to simplify annual requirements to evidence corporate citizenship, MARAD received one comment from The Maritime Law Association of the United States (MLA), which included several recommendations developed by the MLA's standing committee on Marine Financing. The agency responds to the MLA's recommendations as follows:

The MLA first recommended MARAD consider regulatory changes to make compliance more efficient and assured by eliminating the inclusion of birth dates and places of birth on the form of affidavit of U.S. citizenship.

MARAD agrees. Inclusion of this information in the affidavit of U.S. citizenship does not significantly improve U.S. citizenship certainty and creates an unnecessary risk of release of personally identifiable information. In any instance of doubt, MARAD will retain the authority to request that information from submitting parties. The final rule's form of affidavit at section 355.2 eliminates that requirement.

MLA next asked MARAD to consider permitting streamlined certifications for follow-on affidavits when there has been no material change to the information contained in the earlier affidavit rather than having each affidavit repeat all the required information under the current regulation, which requires annual submission of affidavits.

MARAD agrees with this recommendation. Permitting an optional streamlined certification will reduce the burden of annual filing for those entities whose ownership information has not changed since the last affidavit was filed without impacting MARAD's ability to make annual U.S. citizenship determinations. Section 355.4(b) of the final rule will include a provision for optional annual certification of citizenship information.

The MLA further recommended that MARAD revise its regulations to take into account the current state of public stock ownership and other factors

affecting the ability of any public company to prove its U.S. citizenship. In particular, the MLA provided the following five recommendations concerning public companies:

1. The MLA asked that MARAD consider coordinating with the U.S. Coast Guard (USCG) to provide the affected industry guidance that is practical and adequately implements the intent of U.S. maritime citizenship laws. The MLA further suggested that USCG's November 26, 2012, **Federal Register** Notice, "Mechanisms of Compliance with United States Citizenship Requirements for the Ownership of Vessels Eligible to Engage in Restricted Trades by Publicly Traded Companies" (77 FR 70453), would be a good starting point for developing a regulation that both agencies would promulgate.

MARAD agrees. The guidance contained in USCG's November 2012 Notice is the basis for MARAD's revisions to the form of affidavit of U.S. citizenship to be used by publicly traded corporations and other business formations whose ownership interests are publicly traded. Adoption of this guidance will harmonize the agencies' approaches to evidencing citizenship. Section 355.3(d) will provide publicly traded entities flexibility in applying several reasonably available methods to ensure ongoing compliance with U.S. ownership requirements without sacrificing the accuracy of ownership information upon which such entities must rely upon to affirm their citizenship status.

2. The MLA recommended that further improvements might be considered with respect to the fair inference rule including relaxing the percentages and making it clear that address lists made available by financial intermediaries can be relied upon.

MARAD agrees that the "fair inference rule," as applied to corporations that are publicly traded, must be updated because it relies upon stock records that are no longer controlled by the issuing corporation since the advent of electronic trading. The final rule reflects a modified fair inference rule under which a publicly traded corporation may rely upon reasonably available shareholder residence information, including geographic surveys, and statistical sampling. However, MARAD will not adjust the current non-citizen ownership percentage limits of the fair inference rule until such time that we have confidence that reducing such limits will not result in an unreasonable risk of submitters breaching the statutory non-citizen ownership levels.

3. The MLA recommended that MARAD review methods adopted by other Federal agencies for establishing U.S.-citizen citizenship.

MARAD agrees. The rule is informed by our review of guidance and rules of other agencies, including the Federal Communications Commission's Review of Foreign Ownership Policies for Broadcast, Common Carrier, and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended (Sep. 30, 2016); Federal Aviation Administration regulations; and USCG's November 2012 Notice (discussed above). The final rule will afford submitters flexibility in selecting the methods they use to determine ownership while maintaining compliance with annual filing requirements.

4. The MLA recommended that MARAD work with the Securities and Exchange Commission and the Depository Trust Company to improve the SEG-100 system to make it an even more reliable indicator of U.S. citizen stock ownership.

Considering the obsolescence of the current form of affidavit, MARAD has accepted annual filers' participation in the SEG-100 system as a basis for affirming U.S. stock ownership. The final rule will now include participation in the SEG-100 system as an acceptable method for maintaining and evidencing U.S. ownership. The final rule does not make participation in SEG-100 mandatory.

5. The MLA recommended that MARAD, in coordination with USCG, adopt a process by which companies can present their citizenship compliance plans for approval by the two agencies and, if acting on the basis of those plans for approval by the two agencies, have the benefit of a presumption that they satisfy the applicable citizenship standard and the benefit of a grace period to come back into compliance if the maximum permissible non-citizenship threshold is exceeded due to market trading.

MARAD agrees that submitters should be permitted to submit their citizenship compliance plans for MARAD's review and approval. The final rule includes an option for submitting compliance methods for MARAD review and approval. As noted above, MARAD's rule is intended to harmonize its compliance procedures with the guidance from USCG's November 2012 notice. Upon request from submitters, MARAD will share such determinations with USCG.

The final rule adopts the changes described above and updates statutory

authorities, which have changed since the current rule was published on July 18, 1970.

Rulemaking Analysis and Notices

Executive Orders 12866

Executive Order (E.O.) 12866 provide for making determinations whether a regulatory action is “significant” and therefore subject to Office of Management and Budget (OMB) review and to the requirements of E.O. 12866.

This rule will streamline the process for establishing United States citizenship of corporations and other business formations participating in MARAD programs by removing the unnecessary disclosure of personally identifiable information. It also amends the form of affidavit with respect to entities that are publicly traded to eliminate the requirement to provide certain information regarding registered owners of stock, which is no longer consistent with how stocks are traded in U.S. equity markets today.

This rule is not a significant regulatory action under E.O. 12866 and was therefore not reviewed by OMB. It is also not considered a major rule for purposes of Congressional review under Public Law 104–121.

Executive Order 14192

E.O. 14192 requires that for “each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.” Implementation guidance for E.O. 14192, issued by OMB (Memorandum M–25–20, March 26, 2025), defines an E.O. 14192 deregulatory action as “an action that has been finalized and has total costs less than zero.” This rule will have total costs less than zero, and therefore is an E.O. 14192 deregulatory action.

Executive Order 13132

MARAD analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This rulemaking has no substantial effect on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials. Nothing in this document preempts any State law or regulation. Therefore, MARAD did not consult with State and local officials and did not prepare a federalism summary impact statement.

Executive Order 13175

MARAD does not believe that this rulemaking will significantly or uniquely affect the communities of Indian tribal governments when analyzed under the principles and criteria contained in E.O. 13175. Therefore, the funding and consultation requirements of this Executive Order do not apply.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of proposed rulemaking or final rule, the agency must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations and small governmental jurisdictions), unless the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Agencies must also provide a statement of the factual basis for this certification.

For the following reasons, the Maritime Administrator certifies that this rulemaking action would not have a significant economic impact on a substantial number of small entities. The rule simplifies and modernizes the process for establishing United States citizenship of corporations and other business formations participating in MARAD programs. The rule also eliminates the requirement to provide dates and places of birth of corporate executives, directors, and stock owners as required in the current form of affidavit of citizenship. The final rule also amends the form of affidavit with respect to entities that are publicly traded by eliminating the requirement to provide certain information regarding registered owners of stock, eliminate the notarization requirement, and provide a simple and streamlined process for recertification.

Privacy Impact Assessment

Section 522(a)(5) of the Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005 (Pub. L. 108–447, div. H, 118 Stat. 2809 at 3268) requires DOT and certain other Federal agencies to conduct a privacy impact assessment of each proposed rule that will affect the privacy of individuals. This rulemaking, which only eliminates the requirement to provide dates and places of birth of corporate executives,

directors and stockholders, eliminates certain information regarding registered owners of stock, and the notarization requirement, does not result in personally identifiable information (PII) being collected or maintained in a Government-run website or IT system. Therefore, MARAD did not conduct a Privacy Impact Assessment.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 requires Agencies to evaluate whether an agency action would result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$212 million or more (as adjusted for inflation, in 2026) in any 1 year, and if so, to take steps to minimize these unfunded mandates. This rulemaking will not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It will not result in costs of \$212 million or more to either State, local, or Tribal governments, in the aggregate, or to the private sector, so the analytical requirements of the UMRA do not apply. The rule is the least burdensome alternative that achieves MARAD’s stated objectives for the rule.

National Environmental Policy Act

Pursuant to 49 CFR 1.81, the Secretary has delegated the “functions” under NEPA to the Administrators “as they relate to the matters within the primary responsibility of each Operating Administration.” MARAD has determined that this proposed rule is categorically excluded pursuant to DOT Order 5610.1D, subpart C, section (e)(3). A categorical exclusion (CE) is an action identified in an agency’s NEPA procedures that does not normally have a significant impact on the environment and therefore does not require either an environmental assessment (EA) or environmental impact statement (EIS). See DOT Order 5610.1D, section 9. In analyzing the applicability of a CE, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. *Id.* at section 9(b). MARAD may utilize its own CEs, in addition to CEs listed in DOT Order 5610.1D Appendix A or another Operating Administration’s CEs, using the procedures described in DOT Order 5610.1D, section 9, and subpart C, section (e). This rulemaking, *Establishing United States Citizenship for MARAD Program Participation; Simplifying the Application Process*, is categorically excluded pursuant to DOT Order 5610.1D, subpart C, section (e)(3): “Internal orders and procedures not required to be published in the **Federal**

Register, promulgation of rules, regulations, directives, and amendments thereto which do not require a regulatory impact analysis under section 3 or do not have a potential to cause a significant impact on the environment . . .” MARAD does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (PRA) requires that DOT consider the impact of paperwork and other information collection burdens imposed on the public. This final rule will likely result in a reduction in the burden hours required for information collection 2133–0012, Requirements for Establishing U.S. Citizenship—46 CFR 355, because changes to the regulation will shorten the time and effort to evidence citizenship for many first-time applicants as well as those that must recertify. We expect that the information collection requirement under this rule will reduce the “hours per response” from five hours to four hours resulting in a 20 percent reduction in burden hours annually and having a net cost saving of \$24,756 annually across 550 respondents.

Notwithstanding any other provision of law, a person is not required to respond to a collection of information by a federal agency unless the collection displays a valid OMB control number.

List of Subjects in 46 CFR Part 355

Citizenship and naturalization, Maritime carriers, Reporting and recordkeeping requirements.

For the reasons described in the preamble, MARAD is revising 46 CFR part 355 to read as follows:

PART 355—REQUIREMENTS FOR ESTABLISHING UNITED STATES CITIZENSHIP

Sec.

- 355.1 General.
- 355.2 Evidencing U.S. citizenship; affidavit guide.
- 355.3 Criteria to be applied in support of stock data in affidavit.
- 355.4 Changes in citizenship data.
- 355.5 Additional material.

PART 355—REQUIREMENTS FOR ESTABLISHING UNITED STATES CITIZENSHIP

Authority: 46 U.S.C. 50501, 50502; secs. 2, 204, Public Law 64–260, 39 Stat. 729, as amended, Public Law 74–835, 49 Stat. 1987, as amended, Public Law 86–327, 73 Stat. 597.

§ 355.1 General.

(a) Under 46 U.S.C. 50501, no corporation is deemed to be a citizen of the United States unless:

(1) It is organized under the laws of the United States or of a State, Territory, District, or possession thereof;

(2) Its president or other chief executive officer, and the chairman of its board of directors are citizens of the United States, and no more of its directors than a minority of the number necessary to constitute a quorum are non-citizens; and

(3) The controlling interest therein is owned by citizens of the United States or, in the case of a corporation operating any vessel in the coastwise trade, on the Great Lakes, or inland lakes of the United States, 75 per centum of the interest in such corporation is owned by citizens of the United States.

(b) As used in this part, the term *primary corporation* includes, but not exclusively, participants in certain transactions or programs under title 46 of the U.S. Code, such as Owner Trustees and certain vessel owners and contractors under 46 U.S.C. 53102 or Capital Construction Fund holders under 46 U.S.C. 53501 *et seq.*

(c) To satisfy the statutory requirements, an Affidavit of U.S. Citizenship of a primary corporation by one of its officers duly authorized to execute such Affidavit, should be submitted. This Affidavit should contain facts from which the corporation’s citizenship can be determined.

§ 355.2 Evidencing U.S. citizenship; affidavit guide.

In order to establish that a corporation is a citizen of the United States within the meaning of 46 U.S.C. 50501, as amended, the form of affidavit to be used as a guide is hereby prescribed for execution on behalf of the primary

corporation and filing with an application or, if required, subsequent filing within 30 days after the annual meeting of the stockholders (if the primary corporation is a wholly owned subsidiary and contrary to the bylaw provision does not hold the annual meeting of stockholders, the subsequent filing should be annually and related to the date of the original filing) as evidence of the continuing U.S. citizenship of a filing entity:

Affidavit of U.S. Citizenship
(NAME OF CORPORATION)

State of _____)
) ss.:
County of _____)

I, (*Name*), of (*Physical residence address, city, and state*), being duly sworn, depose and say:

1. That I am the (*Title of office(s) held*) of (*Name of Corporation*), a corporation organized and existing under the laws of the State of _____ (hereinafter called the “Corporation”), with offices at (*Business address*), in evidence of which incorporation a certified copy of the Articles or Certificate of Incorporation (or Association) is filed herewith (or has been filed) together with a certified copy of the corporate Bylaws. [Evidence of continuing U.S. citizenship status, including amendments to said Articles or Certificate and Bylaws, should be filed within 30 days after the annual meeting of the stockholders or annually, within 30 days after the original affidavit if there has been no meeting of the stockholders prior to that time.];

2. That I am authorized by and on behalf of the Corporation to execute and deliver this Affidavit of U.S. Citizenship;

3. That the names of the Chief Executive Officer, by whatever title, Vice Presidents or other individuals who are authorized to act in the absence or disability of the Chief Executive Officer, by whatever title, the Chairman of the Board of Directors, and the Directors of the Corporation are as follows:

Name	Title	Citizen of the United States
Name	Title	Yes/No

[*Note:* The foregoing list should include the officers, whether or not they are also directors, and all directors, whether or not they are also officers] and that each of said individuals is a citizen of the United States by virtue of birth in the United States, birth abroad of U.S. citizen parents, by naturalization, by naturalization during minority through the naturalization of a parent, by marriage (if a woman) to a U.S. citizen prior to September 22, 1922, or as otherwise authorized by law, except (*give name and nationality of all Non-Citizen officers and directors, if any*); however, the By-laws of the Corporation provide that (*Number*) of the directors are necessary to constitute a quorum; therefore, the alien directors named represent no more than a minority of the number necessary to constitute a quorum;

[Select and complete the applicable paragraph 4 describing the Corporation's stock ownership and strike inapplicable paragraphs 4]

4. Information as to stock, where a non-publicly traded Corporation has 30 or more stockholders:

That I have access to the stock books and records of the Corporation; that said stock books and records have been examined and disclose (a) that, as of (*Date*), the Corporation had issued and outstanding (*Number*) shares of (*Class or series*), the only class or series of stock of the Corporation has issued and outstanding [if such is the case], owned of record by (*Number*) stockholders,

said number of stockholders representing the ownership of the entire issued and outstanding stock of the Corporation, and (b) that no stockholder owned of record as of said date five per centum (5 percent) or more of the issued and outstanding stock of the Corporation of any class. [If different classes or series of stock exist, give the same information for each class or series issued and outstanding, showing the monetary value and voting rights per share in each class or series. If there is an exception to the statement in clause (b), the name, address, and citizenship of the stockholder and the amount and class or series of stock owned should be stated.]

That the registered addresses of (*Number*) owners of record of (*Number*) shares of the issued and outstanding (*Class or series*) stock of the Corporation are shown on the stock books and records of the Corporation as being within the United States, said _____ shares being _____ per centum (____ percent) of the total number of shares of said stock (each class or series). [The exact figure as disclosed by the stock books of the corporation must be given and the per centum figure must not be less than 65 per centum, except that for a corporation operating a vessel in the coastwise trade, the per centum figure must be not less than 95 per centum. These per centum figures apply to corporate stockholders as well as to the primary corporation.]

(The same statement should be made with reference to each class or series of stock, if there is more than one class.)

4. Information as to stock, where Corporation's shares are publicly traded on a U.S. stock exchange:

That the Corporation has diligently employed, administered, and adhered to methods such as those identified at 46 CFR 355.3(d) to monitor the Corporation's stock ownership.

[In the case of Corporation seeking to demonstrate controlling interest ownership (greater than 50 percent U.S. Citizen ownership) use the following]:

That, based on the foregoing, the percentage of shares of the Corporation owned by U.S. citizens eligible to document vessels in their own right is greater than 50 per centum.

[In the case of a Corporation seeking to demonstrate eligibility for a coastwise endorsement (at least 75 percent U.S. ownership), use the following]:

That, based on the foregoing, the percentage of shares of the Corporation owned by U.S. citizens eligible to document vessels in their own right is 75 percent or greater.

4. Information as to stock, where Corporation has less than 30 stockholders:

That the information as to stock ownership, upon which the Corporation relies to establish that the required percentage¹ of the stock ownership is vested in Citizens of the United States, is as follows:

Name of Stockholder	Number of shares owned (each class)	Percentage of shares owned (each class or series)
Name	Number and Class	Number and Class

and that each of said individual stockholders is a Citizen of the United States by virtue of birth in the United States, birth abroad of U.S. citizen parents, by naturalization during minority through the naturalization of a parent, by marriage (if a woman) to a U.S. citizen prior to September 22, 1922, or as otherwise authorized by law.

5. That the controlling interest (or 75 percent of the interest)² in (each) said Corporation, as established by the data hereinbefore set forth, is owned by citizens of the United States; that the title to a majority (or 75 percent) of the stock of (each) said Corporation is vested in Citizens of the United States free from any trust or fiduciary obligation in favor of any person not a

citizen of the United States; that such proportion of the voting power of (each) said Corporation is vested in citizens of the United States; that through no contract or understanding is it so arranged that the majority (or more than 25 percent) of the voting power of (each) said Corporation may be exercised, directly or indirectly, on behalf of any person who is not a Citizen of the United States; and that by no means whatsoever, is control of (each) said Corporation (or any interest in said Corporation in excess of 25 percent) conferred upon or permitted to be exercised by any person who is not a citizen of the United States; and

6. That affiant has carefully examined this Affidavit and asserts that all the

statements and representations contained therein are true to the best of their knowledge, information, and belief.

Dated: _____

(Name and title of affiant)

Penalty for False Statement: A fine or imprisonment, or both, are provided for violation of the proscriptions contained in 18 U.S.C. 1001 (*see also*, 18 U.S.C. 286, 287).

§ 355.3 Criteria to be applied in support of stock data in affidavit.

(a) The same criteria should be observed in obtaining information to be furnished for stockholders named

¹ 75 percent if Corporation is operating in the coastwise trade, on the Great Lakes, or on bays, sounds, rivers, harbors, or inland lakes of the

United States; and controlling interest if Corporation is operating solely in the foreign trade, both terms as defined in 46 U.S.C. 50501.

² Strike inapplicable language.

(direct ownership of required percentage of shares of stock of each class or series) in the Affidavit as those observed for the primary corporation. If, on the other hand, the “fair inference rule” is applied with respect to stock ownership (see *Collier Advertising Service, Inc. v. Hudson River Day Line*, 14 Fed. Supp. 335), the extent of U.S. citizen ownership of stock should be ascertained in the requisite percentage (65 percent for foreign operation and 95 percent for coastwise operation) in order that the veracity of the statutory statements made in the Affidavit (paragraph 5) (see § 355.2) may be relied upon by the Maritime Administration (MARAD).

(b) When applying the fair inference rule (where there are more than 30 stockholders, except where one or more of such number actually owns the controlling or 75 percent interest) in order to prove U.S. citizen ownership in the required percentages:

(1) For non-publicly traded corporations:

(i) For foreign operation, 65 percent of the shares of stock of each class or series must be shown to be held by persons with registered addresses within the United States to prove that 51 percent or controlling interest is vested in citizens of the United States; and

(ii) For coastwise operation, 95 percent of the shares of stock of each class or series must be shown to be held by persons having registered addresses within the United States to prove that 75 percent of the interest in the corporation is vested in citizens of the United States; and

(2) For publicly traded corporations:

(i) At least 95 percent of the stock (each class) of the corporation be held directly or beneficially by Persons having a U.S. address in order to infer at least 75 percent ownership by U.S. Citizens; or

(ii) At least 65 percent of the stock (each class) of the corporation be held directly or beneficially by Persons having a U.S. address in order to infer at least 51 percent ownership by U.S. Citizens; and

(3) For determining the requisite percentage of stockholders with U.S. addresses, the corporation may rely on the methods outlined in paragraph (d) of this section; and

(c) If the primary corporation is consecutively owned by several “parent” corporations (holders of 100 percent of the stock of each or all classes or series of stock issued and outstanding), the facts should be given in proper sequence either by chart or in narrative form, revealing the facts of stock ownership. The information with

respect to the ultimate parent should include data relative to the basis upon which controlling or 75 percent (depending upon whether the primary corporation operates in the domestic or foreign commerce) is established, together with the names of the owners of record or beneficial owners of 5 percent or more of each class or series of stock, if more than one class or series, and a statement that such owners are citizens of the United States. In any case where different classes or series of stock exist, each class or series will be treated depending upon whether “closely held” or “publicly held,” individually in applying the fair inference rule, if applicable, or giving the relevant information with respect to United States citizens owning of record 51 percent or 75 percent of the interest.

(d) If the corporation is publicly traded, the corporation may employ the following methods to measure, monitor, determine, and affirm the required percentage U.S. citizen share ownership for the primary corporation:

(1) Use of the Depository Trust Company segregated account (or “SEG–100”) system;

(2) Monitoring SEC filings for 5 percent holders (Schedules 13D, 13G, Form 13F) and follow-up requests for information from filers;

(3) Use of protective provisions in organizational documents in order to guard against and rectify the possibility of what are referred to as excess shares;

(4) Communications with Non-Objecting Beneficial Owners (or “NOBOs”);

(5) Geographic surveys or statistical analyses of shareholder residences;

(6) Use of dual stock certificates; and

(7) Alternative methods upon written MARAD approval.

§ 355.4 Changes in citizenship data.

(a) It is incumbent upon the party filing an affidavit under this part to apprise MARAD promptly in writing relative to changes in data last furnished with respect to officers, directors, and stockholders holding 5 percent or more of the issued and outstanding stock of each class or series, together with statements concerning the citizenship status thereof.

(b) If the information contained in a party’s most recent affidavit of citizenship filing has not changed materially, as an alternative to submitting an annual affidavit of citizenship under this part, a party may file a certification with MARAD. The certification should be substantially in the following format:

“I, [Title] of [Name of Corporation] (“Corporation”), being duly authorized

by the Corporation, certify to you that there have been no changes to the ownership information contained in the Affidavit of Citizenship filed with the Maritime Administration on [DATE].”

§ 355.5 Additional material.

If additional material is determined to be essential to clarify or support the evidence of U.S. citizenship, such material must be furnished by the primary corporation upon request by MARAD.

(Authority: 46 U.S.C. 50501, 49 CFR 1.93(a))

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026–11269 Filed 6–3–26; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 356

[Docket Number MARAD–2025–0091]

RIN 2133–AB91

American Fisheries Act Program Update; Simplifying the Application Process

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: On July 1, 2025, MARAD published a Notice of Proposed Rulemaking (NPRM), titled “American Fisheries Act Program Update; Simplifying the Application Process,” soliciting public comment on steps MARAD could take to simplify and modernize the process for evidencing U.S. citizenship for owners of U.S.-flag fishing industry vessels of 100 feet or greater in registered length. MARAD received one comment reiterating support for the steps MARAD has taken to update the regulation. MARAD’s amendments to the rule will simplify and streamline annual renewal filing for vessel owners whose citizenship information has not changed since their affidavit of U.S. citizenship (AFA Affidavit) filing, update acceptable methods for evidencing citizenship of publicly traded entities, and eliminate requirements to provide personally identifiable information (*i.e.*, social security numbers and dates and places of birth for corporate officers and directors) in affidavits of AFA citizenship.

DATES: This final rule is effective on June 4, 2026.

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>.

FOR FURTHER INFORMATION CONTACT: Michael C. Pucci, Office of the Chief Counsel, Division of Maritime Programs, (202) 366-5167 or via email at Michael.Pucci@dot.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during business hours. The FIRS is available twenty-four hours a day, seven days a week, to leave a message or question. You will receive a reply during normal business hours. You may send mail to U.S. Department of Transportation, Maritime Administration, Office of the Chief Counsel, Division of Legislation and Regulations, W24-220, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

This final rule and all comments may be viewed online through the Federal eRulemaking portal at www.regulations.gov. An electronic copy of this document may also be downloaded by accessing the Office of the **Federal Register** home page at: www.federalregister.gov.

Background

On July 1, 2025, MARAD published a Notice of Proposed Rulemaking (NPRM), titled "Deregulatory-American Fisheries Act Program Update; Simplifying the Application Process," soliciting public comment on actions MARAD could take to simplify and modernize the process for evidencing U.S. citizenship for owners of U.S.-flag fishing industry vessels of 100 feet or greater in registered length (90 FR 28519). Previously, on May 1, 2019, MARAD published an Advanced Notice of Proposed Rulemaking (ANPRM), titled "How Best to Simplify Filing Statements of American Fisheries Act Citizenship: Policy and Regulatory Review," (84 FR 18469) soliciting public comment seeking the same information and whether MARAD should revise its regulations.

MARAD developed its Final Rule based on recommendations received in response to our request for comments to

both the NPRM and the ANPRM, as well as recommendations we received in response to our ANPRM on reforming our Maritime Programs citizenship requirements titled "How to Best Evidence Corporate Citizenship: Policy and Regulatory Review" (Corporate Citizenship ANPRM) published in the **Federal Register** (84 FR 18468) on May 1, 2019.

Discussion of Comments Received on the ANPRM and the NPRM

In response to the agency's NPRM and ANPRM seeking public comment on ways to simplify annual requirements to evidence citizenship under the American Fisheries Act, MARAD received comments from K & L Gates, one comment for each of MARAD's notices, which included several recommendations. The agency responds as follows to the commenter's recommendations.

The commenter recommended MARAD consider permitting streamlined certifications for annual citizenship renewals when there has been no material change to the information contained in the prior year's AFA Affidavit.

MARAD agrees with this recommendation. Permitting an optional certification would reduce the burden of annual filing for those entities whose ownership information has not changed since the last AFA Affidavit was filed while not impacting MARAD's ability to make U.S. citizenship determinations. MARAD finds that such a certification would be consistent with the requirements of 46 U.S.C. 12113(e)(1) by incorporating by reference and certifying the citizenship information contained in the last AFA Affidavit submitted by the filer. In section 356.5(g), MARAD includes a provision for optional annual certification of citizenship information. MARAD will provide a copy of our form of annual certification with each annual fishery endorsement eligibility approval letter it issues to filers.

The commenter further suggested MARAD reconsider the regulatory requirements for vessel owners to notify the Citizenship Approval Officer within 30 days of any change in the information set forth in the AFA Affidavit or with respect to documents required to be filed pursuant to 46 CFR 356.13 (46 CFR 356.5(g) and 356.13(b), respectively). The commenter argued that these requirements place a significant burden on the vessel owner to review each of the various regulatory requirements on a monthly basis to ensure timely compliance and avoid risking loss of the fishing vessel's

eligibility to operate in the domestic fishing industry.

MARAD disagrees. As the commenter notes, most AFA vessel owners are closely held entities whose ownership does not change on an annual basis. In addition, MARAD has not found that compliance with these requirements has affected owners' ability to maintain fishery endorsement eligibility for their vessels. As such, MARAD does not find the 30-day notification requirements to be burdensome or to represent an undue risk of loss of fishery endorsement eligibility.

The commenter also recommended updating the existing regulations to reflect current statutory citations that have changed since the regulations were implemented in 2000 and including a chart containing the documentary requirements for regulated transactions.

MARAD agrees. MARAD is amending part 356 to update its statutory citations. MARAD is planning to develop a chart of documentary requirements as guidance for publication on our AFA web page.

The commenter also recommended that MARAD make certain relevant rulings publicly available online. Over time, MARAD has weighed this proposition carefully and on multiple occasions. MARAD has found that after protecting the confidential business information typically contained in such rulings that the releasable material affords no appreciable substantive information and instead may risk harming MARAD's ability to obtain candid and frank proposals from industry. That stated, MARAD will consider the issues further to determine if such recommendation can be properly instituted.

Additional Amendments

In response to the comments received in response to the May 1, 2019, Corporate Citizenship ANPRM (84 FR 18468), MARAD amended the form of AFA Affidavit found at 46 CFR 356.5 with respect to those paragraphs (Nos. 4 and 5) applicable to direct and indirect owners that are publicly traded entities. Pursuant to 46 U.S.C. 12113(e)(2), the form of AFA Affidavit must conform to the extent practicable to the form of affidavit found at 46 CFR 355.2, which is the form used by participants to satisfy citizenship requirements of MARAD's promotional programs (e.g., Capital Construction Fund, Maritime Security Program, and vessel finance guarantees). As MARAD has found the form of affidavit at 46 CFR 355.2 to be outdated with respect to its provisions for publicly traded entities, MARAD is updating that form of affidavit in a

separate final rule under Docket Number MARAD–2025–0087.

The rule at section 356.7 will provide publicly traded entities flexibility in applying several reasonably available methods to ensure ongoing compliance with AFA ownership requirements, including satisfying the U.S. address requirement of the fair inference rule for determining the requisite percentage of U.S. ownership of outstanding stock. MARAD is not adjusting the current non-citizen ownership percentage limits of the fair inference method.

MARAD is eliminating requirements to provide social security numbers and dates and places of birth of corporate officers and directors in the affidavit of AFA citizenship provided at 46 CFR 356.5. Inclusion of this information in the affidavit of AFA citizenship does not significantly improve U.S. ownership certainty and creates an unnecessary risk of release of personally identifiable information. In any instance of doubt, MARAD still retains the authority to request such information from submitting parties.

Rulemaking Analysis and Notices

Executive Orders 12866

Executive Order (E.O.) 12866 and the Department of Transportation's administrative rulemaking procedures set forth in 49 CFR part 5, subpart B, provide for making determinations whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of E.O. 12866.

This rule is limited to streamlining annual renewal filing for vessel owners whose citizenship information has not changed since their most recent annual affidavit of U.S. citizenship (AFA Affidavit) filing, updating acceptable methods for evidencing citizenship of publicly traded entities, and eliminating requirements to provide personally identifiable information (*i.e.*, social security numbers and dates and places of birth for corporate officers and directors) in affidavits of AFA citizenship.

This rule is not a significant regulatory action under E.O. 12866 and therefore it was not reviewed by OMB. It is also not considered a major rule for purposes of Congressional review under Public Law 104–121. This rule is limited to updating the citations, addresses, and modernizing text.

Executive Order 14192

E.O. 14192 requires that for "each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be

identified for elimination."

Implementation guidance for E.O. 14192, issued by OMB (Memorandum M–25–20, March 26, 2025), defines an E.O. 14192 deregulatory action as "an action that has been finalized and has total costs less than zero." This rule will have total costs less than zero and therefore is an E.O. 14192 deregulatory action.

Executive Order 13132

MARAD analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This rulemaking has no substantial effect on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials. Because nothing in this document preempts any State law or regulation, MARAD did not consult with State and local officials and did not prepare a federalism summary impact statement.

Executive Order 13175

MARAD does not believe that this rulemaking will significantly or uniquely affect the communities of Indian Tribal governments when analyzed under the principles and criteria contained in E.O. 13175. Therefore, the funding and consultation requirements of this E.O. do not apply.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of proposed rulemaking or final rule, the agency must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations and small governmental jurisdictions), unless the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Agencies must also provide a statement of the factual basis for this certification.

For the following reasons, the MARAD Administrator certifies that this rulemaking action would not have a significant economic impact on a substantial number of small entities. The amendments will simplify and streamline annual renewal filing for vessel owners whose citizenship

information has not changed since their affidavit of U.S. citizenship (AFA Affidavit) filing; update acceptable methods for evidencing citizenship of publicly traded entities; and eliminate requirements to provide personally identifiable information (*i.e.*, social security numbers and dates and places of birth for corporate officers and directors) in affidavits of AFA citizenship. These changes should be limited to decreasing the administrative burden for program applicants.

Privacy Impact Assessment

Section 522(a)(5) of the Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005 (Pub. L. 108–447, div. H, 118 Stat. 2809 at 3268) requires DOT and certain other Federal agencies to conduct a privacy impact assessment of each proposed rule that will affect the privacy of individuals. This rulemaking, simplifies and streamlines annual renewal filing for vessel owners whose citizenship information has not changed since their affidavit of U.S. citizenship (AFA Affidavit) filing; updates acceptable methods for evidencing citizenship of publicly traded entities; and eliminates requirements to provide personally identifiable information (PII) in affidavits of AFA citizenship. This rulemaking purports to decrease any potential impact on participant privacy and does not result in PII being collected or maintained in a Government-run website or IT system. Therefore, MARAD did not conduct a Privacy Impact Assessment.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 requires Agencies to evaluate whether an agency action would result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$212 million or more (as adjusted for inflation, in 2026) in any 1 year, and if so, to take steps to minimize these unfunded mandates. This rulemaking will not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It will not result in costs of \$212 million or more to either State, local, or Tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objectives of the rule.

National Environmental Policy Act

Pursuant to 49 CFR 1.81, the Secretary has delegated the "functions" under NEPA to the Administrators "as they relate to the matters within the primary responsibility of each Operating

Administration.” MARAD has determined that this proposed rule is categorically excluded pursuant to DOT Order 5610.1D, subpart C, section (e)(3). A categorical exclusion (CE) is an action identified in an agency’s NEPA procedures that does not normally have a significant impact on the environment and therefore does not require either an environmental assessment (EA) or environmental impact statement (EIS). See DOT Order 5610.1D, section 9. In analyzing the applicability of a CE, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. *Id.* at section 9(b). MARAD may utilize its own CEs, in addition to CEs listed in DOT Order 5610.1D Appendix A or another Operating Administration’s CEs, using the procedures described in DOT Order 5610.1D, section 9, and subpart C, section (e). This rulemaking, *American Fisheries Act Program Update; Simplifying the Application Process*, is categorically excluded pursuant to DOT Order 5610.1D, subpart C, section (e)(3): “Internal orders and procedures not required to be published in the **Federal Register**, promulgation of rules, regulations, directives, and amendments thereto which do not require a regulatory impact analysis under section 3 or do not have a potential to cause a significant impact on the environment” MARAD does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (PRA) requires that DOT consider the impact of paperwork and other information collection burdens imposed on the public. This rule will likely result in a reduction in the burden hours required for information collection 2133–0530, Requirements for Vessels of 100 Feet or Greater in Registered Length to Obtain a Fishery Endorsement to the Vessel’s Documentation—46 CFR 356, because changes to the regulation will shorten the time and effort to evidence citizenship for many first-time

applicants as well as those that must recertify. We expect that the information collection requirement under this rule would reduce the “hours per response” from 11 hours to 8.5 hours resulting in a 23 percent reduction in burden hours annually and having a net cost saving of \$22,086.40 annually across 500 respondents.

Notwithstanding any other provision of law, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number.

List of Subjects in 46 CFR Part 356

Citizenship and naturalization, Fishery endorsement, Fishing vessels, Mortgages, Mortgage trustee, Penalties, Preferred mortgages, Reporting and recordkeeping requirements, Vessels.

For the reasons described in the preamble, MARAD amends 46 CFR part 356 as set forth below:

PART 356—REQUIREMENTS FOR VESSELS OF 100 FEET OR GREATER IN REGISTERED LENGTH TO OBTAIN A FISHERY ENDORSEMENT TO THE VESSEL’S DOCUMENTATION

- 1. The authority for part 356 continues to read as follows:

Authority: 46 U.S.C. 12102; 46 U.S.C. 12151; 46 U.S.C. 31322; Pub. L. 105–277, division C, title II, subtitle I, section 203 (46 U.S.C. 12102 note), section 210(e), and section 213(g), 112 Stat. 2681; Pub. L. 107–20, section 2202, 115 Stat. 168–170; Pub. L. 114–74; 49 CFR 1.93.

Subpart A—General Provisions

§ 356.3 [Amended]

- 2. In 46 CFR 356.3:
 - a. Remove paragraph (a).
 - b. Paragraphs (b) through (z) are redesignated as paragraphs (a) through (y).
 - c. In paragraph (d)(1), remove “46 U.S.C. 12102(c) and section 2(c) of the 1916 Act, 46 App. U.S.C. 802(c)” and add, in its place, “46 U.S.C. 12113 and 46 U.S.C. 50501(d)”.
 - d. In paragraph (d)(iv)(C), remove “46 U.S.C. 12102(c)” and add, in its place, “46 U.S.C. 12113(c)”.
 - e. In paragraph (e), remove “Maritime Administration, United States Department of Transportation, Citizenship Approval Officer, MAR–220, Room 7232, 400 7th Street, SW, Washington, DC 20590” and add, in its place, “Citizenship Approval Officer, Office of Chief Counsel, Maritime Administration, United States Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.”

- f. In paragraph (g)(1), remove “section 2(b) of the 1916 Act, 46 App. U.S.C. 802(b)” and add, in its place, “46 U.S.C. 50501(c)”.

- g. In paragraph (q), remove “46 U.S.C. 12102(c) and section 2(c) of the 1916 Act, 46 App. U.S.C. 802(c)” and add, in its place, “46 U.S.C. 12113(c) and 46 U.S.C. 50501(d)”.

- h. In paragraph (t)(1), remove “46 U.S.C. 12102(c)” and add, in its place, “46 U.S.C. 12113(c)”.

- i. In paragraph (t)(5), remove “46 U.S.C. 12102(a)” and add, in its place, “46 U.S.C. 12103”.

* * * * *

§ 356.5 [Amended]

- 3. In 46 CFR 356.5:

- a. In paragraph (a), remove “section 2(c) of the 1916 Act, or where applicable, section 2(b) of the 1916 Act” and add, in its place, “46 U.S.C. 50501(d), or where applicable, 46 U.S.C. 50501(c)”.

- b. In paragraph (c), remove “section 2(c) of the 1916 Act and 46 App. U.S.C. 12102(c)” and add, in its place, “46 U.S.C. 50501(d) and 46 U.S.C. 12113(c)”.

* * * * *

- 4. In 46 CFR 356.5(d) revise as follows:

§ 356.5(d) The prescribed form of the Affidavit of U.S. Citizenship is as follows:

State of _____)
 _____) ss.:
 County of _____)

I, (Name), of (Physical residence address, city, and state), being duly sworn, depose and say:

1. That I am the (Title of office(s) held) of (Name of Corporation), a corporation organized and existing under the laws of the State of _____ (hereinafter called the “Corporation”), with offices at (Business address), in evidence of which incorporation a certified copy of the Articles or Certificate of Incorporation (or Association) is filed herewith (or has been filed) together with a certified copy of the corporate Bylaws. [Evidence of continuing U.S. citizenship status, including amendments to said Articles or Certificate and Bylaws, should be filed within 45 days of the annual documentation renewal date for vessel owners. Other parties required to provide evidence of U.S. citizenship status must file within 30 days after the annual meeting of the stockholders or annually, within 30 days after the original affidavit if there has been no meeting of the stockholders prior to that time.];

2. That I am authorized by and in behalf of the Corporation to execute and deliver this Affidavit of U.S. Citizenship;

3. That the names of the Chief Executive Officer, by whatever title, the Chairman of the Board of Directors, all Vice Presidents, or other individuals who are authorized to act in the absence or disability of the Chief Executive Officer or Chairman of the Board of Directors, and the Directors of the Corporation are as follows: ¹

Name	Title
Name	Title

(The foregoing list should include the officers, whether or not they are also directors, and all directors, whether or not they are also officers.) Each of said individuals is a Citizen of the United States by virtue of birth in the United States, birth abroad of U.S. citizen parents, by naturalization, or as otherwise authorized by law, except *(give name and nationality of all Non-Citizen officers and directors, if any)*. The By-laws of the Corporation provide that *(Number)* of the directors are necessary to constitute a quorum; therefore, the Non-Citizen directors named represent no more than a minority of the number necessary to constitute a quorum.

[*Note: Select and complete the applicable paragraph 4 describing the Corporation's stock ownership and strike inapplicable paragraphs 4.*]

4. Information as to stock, where Corporation has 30 or more stockholders:

That I have access to the stock books and records of the Corporation; that said stock books and records have been examined and disclose (a) that, as of *(Date)*, the Corporation had issued and outstanding *(Number)* shares of *(Class)*, the only class of stock of the Corporation issued and outstanding [if such is the case], owned of record by *(Number)* stockholders, said number of stockholders representing the ownership of the entire issued and outstanding stock of the Corporation, and (b) that no stockholder owned of record as of said date five per centum (5 percent) or more of the issued and outstanding stock of the Corporation of any class. [If different classes of stock exist, give the same information for each class issued and outstanding, showing the monetary value and voting rights per share in each class. If there is an exception to the statement in clause (b), the name, address, and citizenship of the stockholder and the amount and class of stock owned should be stated and the required citizenship information on such stockholder must

be submitted.] That the registered addresses of *(Number)* owners of record of *(Number)* shares of the issued and outstanding *(Class)* stock of the Corporation are shown on the stock books and records of the Corporation as being within the United States, said _____ shares being _____ per centum (____ percent) of the total number of shares of said stock (each class). [The exact figure as disclosed by the stock books of the corporation must be given and the per centum figure must not be less than 65 per centum for a State or federally chartered financial institution holding a Preferred Mortgage, or not less than 95 per centum for an entity that is demonstrating ownership in a vessel for which a fishery endorsement is sought or a Mortgage Trustee. These per centum figures apply to corporate stockholders as well as to the primary corporation.] (The same statement should be made with reference to each class of stock, if there is more than one class.);

4. Information as to stock, where Corporation has less than 30 stockholders: That the information as to stock ownership, upon which the Corporation relies to establish that 75 percent of the stock ownership is vested in Citizens of the United States, is as follows:

Name of stockholder	Number of shares owned (each class)	Percentage of shares owned (each class)
Name	Number and Class	Number and Class

and that each of said individual stockholders is a Citizen of the United States by virtue of birth in the United States, birth abroad of U.S. citizen parents, by naturalization during minority through the naturalization of a parent, by marriage (if a woman) to a U.S. citizen prior to September 22, 1922, or as otherwise authorized by law. *Note:* If a corporate stockholder, give information with respect to State of incorporation, the names of the officers, directors, and stockholders and the appropriate percentage of shares held, with statement that they are all U.S. citizens. Nominee holders of record of 5 percent or more of any class of stock and the beneficial owners thereof should be named and their U.S. citizenship information submitted to MARAD.

4. Information as to stock, where Corporation's shares are publicly traded on a U.S. stock exchange:

That the Corporation has diligently employed, administered, and adhered to methods such as those identified at 46 CFR 356.5(g) to monitor the Corporation's stock ownership; and that, based on the foregoing, the percentage of shares of the Corporation owned by Citizens of the United States is 75 percent or greater.

5. That 75 percent of the interest in *(each)* said Corporation, as established by the information herein before set forth, is owned by Citizens of the United States; that the title to 75 percent of the stock of *(each)* class of the stock of *(each)* said Corporation is vested in Citizens of the United States free from any trust or fiduciary obligation in favor of any person not a Citizen of the United States; that such proportion of the voting power of *(each)* said Corporation

is vested in Citizens of the United States; that through no contract or understanding is it so arranged that more than 25 percent of the voting power of *(each)* said Corporation may be exercised, directly or indirectly, in behalf of any person who is not a Citizen of the United States; and that by no means whatsoever, is any interest in said Corporation in excess of 25 percent conferred upon or permitted to be exercised by any person who is not a Citizen of the United States; and

[*Note: For State or federally chartered financial institutions acting as Preferred Mortgagees, the Controlling Interest language, which is set forth below, is applicable.*]

5. That the Controlling Interest in *(each)* said Corporation, as established by the information hereinbefore set forth, is owned by Citizens of the United States; that the title to a majority of the stock of *(each)* said Corporation is

¹ Offices that are currently vacant should be noted when listing Officers and Directors in the Affidavit.

vested in Citizens of the United States free from any trust or fiduciary obligation in favor of any person not a Citizen of the United States; that such proportion of the voting power of (each) said Corporation is vested in Citizens of the United States; that through no contract or understanding is it so arranged that the majority of the voting power of (each) said Corporation may be exercised, directly or indirectly, in behalf of any person who is not a Citizen of the United States; and that by no means whatsoever, is control of (each) said Corporation conferred upon or permitted to be exercised by any person who is not a Citizen of the United States; and

6. That the affiant has submitted all the necessary documentation required under 46 CFR 356.13 in connection with this Affidavit of U.S. Citizenship for the following vessel(s):

Vessel Name:	Official Number:
1.	
2.	

[Note: Paragraph 6 should be included in the Affidavit of U.S. Citizenship submitted by an entity that owns a Fishing Industry Vessel.]

7. That affiant has carefully examined this Affidavit and asserts that all the statements and representations contained therein are true to the best of their knowledge, information, and belief.

Dated: _____

(Name and title of affiant)

(Signature of affiant) _____ Date _____

Penalty for False Statement: A fine or imprisonment, or both, are provided for violation of the proscriptions contained in 18 U.S.C. 1001 (*see also*, 18 U.S.C. 286, 287 and 46 U.S.C. 12151).

* * * * *

■ 5. In 46 CFR 356.5 revise paragraph (g) to read as follows:

§ 356.5(g) It is incumbent upon the party filing an affidavit under this part to notify the Citizenship Approval Officer in writing within 30 calendar days of any changes in information last furnished with respect to the officers, directors, and stockholders, including 5 percent or more stockholders of the issued and outstanding stock of each class, together with information concerning their citizenship status. If other than a corporation, comparable information must be filed by other entities owning the Fishing Industry Vessel, including any entity whose ownership interest is being relied upon

to establish 75 percent ownership by Citizens of the United States; (2) if the information contained in an owner's most recent affidavit of citizenship filing has not changed, as an alternative to submitting an annual affidavit of citizenship under this part, a party may file a certification with the Maritime Administration. The certification should be substantially in the following format:

"I, _____, [Title] of [Name of Corporation] ("Corporation"), being duly authorized by the Corporation, certify to you that there have been no changes to the ownership information contained in the affidavit of citizenship filed with the Maritime Administration on [Date]."

This certification is subject to penalty for false statement. A fine or imprisonment, or both, are provided for violation of the proscriptions contained in 18 U.S.C. 1001 (*see also*, 18 U.S.C. 286, 287 and 46 U.S.C. 12151).

* * * * *

§ 356.7 [Amended]

■ 6. In 46 CFR 356.7:

■ (a) Revise paragraph (c) to read as follows:

§ 356.7(c):

(c) The "fair inference method" is used by corporations whose stock is publicly traded or is held by more than 30 stockholders.

(1) Use of the fair inference method for a publicly traded corporation requires that:

(i) At least 95 percent of the stock (each class) of the corporation be held directly or beneficially by Persons having a U.S. address in order to infer at least 75 percent ownership by U.S. Citizens; and

(ii) For determining the requisite percentage of stockholders with U.S. addresses, the corporation may rely on the methods outlined in § 356.7(e);

(2) Use of the fair inference method for a non-publicly traded corporation with more than 30 stockholders requires that:

(i) At least 95 percent of the stock (each class) of the corporation be held by Persons having a registered U.S. address in order to infer at least 75 percent ownership by U.S. Citizens; and

(ii) Disclosure be made in the Affidavit of U.S. Citizenship of the names and citizenship of any stockholders who hold five percent or more of the corporation's stock (including all classes of stock, voting and non-voting), officers, and directors.

■ (b) Add a paragraph (e) to read as follows:

§ 356.7(e) If the corporation is publicly traded, the corporation may

employ any number or combination of methods to measure, monitor, determine, and affirm the required percentage of U.S. citizen share ownership for the primary corporation, including the following:

(i) Use of the Depository Trust Company segregated account (or "SEG-100") system;

(ii) Monitoring Securities and Exchange Commission filings for 5 percent holders (Schedules 13D, 13G, Form 13F) and requesting citizenship information from those filers;

(iii) Use of protective provisions in organizational documents in order to guard against and rectify the possibility of excess non-citizen share ownership;

(iv) Communications with Non-Objecting Beneficial Owners (or "NOBOs");

(v) Geographic surveys of shareholder addresses provided by proxy service providers;

(vi) Analysis of registered stockholders and use of dual stock certificates; and

(vii) Alternative methods upon written approval of the Citizenship Approval Officer.

* * * * *

§ 356.19 [Amended]

■ 7. In 46 CFR 356.19:

■ (a) In paragraph (a)(5), remove "12102(a)" and, in its place, add "12103".

■ (b) In paragraph (b)(1), remove "46 U.S.C. 12102(c) and section 2(c) of the 1916 Act" and, in its place, add "46 U.S.C. 12113 and 46 U.S.C. 50501(d)".

■ (c) In paragraph (b)(6), remove "12102(c)" and, in its place, add "12113".

* * * * *

§ 356.25 [Amended]

■ 8. In 46 CFR 356.25:

■ (a) In paragraph (e), remove "section 2(c) of the 1916 Act, 46 App. U.S.C. 802(c) and 46 U.S.C. 12102(c)" and, in its place, add "46 U.S.C. 12113 and 46 U.S.C. 50501(d)".

* * * * *

§ 356.51 [Amended]

■ 9. In 46 CFR 356.51(a), remove "12102(c)" and, in its place, add "12113".

* * * * *

§ 356.53 [Amended]

■ 10. In 46 CFR 356.53, remove "Room 7228, 400 7th Street SW" and in its place, add "Mail Stop #4, 1200 New Jersey Avenue SE".

* * * * *

(Authority: 46 U.S.C. 12113(e), 12151, 31322, 49 CFR 1.93)

By Order of the Maritime Administrator.
T. Mitchell Hudson, Jr.
Secretary, Maritime Administration.
 [FR Doc. 2026–11267 Filed 6–3–26; 8:45 am]
BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 602

[Docket No. FTA–2025–0012]

RIN 2132–AB61

Emergency Relief Program

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: FTA is amending its emergency relief regulation to reduce the regulatory burden on grant recipients by extending the baseline period to establish a waiver of certain administrative requirements related to FTA's Public Transportation Emergency Relief Program.

DATES: This rule is effective July 6, 2026.

FOR FURTHER INFORMATION CONTACT: For program matters, contact Thomas Wilson, Office of Program Management, telephone at (202) 366–2053 or thomas.wilson@dot.gov. For legal matters, contact Richard Wong, Attorney-Advisor, FTA, telephone at 202–366–0675 or richard.wong@dot.gov. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Executive Summary and Statutory Authority

To reduce the burden for grant recipients, this final rule amends the Emergency Relief regulation at 49 CFR 602.15(b)(2) to establish a longer baseline time period within which grant recipients can qualify for a waiver of certain administrative requirements in order to obtain emergency relief funding. Previously, section 602.15(b)(2) established 45 days as the baseline time period for which FTA can determine whether certain FTA grant requirements, the requirements for E.O. 11988 floodplain analysis, and the labor protection requirements at 49 U.S.C. 5333(b) could be waived. As part of this action, FTA modifies section 602.15(b)(2) to extend the baseline time period to 90 days to align the regulatory text with existing practice and reduce

the regulatory burden on grant recipients.

In section 20017 of The Moving Ahead for Progress in the 21st Century Act (MAP–21, Pub. L. 112–141) (2012), codified at 49 U.S.C. 5324, Congress authorizes FTA to establish and implement the Public Transportation Emergency Relief Program. This program allows FTA to make grants for eligible public transportation capital and operating costs in the event of a catastrophic event, such as a natural disaster, that affects a wide area, as a result of the Governor of a State declaring an emergency and the Secretary of Transportation concurring, or the President declaring a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act, 42 U.S.C. 5170). On March 29, 2013, FTA published an interim final rule implementing this statutory requirement and request for comments (78 FR 19136). On October 7, 2014, FTA published a final rule establishing procedures governing the implementation of FTA's Public Transportation Emergency Relief Program (79 FR 60349). As stated in the March 29, 2013, interim final rule (78 FR 19140) and the October 7, 2014, final rule (79 FR 60355–56, 60357), FTA may waive these requirements as necessary and appropriate for emergency repairs, permanent repairs, and emergency operating expenses.

After administering the program for more than 10 years, FTA has determined 45 days is an insufficient period of time to address emergencies in practice, and it has frequently extended the time period to 90 days or longer during prior emergency events. FTA modifies 49 CFR 602.15(b)(2) to align the regulatory text with existing practice and reduce the regulatory burden on grant recipients.

II. Notice of Proposed Rulemaking and Response to Comments

FTA issued a notice of proposed rulemaking (NPRM) on July 1, 2025 (90 FR 28688) proposing to amend 49 CFR 602.15(b)(2) by extending the baseline time period to 90 days within which grant recipients can qualify for a waiver of certain administration requirements in order to obtain emergency relief funding.

The public comment period for the NPRM closed on September 2, 2025. FTA received two comments in total. One comment was outside the scope of this rulemaking, and FTA does not respond to comments in this final rulemaking that were outside the scope.

FTA received one comment submission in the rulemaking docket from a public transportation trade association. The comment expressed strong support for the change and noted that the change would align with FTA's historical practice, reduce regulatory burden on grant recipients, and provide greater certainty to recipients during a disaster.

Response: FTA appreciates the commenter's support of the change, which FTA proposed for similar reasons.

Based on the foregoing and FTA's determination, FTA is adopting the amendment to section 602.15(b)(2) as proposed.

III. Regulatory Analyses and Notices

A. Executive Order (E.O.) 12866 and E.O. 13563 (Regulatory Review)

E.O. 12866 ("Regulatory Planning and Review"), as supplemented by E.O. 13563 ("Improving Regulation and Regulatory Review"), directs Federal agencies to assess the benefits and costs of regulations, to select regulatory approaches that maximize net benefits when possible, and to consider economic, environmental, and distributional effects. This action does not meet the criteria of a "significant regulatory action." Therefore, the Office of Management and Budget (OMB) has not reviewed this action.

This final rule will increase the waiver period during eligible emergencies to align with current FTA practice as FTA has consistently extended the period to 90 days or longer during prior events. Although the final rule will not change existing practices for recipients, it will allow recipients greater predictability in planning for emergencies by ensuring that the regulation aligns with historical FTA practice and accordingly would have minor, unquantified cost savings.

B. E.O. 14192 (Deregulatory Action)

E.O. 14192 ("Unleashing Prosperity Through Deregulation") requires that for "each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination." Implementation Guidance for E.O. 14192, issued by OMB (Memorandum M–25–20, March 25, 2025) defines an E.O. 14192 deregulatory action as "an action that has been finalized and has total costs less than zero."

This final rule is expected to have total costs less than zero and, therefore, is considered an E.O. 14192 deregulatory action.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires Federal agencies to assess the impact of a regulation on small entities unless the agency determines the regulation is not expected to have a significant economic impact on a substantial number of small entities. Under the Act, public-sector organizations and local governments qualify as small entities if they serve a population of less than 50,000. This final rule achieves minor unquantified cost savings by extending the baseline time period within which the FTA Administrator can waive certain administrative requirements for grant recipients. For this reason, FTA certifies this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act of 1995

This final rule will not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This rule does not include a Federal mandate that may result in expenditures of \$100 million or more in any one year, adjusted for inflation, by State, local, and Tribal governments in the aggregate or by the private sector.

E. E.O. 13132 (Federalism Assessment)

E.O. 13132 (“Federalism”) requires agencies to assure meaningful and timely input by State and local officials in the development of regulatory policies that may 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. This action has been analyzed in accordance with the principles and criteria contained in E.O. 13132 dated August 4, 1999, and FTA determined this action would not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. FTA also determined this action will not preempt any State law or regulation or affect the States’ ability to discharge traditional State governmental functions.

F. Paperwork Reduction Act

Federal agencies must obtain approval from OMB for each collection of information they conduct, sponsor, or require through regulations. FTA has analyzed this rule under the Paperwork Reduction Act and believes it does not impose additional information collection requirements for the purposes of the Act above and beyond existing

information collection clearances from OMB.

G. National Environmental Policy Act

The Department has analyzed the environmental impacts of this action pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). FTA has determined that this rule is categorically excluded pursuant to 23 CFR 771.118(c)(4). Categorical exclusions are categories of actions that 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). See DOT Order 5610.1D § 9. 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. Id. § 9(b). This rulemaking, which reduces the regulatory burden on grant recipients by extending the baseline period to establish a waiver of certain administrative requirements, is categorically excluded pursuant to 23 CFR 771.118(c)(4): “[p]lanning and administrative activities not involving or leading directly to construction, such as: promulgation of rules, regulations, directives, or program guidance.” FTA does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

H. E.O. 13175 (Tribal Consultation)

FTA has analyzed this rule under E.O. 13175 (“Consultation and Coordination with Indian Tribal Governments”) and it will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal laws. Therefore, a tribal summary impact statement is not required.

I. E.O. 13211 (Energy Effects)

FTA has analyzed this action under E.O. 13211 (“Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use”). FTA has determined this action is not a significant energy action under that order and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

J. 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.). You may review U.S. DOT’s complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

K. Regulation Identifier Number (RIN)

A Regulation Identifier Number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this rule with the Unified Agenda.

List of Subjects in 49 CFR Part 602

Disaster assistance, Grant programs—transportation, Mass transportation, Transportation.

For the reasons stated in the preamble, FTA amends title 49, Code of Federal Regulations, part 602, as set forth below:

PART 602—EMERGENCY RELIEF

■ 1. The authority citation for part 602 continues to read as follows:

Authority: 49 U.S.C. 5324 and 5334; 49 CFR 1.91.

■ 2. Amend § 602.15 by revising paragraph (b)(2) to read as follows:

§ 602.15 Grant requirements.

* * * * *

(b) * * *

(2) The FTA Administrator may determine certain requirements associated with public transportation programs are inapplicable as necessary and appropriate for emergency repairs, permanent repairs, emergency protective measures and emergency operating expenses incurred within 90 days of the emergency or major disaster, or longer as determined by FTA. If the FTA Administrator determines any requirement is inapplicable, the determination shall apply to all eligible activities undertaken with funds authorized under 49 U.S.C. 5324, as well as funds authorized under 49 U.S.C. 5307 and 5311 and used for eligible emergency relief activities.

* * * * *

Issued in Washington, DC, under authority delegated in 49 CFR 1.91.

Jamie Pfister,

Acting Executive Director.

[FR Doc. 2026–11274 Filed 6–3–26; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION**Federal Transit Administration****49 CFR Part 633**

[Docket No. FTA–2025–0010]

RIN 2132–AB59

Project Management Oversight

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule modifies the applicability of project management oversight by raising the total cost and Federal investment thresholds to align with the statutory thresholds for Small Starts projects under FTA's Capital Investment Grant program.

DATES: This rule is effective July 6, 2026.

FOR FURTHER INFORMATION CONTACT: For program matters, contact Corey Walker, Office of Program Management (TPM), (202) 366–0826 or corey.walker@dot.gov. For legal matters, contact Mark Montgomery, Office of Chief Counsel, (202) 366–1017 or mark.montgomery@dot.gov. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

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 - C. Summary of Provisions
- II. Notice of Proposed Rulemaking and Response to Comments
- III. Regulatory Analyses and Notices

I. Executive Summary

This final rule amends the Project Management Oversight (PMO) regulation at 49 CFR part 633. The rule modifies the applicability of project management oversight by raising the total cost threshold from \$300 million to \$400 million and the Federal investment threshold from \$100 to \$150 million, to align with the statutory thresholds for Small Starts projects under FTA's Capital Investment Grant (CIG) program. This amendment reduces the number of projects subject to project management oversight requirements and therefore reduces regulatory burden.

A. Statutory Authority

This rulemaking is issued under the authority of 49 U.S.C. 5327, which requires the Secretary to conduct oversight of major capital projects and to promulgate a rule for that purpose

that includes a definition of major capital project to delineate the types of projects governed by the rule.

B. Background

Recognizing a compelling need to strengthen the management and oversight of major capital projects, in the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) (Pub. L. 100–17) (April 2, 1987), Congress authorized FTA's predecessor agency, the Urban Mass Transportation Administration (UMTA), to conduct oversight of major capital projects and to promulgate a rule for that purpose. The statute, now codified at 49 U.S.C. 5327, authorizes FTA to obtain the services of project management oversight contractors (PMOCs) to assist FTA in overseeing the expenditure of Federal financial assistance for major capital projects. Further, the statute requires FTA to promulgate a regulation that includes a definition of "major capital project" to identify the types of projects governed by the rule.

Accordingly, UMTA promulgated a rule for oversight of major capital projects on September 1, 1989, at 49 CFR part 633 (54 FR 36708). At that time, the average total cost of CIG projects was \$266 million (not adjusted for inflation). The UMTA regulation defined "major capital project" as any project for the construction of a new fixed guideway or extension of an existing fixed guideway or a project involving the rehabilitation or modernization of an existing fixed guideway with a total project cost of \$100 million or more. The rule limited covered projects to those receiving funds made available under sections 3, 9, or 18 of the Urban Mass Transportation Act of 1964, as amended; 23 U.S.C. 103(e)(4); or section 14(b) of the National Capital Transportation Amendments of 1979.

By 2011, the annual dollar value of the Federal transit capital programs was nearly five times the level authorized under STURAA in 1987, and the number of active PMOC task orders was more than double the number in 1987. Furthermore, FTA funded a larger number of projects with a total cost of more than one billion dollars that presented significant oversight challenges. On September 13, 2011, FTA published a notice of proposed rulemaking (NPRM) (76 FR 56378) that proposed to: (1) enable FTA to identify the necessary management capacity and capability of a sponsor of a major capital project more clearly; (2) spell out the many facets of project management that must be addressed in a project

management plan; (3) tailor the level of FTA oversight to the costs, complexities, and risks of a major capital project; (4) set forth the means and objectives of risk assessments for major capital projects and; (5) articulate the roles and responsibilities of FTA's PMOCs.

After the NPRM was published, however, the Moving Ahead for Progress in the 21st Century Act (MAP–21) (Pub. L. 112–141) (July 6, 2012) expanded the scope of the project management oversight requirements to cover major capital projects for public transportation under any provision of Federal law. Moreover, MAP–21 shifted the initiation of project management oversight to the project development phase and removed the statutory requirement that recipients of financial assistance for projects with a total cost of \$1 billion submit an annual financial plan. Given the fundamental changes to the project management oversight requirements and scope, FTA withdrew the NPRM (78 FR 16460) to reexamine its proposed definition of major capital project and its policy and procedures for risk assessment. Subsequently, the Fixing America's Surface Transportation (FAST) Act (Pub. L. 114–94) (December 4, 2015) further amended 49 U.S.C. 5327 to limit project management oversight to quarterly reviews, absent a finding that more frequent oversight was necessary, and mandated that the Secretary prescribe regulations outlining a process for at-risk recipients to return to quarterly reviews.

FTA has become much more knowledgeable about the risks common to major capital projects, having conducted its own risk assessments since 2005, witnessed some project sponsors' lack of management capacity and capability and appropriate project controls for some projects, and studied the reasons for cost and schedule changes on many major capital projects. Consequently, on September 23, 2020, following a notice of proposed rulemaking (84 FR 44590) and an opportunity for comment, FTA published a final rule (85 FR 59672) that changed the applicability of the regulation by shifting the definition of a "major capital project" from one based on the type of project or total project cost to one based on both the amount of Federal financial assistance and the total project cost, which FTA views as a more appropriate benchmark than the type of project or total capital cost of a project alone.

The rule applied a project cost threshold to all fixed guideway capital projects. As a default, the rule raised the total project cost threshold to \$300

million or more and required that the project receive \$100 million or more in Federal investment to be subject to project management oversight. A key consideration for selecting these thresholds was that they reflect the thresholds Congress chose to distinguish Small Starts projects from New Starts projects in the CIG program. New Starts projects have more steps to complete in the CIG process and tend to be more complex, potentially requiring more oversight. Reducing the number of lower-risk Small Starts projects undergoing project management oversight allows FTA to focus on higher-risk New Starts projects while yielding annual cost savings to FTA and its recipients.

Subsequently, the Infrastructure Investment and Jobs Act (Pub. L. 117–58; November 15, 2021) amended 49 U.S.C. 5309 to raise the thresholds for Small Starts projects in the CIG program to \$400 million or more in total costs and \$150 million or more in Federal investment. Accordingly, through this rulemaking, FTA amends the definition of “major capital project” under 49 CFR 633.5 to align with these statutory thresholds, consistent with the rationale in its 2020 final rule.

C. Summary of Provisions

FTA amends the definition of “major capital project” in 49 CFR 633.5 by raising the total cost and Federal investment thresholds to match those established for Small Starts projects under 49 U.S.C. 5309. The current regulation defines the term as a project to construct, expand, rehabilitate, or modernize a fixed guideway of \$300 million or more that receives \$100 million or more in Federal financial assistance. This final rule raises the thresholds to \$400 million and \$150 million, respectively.

II. Notice of Proposed Rulemaking and Response to Comments

FTA issued an NPRM for PMO on July 1, 2025 (90 FR 28690). The public comment period for the NPRM closed on September 2, 2025. FTA received two comment submissions to the rulemaking docket. Commenters included a large public transportation agency and a major transit industry association. FTA reviewed all relevant comments and took them into consideration when developing the final rule.

Comments: Both commenters expressed support for raising the total cost threshold for project management oversight. The public transportation agency articulated its general support of the proposed modifications to raise the

total cost and Federal investment thresholds to match those established for Small Starts projects, noting that the costs of public transportation projects has increased significantly post-COVID 19. The commenter also expressed its support for FTA to further increase the proposed thresholds to account for inflation and other factors impacting project costs.

The industry association asserted its strong support for modernizing the definition of “major capital project” to reduce the number of lower-risk projects undergoing project management oversight and allow FTA to focus its oversight on higher-risk projects. However, the commenter urged FTA to raise the total cost threshold for project management oversight to \$500 million and to eliminate the Federal investment threshold to bring FTA’s regulation into parity with the Federal Highway Administration’s (FHWA) oversight threshold for major capital projects. The commenter also recommended that FTA decrease the frequency of reviews for major capital projects to an annual process, instead of the current quarterly review process.

FTA response: FTA appreciates the support from both commenters to amend the definition of “major capital project” to reduce unnecessary oversight of lower-risk projects. With regard to the request to raise the total project cost threshold to \$500 million, FTA declines to adopt the suggestion. FTA selected the \$400 million total cost threshold and \$150 million Federal assistance threshold to reflect the thresholds Congress chose to distinguish Small Starts projects from New Starts projects in the CIG program. New Starts projects tend to be more complex, potentially requiring more oversight, whereas Small Starts projects tend to be lower-risk and generally require less oversight.

FTA also declines to remove the amount of Federal financial assistance threshold from the definition of “major capital project.” The statutory thresholds that distinguish Small Starts projects from New Starts projects include both Federal financial assistance and total project cost components, which FTA views as a more appropriate benchmark for oversight than total cost alone. FTA notes that it retains its authority under 49 CFR 633.19 to determine on a case-by-case basis that, regardless of total project costs or amount of Federal investment, certain projects should not be subject to project management oversight based on an assessment of risk.

Regarding the suggestion to reduce the amount of oversight from quarterly to annual reviews, FTA declines because this would require legislation to amend 49 U.S.C. 5327(d)(1)(B).

III. Regulatory Analyses and Notices

Executive Order (E.O.) 12866 and E.O. 13563 (Regulatory Review)

E.O. 12866 (“Regulatory Planning and Review”), as supplemented by E.O. 13563 (“Improving Regulation and Regulatory Review”), directs Federal agencies to assess the benefits and costs of regulations and to select regulatory approaches that maximize net benefits when possible. OMB has determined the final rule is not significant within the meaning of E.O. 12866 and has not reviewed the rule under that order.

Project management oversight requirements apply to all major capital projects. The current definition of a “major capital project” includes all projects involving the construction, expansion, rehabilitation, or modernization of a fixed guideway with a total project cost of \$300 million or more and \$100 million or more in Federal investment. The final rule increases the total project cost threshold to \$400 million and the Federal investment threshold to \$150 million.

Removing project management oversight from projects with total costs between \$300 and \$400 million and Federal investment between \$100 million and \$150 million may increase the risk of materially exceeding budget or falling behind schedule for some projects; however, the potential negative impacts are not quantifiable. First, it is not the case that project management oversight eliminates the risk of cost or schedule overruns, nor that the lack of project management oversight necessarily implicates a high risk of such overruns.

Second, falling under the total cost and Federal investment thresholds does not preclude a project from receiving project management oversight. Section 633.5(e)(2) allows the Administrator to determine on a case-by-case basis that certain projects should be subject to project management oversight based on an assessment of risk, which would include an analysis of the likelihood of budget and schedule overruns. Of the 33 CIG projects currently in construction, FTA utilized this provision to designate six as major capital projects based on this risk assessment to receive additional oversight.

The final rule results in cost savings for recipients and for FTA by reducing the number of capital projects subject to project management oversight.

Removing the oversight requirements reduces labor hours for oversight procedures, which include attending meetings, preparing quarterly reports and other requested documents, and accompanying contractors at project construction sites.

At the time of NPRM publication, there were 59 CIG and formula-funded major capital projects for public transportation subject to project management oversight. There are currently 65 such projects. Twenty of those projects have total costs between \$300 million and \$400 million or Federal investments between \$100 million and \$150 million. Eight of the projects between the existing and new thresholds have received grant agreements and are in construction. Those projects were not impacted by the new thresholds under this final rule. However, the remaining 12 projects still in project development no longer meet the definition of major capital project and are not subject to project management oversight requirements under this final rule.

In 2020, FTA estimated that the oversight required approximately one FTE (full-time equivalent) of recipient time (2,080 hours) and 0.5 FTE of FTA staff time (1,040 hours) per project per year. Removing oversight requirements for 12 projects annually results in annual savings of 24,960 hours for recipients and 12,480 hours for FTA staff.

To estimate cost savings for project sponsors, FTA used May 2024 occupational wage data from the Bureau of Labor Statistics, the latest available as of May 2025, in the “Transit and Ground Passenger Transportation” industry (North American Industry Classification System code 485000).¹ To estimate the wages of agency staff completing the auditing requirements, FTA used the “General and Operations Managers” job category (code 11–1021). FTA used median hourly wages (\$42.45) as a basis for the estimates, multiplying the wages by 1.62 ($\$42.45 \times 1.62 = \$68.69$) to account for employer benefits.²

¹ Bureau of Labor Statistics, “May 2024 National Occupational Employment and Wage Estimates: United States: NAICS 485000—Transit and Ground Passenger Transportation,” (2025), available at: <https://data.bls.gov/oes/#/industry/485000>

² Multiplier derived using Bureau of Labor Statistics data on employer costs for employee compensation in December 2024 (<https://www.bls.gov/news.release/ecec.htm>). Employer costs for State and local government workers averaged \$63.46 an hour, with \$39.22 for wages and \$24.23 for benefit costs. To estimate full costs from wages, one would use a multiplier of $\$63.46/\$39.22$, or 1.62.

To estimate cost savings for FTA, FTA estimated an hourly wage of \$64.06 for oversight staff, based on the hourly wage rate for Federal GS (General Schedule) employees at step 5 of the GS–13 grade level in the Washington, DC locality pay area.³ The hourly rate was then multiplied by 1.62 to account for employer benefits ($\$64.06 \times 1.62 = \$103.65$).

The final rule results in annual cost savings of \$3.0 million ($24,960 \text{ recipient hours} \times \$68.69 + 12,480 \text{ FTA hours} \times \$103.65$) in undiscounted 2024 dollars, \$2.5 million at a three percent discount rate (discounted to 2024), and \$2.0 million at a seven percent discount rate over the ten year period from 2026 to 2036. In addition, there will be cost savings for future FTA projects between \$300 million and \$400 million in total cost or \$100 million and \$150 million in Federal investment, that would have otherwise been subject to project management oversight under the current thresholds. However, because projects under the CIG and formula programs comprise a broad range of complexity, total costs, and amounts of Federal investment and vary from year to year, FTA is not attempting to quantify them.

Executive Order 14192 (Deregulatory Action)

E.O. 14192 (“Unleashing Prosperity Through Deregulation”) requires that for “each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.” Implementation Guidance for E.O. 14192, issued by OMB (Memorandum M–25–20, March 25, 2025) defines an E.O. 14192 deregulatory action as “an action that has been finalized and has total costs less than zero.” This final rule is expected to have total costs less than zero, and therefore is expected to be an E.O. 14192 deregulatory action.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA) (5 U.S.C. 601 *et seq.*) requires Federal agencies to assess the impact of a regulation on small entities unless the agency determines that the regulation is not expected to have a significant economic impact on a substantial number of small entities.

This final rule does not change any requirements for small entities, as no small entities are pursuing public transportation projects with a total cost between \$300 and \$400 million based on FTA data. All agencies with projects

that meet the relevant total cost threshold are in areas with populations above the 50,000 population threshold for small government entities.

FTA therefore certifies that the final rule does not have a significant effect on a substantial number of small entities, as there is no impact on any small entities.

Unfunded Mandates Reform Act of 1995

FTA has determined that this final rule does not impose unfunded mandates, as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995). This rule does not include a Federal mandate that may result in expenditures of \$100 million or more in any one year, adjusted for inflation, by State, local, and tribal governments in the aggregate or by the private sector.

Executive Order 13132 (Federalism Assessment)

E.O. 13132 requires agencies to assure meaningful and timely input by State and local officials in the development of regulatory policies that may 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. This action has been analyzed in accordance with the principles and criteria contained in E.O. 13132, dated August 4, 1999, and FTA determined this action will not have a substantial direct effect or sufficient federalism implications on the States. FTA also determined this action will not preempt any State law or regulation or affect the States’ ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

Paperwork Reduction Act

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), and the White House Office of Management and Budget’s (OMB) implementing regulation at 5 CFR 1320.8(d), FTA will not seek a revision to an approved OMB information collection 2132–0584 as there is no change in burden or cost associated with this new regulatory action.

³ Office of Personnel Management, “Salary Table 2024–DCB” (2023), available at: https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2024/DCB_h.pdf

National Environmental Policy Act

The Department has analyzed the environmental impacts of this rulemaking pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). FTA has determined that this rule is categorically excluded pursuant to 23 CFR 771.118(c)(4). Categorical exclusions are categories of actions that 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). See DOT Order 5610.1D § 9. 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. *Id.* § 9(b). This rulemaking, which reduces the regulatory burden on grant recipients by reducing the number of projects subject to project management oversight, is categorically excluded pursuant to 23 CFR 771.118(c)(4): “[p]lanning and administrative activities not involving or leading directly to construction, such as: promulgation of rules, regulations, directives, or program guidance.” FTA does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

Executive Order 13175 (Tribal Consultation)

FTA has analyzed this final rule under E.O. 13175, dated November 6, 2000, and it will not have substantial direct effects on one or more Indian Tribes; will not impose substantial direct compliance costs on Indian Tribal governments; and will not preempt Tribal laws. Therefore, a Tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

FTA has analyzed this action under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. FTA has determined this action is not a significant energy action under that order and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

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.). You may review DOT’s complete Privacy Act Statement in the **Federal Register** at 65 FR 19477 (April 11, 2000).

Regulation Identifier Number

A Regulation Identifier Number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this final rule with the Unified Agenda.

List of Subjects in 49 CFR Part 633

Government contracts, Grant programs—transportation, Mass transportation, Reporting and recordkeeping requirements.

In consideration of the foregoing, and under the authority of 49 U.S.C. 5327 and 5334, and the delegation of authority at 49 CFR 1.91, the Federal Transit Administration amends title 49, Code of Federal Regulations, part 633, as set forth below:

PART 633—PROJECT MANAGEMENT OVERSIGHT

- 1. The authority citation for part 633 is revised to read as follows:

Authority: 49 U.S.C. 5327; 49 U.S.C. 5334; 49 CFR 1.91.

- 2. Amend § 633.5, by revising the definition for “FTA” and adding the definition, in alphabetical order, for “Major capital project” to read as follows:

§ 633.5 Definitions.

* * * * *

FTA means the Federal Transit Administration.

Major capital project, except as provided in § 633.19, means a project that:

- (1) Involves the construction, expansion, rehabilitation, or modernization of a fixed guideway that:
 - (i) Has a total project cost of \$400 million or more and receives Federal funds of \$150 million or more; and
 - (ii) Is not exclusively for the acquisition, maintenance, or rehabilitation of vehicles or other rolling stock; or
- (2) The Administrator determines to be a major capital project because project management oversight under this part will benefit the Federal government or the recipient, and the project is not exclusively for the acquisition, maintenance, or rehabilitation of rolling stock or other

vehicles. Typically, this means a project that:

- (i) Involves new technology;
- (ii) Is of a unique nature for the recipient; or
- (iii) Involves a recipient whose past record indicates the appropriateness of extending project management oversight under this part.

* * * * *

Issued in Washington, DC, under authority delegated in 49 CFR 1.91.

Jamie Pfister,

Acting Executive Director.

[FR Doc. 2026–11272 Filed 6–3–26; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION**Federal Transit Administration****49 CFR Part 650**

[Docket No. FTA–2025–0011]

RIN 2132–AB60

Private Investment Project Procedures

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The Federal Transit Administration (FTA) amends its Private Investment Project Procedures regulation to reduce the regulatory burden on recipients subject to FTA’s private investment procedures by removing an unnecessary reporting requirement.

DATES: This rule is effective July 6, 2026.

FOR FURTHER INFORMATION CONTACT: Mark Montgomery, Office of Chief Counsel, FTA, telephone at 202–684–5301 or mark.montgomery@dot.gov. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:**I. Statutory Authority and Executive Summary**

Section 20013(b)(1) of the Moving Ahead for Progress in the 21st Century Act (MAP–21), Public Law 112–141 (July 6, 2012), requires FTA to identify any provisions of 49 U.S.C. chapter 53, and any regulations or practices thereunder, that impede greater use of public-private partnerships and private investment and to develop and implement on a project basis procedures and approaches that address such impediments. Section 20013(b)(1) of MAP–21 provides FTA discretion in

addressing impediments to public-private partnerships. Since issuing the Private Investment Project Procedures, 49 CFR part 650, in 2018 (83 FR 24672), FTA determined that the reporting requirement in subpart C, which is not required by MAP-21, has never been used and is inconsistent with FTA's purpose for issuing 49 CFR part 650. Accordingly, FTA issued a notice of proposed rulemaking (NPRM) on July 1, 2025 (90 FR 28693) that proposed removing this requirement from the regulation.

After providing an opportunity for public notice and comment and consideration of comments received, FTA is removing subpart C (Reporting) from 49 CFR part 650. This subpart required recipients with projects for which the Administrator modified or waived any FTA requirement pursuant to 49 CFR 650.11, to submit to FTA a report evaluating the effects of the modification or waiver on the delivery of the project. This subpart required that the report describe the modification or waiver applied to the project; evaluate the success or failure of the modification or waiver; evaluate the extent to which the modification or waiver addressed impediments to use of public-private partnerships and private investment in public transportation capital projects; and may include recommended changes with an explanation of how the changes would encourage greater use of public-private partnerships and private investment in public transportation capital projects. Under subpart C, an initial report was due one year after completing construction of the project and, for projects that include private entity involvement in operations or maintenance, a second report was due two years after the project begins revenue operations.

Since issuing 49 CFR part 650, FTA has not received any reports under subpart C. FTA determined the requirement was unnecessary and failed to promote public-private partnerships due to the added burden on recipients seeking a modification or waiver.

II. Response to Comments and Final Rule

FTA received only one comment on this NPRM from a public transportation trade association. The commenter expressed general support of FTA removing requirements that impede greater use of public-private partnerships, stating that reducing unnecessary reporting requirements is an important first step. The commenter requested that FTA engage with stakeholders to discuss and identify

additional ways to facilitate greater private sector roles. The commenter recommended to FTA a framework to develop financial and operating partnerships between private sector and public transportation agencies.

Response: FTA appreciates the commenter's support of FTA's proposed change and FTA's rationale behind the proposed change. FTA will take into consideration the commenter's recommendation to engage stakeholders to facilitate greater use of public-private partnerships in the future.

Based on the foregoing and FTA's determination, FTA is adopting the change as proposed and is removing 49 CFR part 650 subpart C.

III. Regulatory Analyses and Notices

A. Executive Orders 12866 and 13563 (Regulatory Review)

E.O. 12866 ("Regulatory Planning and Review"), as supplemented by E.O. 13563 ("Improving Regulation and Regulatory Review"), directs Federal agencies to assess the benefits and costs of regulations and to select regulatory approaches that maximize net benefits when possible. This action does not meet the criteria of a "significant regulatory action." Therefore, the Office of Management and Budget (OMB) has not reviewed this action.

This final rule eliminates a reporting requirement for recipients receiving a modification or waiver pursuant to 49 CFR 650.11. To date, no recipient has submitted a report. Though recipients would not experience direct cost savings from removing the reporting requirement if they do not need to submit reports, removing the requirement reduces the burden needed for recipients to comply with Federal requirements.

B. Executive Order 14192 (Deregulatory Action)

E.O. 14192 ("Unleashing Prosperity Through Deregulation") requires that for "each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination." Implementation Guidance for E.O. 14192, issued by OMB (Memorandum M-25-20, March 25, 2025) defines an E.O. 14192 deregulatory action as "an action that has been finalized and has total costs less than zero." This rule will have total costs less than zero and, therefore, is considered an E.O. 14192 deregulatory action.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires Federal

agencies to assess the impact of a regulation on small entities unless the agency determines the regulation is not expected to have a significant economic impact on a substantial number of small entities.

FTA has determined that this rule will not have a significant effect on a substantial number of small entities. The rule eliminates a reporting requirement for recipients receiving a modification or waiver pursuant to 49 CFR 650.11. To date, no recipient has submitted a report.

D. Unfunded Mandates Reform Act of 1995

FTA has determined that this rule will not impose unfunded mandates, as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This rule does not include a Federal mandate that may result in expenditures of \$100 million or more in any one year, adjusted for inflation, by State, local, and Tribal governments in the aggregate or by the private sector.

E. Executive Order 13132 (Federalism Assessment)

E.O. 13132 ("Federalism") requires agencies to assure meaningful and timely input by State and local officials in the development of regulatory policies that may 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. This action has been analyzed in accordance with the principles and criteria contained in E.O. 13132 dated August 4, 1999, and FTA determined this action does not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. FTA also determined this action will not preempt any State law or regulation or affect the States' ability to discharge traditional State governmental functions.

F. Paperwork Reduction Act

Federal agencies must obtain approval from OMB for each collection of information they conduct, sponsor, or require through regulations. FTA has analyzed this rule under the Paperwork Reduction Act and determined it does not impose additional information collection requirements for the purposes of the Act above and beyond existing information collection clearances from OMB.

G. National Environmental Policy Act

The Department has analyzed the environmental impacts of this notice of

proposed rulemaking pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). FTA has determined that this rule is categorically excluded pursuant to 23 CFR 771.118(c)(4). Categorical exclusions are categories of actions that 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). See DOT Order 5610.1D § 9. 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. Id. § 9(b). This rulemaking, which removes an unnecessary reporting requirement, is categorically excluded pursuant to 23 CFR 771.118(c)(4): “[p]lanning and administrative activities not involving or leading directly to construction, such as: promulgation of rules, regulations, directives, or program guidance.” FTA does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

H. Executive Order 13175 (Tribal Consultation)

FTA has analyzed this rule under E.O. 13175 (“Consultation and Coordination with Indian Tribal Governments”) and it will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal laws. Therefore, a tribal summary impact statement is not required.

I. Executive Order 13211 (Energy Effects)

FTA has analyzed this action under E.O. 13211 (“Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use”). FTA has determined this action is not a significant energy action under that order and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

J. 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.). You may review DOT’s complete Privacy Act Statement in the

Federal Register published on April 11, 2000 (65 FR 19477).

K. Regulation Identifier Number (RIN)

A Regulation Identifier Number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this rule with the Unified Agenda.

List of Subjects in 49 CFR Part 650

Grant programs—transportation, Mass transportation, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, FTA amends title 49, Code of Federal Regulations, part 650, as set forth below:

PART 650—PRIVATE INVESTMENT PROJECT PROCEDURES

- 1. The authority citation for part 650 continues to read as follows:

Authority: Sec. 20013(b)(5), Pub. L. 112–141, 126 Stat 405; 49 CFR 1.91.

Subpart C—[Removed and Reserved]

- 2. Remove and reserve subpart C, consisting of § 650.21.

Issued in Washington, DC, under authority delegated in 49 CFR 1.91.

Jamie Pfister,

Acting Executive Director.

[FR Doc. 2026–11273 Filed 6–3–26; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 671

[Docket No. FTA–2025–0008]

RIN 2132–AB57

Rail Transit Roadway Worker Protection

AGENCY: Federal Transit Administration (FTA), U.S. Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The Federal Transit Administration (FTA) is publishing a final rule amending the Rail Transit Roadway Worker Protection (RWP) regulation. This final rule extends the time period for State Safety Oversight Agencies (SSOA) to report RWP programs to FTA and allows SSOAs to

complete annual audits simultaneously with other required audits.

DATES: This rule is effective July 6, 2026.

FOR FURTHER INFORMATION CONTACT: For program matters, contact Jeremy Furrer, Office of Transit Safety and Oversight, FTA, telephone at (202) 366–8929 or jeremy.furrer@dot.gov. For legal matters, contact Heather Ueyama, Attorney-Advisor, FTA, telephone at 202–366–7374 or heather.ueyama@dot.gov.

SUPPLEMENTARY INFORMATION:

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- I. Executive Summary
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 - A. Section 671.25(a)(2)—Submission of RWP Program Information
 - B. Section 671.25(c)(1)—Annual RWP Audit
- V. Regulatory Analyses and Notices

I. Executive Summary

This final rule amends the RWP regulation at 49 CFR part 671 to reduce regulatory burden and align with industry practice. The final rule amends § 671.25(a)(2) to allow SSOAs to submit RWP program information to FTA with their annual report. The rule amends § 671.25(c)(1) to align with industry practice by allowing SSOAs to conduct the required annual audit of a rail transit agency’s (RTA) RWP program in conjunction with other required reviews or audits. In addition, the final rule incorporates a technical correction in § 671.41(c)(9) to revise an incorrect cross-reference.

II. Statutory Authority

Congress directed FTA to establish a Public Transportation Safety Program in the Moving Ahead for Progress in the 21st Century Act (Pub. L. 112–141) (MAP–21), which was reauthorized by the Fixing America’s Surface Transportation Act (FAST Act) (Pub. L. 114–94) and the Infrastructure Investment and Jobs Act (Pub. L. 117–58). FTA is authorized to regulate public transportation systems that receive Federal financial assistance under Chapter 53 of Title 49, United States Code (U.S.C.). FTA’s safety program is authorized by 49 U.S.C. 5329.

Under 49 U.S.C. 5329(f)(7) FTA is authorized to issue rules to carry out the Public Transportation Safety Program, and 49 U.S.C. 5329(b)(2) directs FTA to develop and implement a National Public Transportation Safety Plan (National Safety Plan) that includes minimum safety standards to ensure the safe operation of public transportation

systems. While FTA has previously published a National Safety Plan document that includes only voluntary standards, 49 U.S.C. 5329(f) provides FTA with the discretion and authority to issue mandatory minimum standards to ensure the safe operation of public transportation systems. Accordingly, on October 31, 2024, FTA promulgated the RWP final rule, codified at 49 CFR part 671, which established minimum safety standards for rail transit RWP to ensure the safe operation of public transportation systems and to prevent safety events, fatalities, and injuries to transit workers who may access the roadway in the performance of work (89 FR 87166).

III. Section-by-Section Analysis

To reduce regulatory burden, FTA is modifying 49 CFR 671.25(a)(2) to allow SSOAs to submit RWP program information to FTA with their annual report. Previously, section 671.25(a)(2) required SSOAs to submit each RTA's RWP program to FTA within 30 calendar days of approval. In reply to FTA's notice of proposed rulemaking (NPRM) published March 25, 2024, FTA received comments from SSOAs recommending FTA add the RWP program submission requirement to the annual reporting process.¹ In the October 2024 RWP final rule, FTA declined to extend the 30-day submission period responsive to the comments. However, since administering this program, FTA has recognized the 30-day submission requirement is burdensome for SSOAs.

FTA also amends 49 CFR 671.25(c)(1) to align with industry practice. In section 671.25(c)(1), FTA previously required SSOAs to conduct an annual audit of the RTA's compliance with its RWP program. FTA explained in the preamble to the October 2024 RWP final rule (89 FR 87192) that SSOAs are allowed to combine audits "[t]o avoid redundancy," so long as the review meets "the RWP program audit requirements specified at § 671.25(c)." See also 89 FR 87211. Furthermore, in reply to a DOT-wide Request for Information seeking public comments on reducing regulatory burden (90 FR 14593), FTA received a comment from the American Public Transportation Association asking FTA to consider modifying § 671.25(c) based on existing audit practice and address the undue

burden of completing non-simultaneous audits (Docket No. DOT-OST-2025-0026). FTA is modifying § 671.25(c)(1) to ensure this authorization is included in the regulatory text.

FTA also amends § 671.41(c)(9) to remove an incorrect cross-reference to § 671.37 (Good faith safety challenge) and replace it with a cross-reference to § 671.39 (Risk-based redundant protections). This correction is consistent with the original intent of the section and with FTA practice.

Based on the foregoing, and to ensure consistency with Administration priorities, including Executive Order 14192 ("Unleashing Prosperity Through Deregulation"), FTA is implementing this deregulatory action to reduce the regulatory burden on RTAs and SSOAs.

IV. Notice of Proposed Rulemaking and Response to Comments

On July 1, 2025, FTA issued an NPRM for Rail Transit Roadway Worker Protection (RWP) to seek comments on proposed changes to §§ 671.25(a)(2) and (c)(1). (90 FR 28695). The public comment period for the NPRM closed on July 31, 2025. FTA received four comment submissions to the rulemaking docket. Commenters included one State, two industry associations, and one individual. Some comments within these submissions were outside the scope of this rulemaking, and FTA does not respond to comments in this final rule that were outside the scope. FTA thanks the industry associations that provided these comments and will take them into consideration for the future. FTA reviewed all relevant comments and took them into consideration. Below, the NPRM comments and FTA's responses are subdivided by their corresponding sections of the rule and subject matter.

A. Section 671.25(a)(2)—Submission of RWP Program Information

Comments: One industry association, one SSOA, and one individual expressed support for FTA's proposed modification to § 671.25(a)(2), which would allow SSOAs to submit RWP program documentation for each RTA in its jurisdiction to FTA annually with the SSOA's annual report. The industry association also recommended FTA revise the proposed language in § 671.25(a)(2) from "with the annual report required by 49 CFR 674.39" to "as part of the annual report required by 49 CFR 674.39." It argued this would explicitly connect the RWP program submission requirement with the existing SSOA annual reporting requirement under 49 CFR 674.39.

FTA Response: FTA appreciates the support for its proposal. FTA also appreciates the industry association's recommended revision but declines to adopt the suggestion. The rule language, as proposed, sufficiently and clearly conveys the connection between the RWP program submission and the SSOA annual report.

B. Section 671.25(c)(1)—Annual RWP Audit

Comments: Two industry associations, one SSOA, and one individual provided comments expressing support for FTA's proposed modification to § 671.25(c)(1), which would allow agencies to conduct the annual RWP program audit in conjunction with the review and approval of an RTA's Agency Safety Plan or other review or audit.

One of the industry associations further suggested revising FTA's proposed language in § 671.25(c)(1) to state that SSOAs may conduct the RWP program audit in conjunction with the triennial audit required by 49 CFR 674.31. The commenter argued that this approach would ensure there are no duplicative audit reports and would be more effective and efficient.

FTA Response: FTA appreciates the comments supporting FTA's proposal. However, FTA disagrees with the industry association commenter's suggested revision. Under the proposed § 671.25(c)(1), the SSOA has the flexibility to incorporate the annual RWP audit into the review and approval of the RTA's Agency Safety Plan "or any other review or audit," including the triennial audit required under part 674. An explicit reference to the triennial audit is, therefore, unnecessary. Due to the safety risk inherent with roadway work, FTA maintains the requirement for an annual RWP program audit. Annual audits ensure that the SSOA is involved and actively informed regarding the RTA's RWP program performance and provides a consistent and independent mechanism to verify that programs are being properly implemented and are achieving their intended safety outcomes. Thus, while an SSOA may incorporate the audit of the RWP program into an existing triennial audit of the RTA, it must conduct an RWP program audit on an annual basis.

V. Regulatory Analyses and Notices

Executive Orders 12866 and 13562 (Regulatory Review)

Executive Order (E.O.) 12866 ("Regulatory Planning and Review"), as supplemented by E.O. 13563

¹ FTA received comments from the Texas Department of Transportation (Comment ID No. FTA-2023-0024-5680), the Pennsylvania Department of Transportation (Comment ID No. FTA-2023-0024-7147), and the Transit Safety Oversight Association (Comment ID No. FTA-2023-0024-7174).

(“Improving Regulation and Regulatory Review”), directs Federal agencies to assess the benefits and costs of regulations and to select regulatory approaches that maximize net benefits when possible. It also directs the Office of Management and Budget (OMB) to review significant regulatory actions, including regulations with annual economic effects of \$100 million or more. OMB has determined the rule is not significant within the meaning of E.O. 12866 and has not reviewed the rule under that order.

The final rule allows SSOAs to conduct their annual audits of RTA RWP programs simultaneously with other reviews. SSOAs could conduct the audits simultaneously with annual or triennial ASP reviews, for example, if the reviews meet RWP program audit requirements. The final rule also allows SSOAs to submit RWP program information with their annual reports rather than within 30 calendar days of approval.

The final rule will result in cost savings for SSOAs and RTAs by streamlining auditing requirements. The rule will affect 31 SSOAs and 64 RTAs in operation as of May 30, 2025. In 2024, FTA estimated that SSOAs would spend 40 hours auditing each RTA RWP program, for a total of 2,560 hours per year. FTA estimates that allowing SSOAs to conduct the audits with other reviews will reduce the time needed from 40 hours to 20 hours, or 1,280 hours total. Allowing SSOAs to submit RWP program information with annual reports could result in additional cost savings as well.

To estimate cost savings, FTA used May 2024 occupational wage data from the Bureau of Labor Statistics, the latest available as of May 2025, in the “Transit and Ground Passenger Transportation” industry (North American Industry Classification System code 485000).² To estimate the wages of agency staff completing the auditing requirements, FTA used the “General and Operations Managers” job category (code 11–1021). FTA used median hourly wages (\$42.45) as a basis for the estimates, multiplying the wages by 1.62 ($\$42.45 \times 1.62 = \$68.69$) to account for employer benefits.³

² Bureau of Labor Statistics, “May 2024 National Occupational Employment and Wage Estimates: United States: NAICS 485000—Transit and Ground Passenger Transportation” (2025), available at <https://data.bls.gov/oes/#/industry/485000>.

³ Multiplier derived using Bureau of Labor Statistics data on employer costs for employee compensation in December 2024 (<https://www.bls.gov/news.release/eccec.htm>). Employer costs for State and local government workers averaged \$63.46 an hour, with \$39.22 for wages and \$24.23 for benefit costs. To estimate full costs from

Over the next ten years, the rule will result in annual cost savings of \$87,000 ($1,280 \text{ hours} \times \$68.69$) in undiscounted 2024 dollars, \$73,000 at a three percent discount rate, and \$58,000 at a seven percent discount rate, discounted to 2024.

Executive Order 14192 (Deregulatory Action)

E.O. 14192 (“Unleashing Prosperity Through Deregulation”) requires that for “each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.” Implementation Guidance for E.O. 14192, issued by OMB (Memorandum M–25–20, March 25, 2025) defines an E.O. 14192 deregulatory action as “an action that has been finalized and has total costs less than zero.” This final rule is an E.O. 14192 deregulatory action with total costs less than zero.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires Federal agencies to assess the impact of a regulation on small entities unless the agency determines that the regulation is not expected to have a significant economic impact on a substantial number of small entities.

The rule will streamline auditing and reporting requirements for SSOAs and RTAs. Under the Regulatory Flexibility Act, public-sector organizations and local governments qualify as small entities if they serve a population of less than 50,000. RTAs do not qualify as small entities because they all operate in urbanized areas with populations of more than 50,000, and SSOAs do not qualify because they are State agencies. This rule will have a small cost saving impact due to streamlining auditing and reporting requirements for SSOAs and RTAs. FTA has determined the final rule will not have a significant effect on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

FTA has determined that this rule will not impose unfunded mandates, as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule does not include a Federal mandate that may result in expenditures of \$100 million or more in any one year, adjusted for inflation, by State, local, and Tribal governments in the aggregate or by the private sector.

wages, one would use a multiplier of \$63.46/\$39.22, or 1.62.

Executive Order 13132 (Federalism Assessment)

E.O. 13132 (“Federalism”) requires agencies to assure meaningful and timely input by State and local officials in the development of regulatory policies that may 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. This action has been analyzed in accordance with the principles and criteria contained in E.O. 13132, and FTA determined this action will not have a substantial direct effect or sufficient federalism implications on the States. FTA also determined this action will not preempt any State law or regulation or affect the States’ ability to discharge traditional State governmental functions.

Paperwork Reduction Act

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) (PRA), and the White House Office of Management and Budget’s (OMB) implementing regulation at 5 CFR 1320.8(d), FTA will not seek a revision to an approved OMB information collection 2132–0584 as there is no change in burden or cost associated with this new regulatory action.

National Environmental Policy Act

The Department has analyzed the environmental impacts of this rulemaking pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). FTA has determined that this rule is categorically excluded pursuant to 23 CFR 771.118(c)(4). Categorical exclusions are categories of actions that 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). See DOT Order 5610.1D § 9. 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. Id. § 9(b). This rulemaking, which extends the time period for State Safety Oversight Agencies (SSOA) to report RWP programs to FTA and allows SSOAs to complete annual audits simultaneously with other required audits, is categorically excluded pursuant to 23 CFR 771.118(c)(4): “[p]lanning and administrative activities not involving

or leading directly to construction, such as: promulgation of rules, regulations, directives, or program guidance.” FTA does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

Executive Order 13175 (Tribal Consultation)

FTA has analyzed this rule under E.O. 13175 (“Consultation and Coordination with Indian Tribal Governments”) and believes that it will not have substantial direct effects on one or more Indian Tribes; will not impose substantial direct compliance costs on Indian Tribal governments; and will not preempt Tribal laws. Therefore, a Tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

FTA has analyzed this action under E.O. 13211 (“Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use”). FTA has determined that this action is not a significant energy action under that order and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

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.). You may review U.S. Department of Transportation’s complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Regulation Identifier Number (RIN)

A Regulation Identifier Number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this rule with the Unified Agenda.

List of Subjects in 49 CFR Part 671

Mass transportation, Reporting and recordkeeping requirements, Safety, Transportation.

For the reasons stated in the preamble, FTA amends title 49 CFR part 671, as set forth below:

PART 671—RAIL TRANSIT ROADWAY WORKER PROTECTION

■ 1. The authority citation for part 671 continues to read as follows:

Authority: 49 U.S.C. 5329, 49 CFR 1.91.

■ 2. Amend § 671.25 by revising paragraphs (a)(2) and (c)(1) to read as follows:

§ 671.25 State safety oversight agency.

(a) * * *

(2) The SSOA must submit the current approved RWP program for each RTA in its jurisdiction to FTA annually with the annual report required by 49 CFR 674.39.

* * * * *

(c) * * *

(1) The SSOA must conduct an annual audit of the RTA’s compliance with its RWP program, including all required RWP program elements, for each RTA that it oversees. This review may be conducted in conjunction with the review and approval of the RTA’s Public Transportation Agency Safety Plan or any other review or audit.

* * * * *

■ 3. Amend § 671.41 by revising paragraph (c)(9) to read as follows:

§ 671.41 RWP training and qualification program.

* * * * *

(c) * * *

(9) Rules and procedures for redundant protections identified under § 671.39 and how they are applied to RWP; and

* * * * *

Issued in Washington, DC, under authority delegated in 49 CFR 1.91.

Jamie Pfister,

Acting Executive Director.

[FR Doc. 2026–11270 Filed 6–3–26; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 672

[Docket No. FTA–2025–0009]

RIN 2132–AB58

Public Transportation Safety Certification Training Program

AGENCY: Federal Transit Administration (FTA), U.S. Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The Federal Transit Administration (FTA) is publishing a

final rule amending the reporting requirements for the Public Transportation Safety Certification Training Program (PTSCTP). This final rule reduces reporting burdens for rail transit agencies (RTA) and State Safety Oversight Agencies (SSOA).

DATES: This rule is effective July 6, 2026.

FOR FURTHER INFORMATION CONTACT: For program matters, contact Jeremy Furrer, Office of Transit Safety and Oversight, FTA, telephone at (202) 366–8929 or jeremy.furrer@dot.gov. For legal matters, contact Mark Montgomery, Office of Chief Counsel, (202) 366–1017 or mark.montgomery@dot.gov.

SUPPLEMENTARY INFORMATION: Table of Contents

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- III. Regulatory Analyses and Notices

I. Executive Summary

This final rule amends the PTSCTP regulation at 49 CFR part 672. The final rule maintains the existing minimum training requirements for SSOA employees and contractors who conduct reviews, inspections, examinations, and other safety oversight activities of public transportation systems, and employees and contractors who are directly responsible for the safety oversight of a rail fixed guideway public transportation system. This final rule reduces the burden of the reporting requirement in 49 CFR 672.21(d) by reducing the reporting frequency from semiannual to annual, and by removing the reference to reporting dates for additional reporting flexibility.

A. Statutory Authority

Congress directed FTA to create and implement a comprehensive Public Transportation Safety Program, one element of which is the requirement for PTSCTP, in the Moving Ahead for Progress in the 21st Century Act (MAP–21) (Pub. L. 112–141; July 6, 2012), codified at 49 U.S.C. 5329. Specifically, 49 U.S.C. 5329(c) directed FTA to establish a PTSCTP for Federal and State employees, or other designated personnel, who conduct safety audits and examinations of public transportation systems and employees of public transportation agencies directly responsible for safety oversight.

B. Background

To implement the requirements of 49 U.S.C. 5329(c), FTA issued a final rule

on July 19, 2018, which added part 672, “Public Transportation Safety Certification Training Program,” to title 49 of the Code of Federal Regulations (83 FR 34053). Subsequently, the Infrastructure Investment and Jobs Act (Pub. L. 117–58; November 15, 2021) added new requirements to FTA’s Public Transportation Safety Program that FTA addressed in the PTSCTP curriculum through a final rule on August 14, 2024 (89 FR 65999). To ensure compliance with safety training requirements, the 2024 final rule established a semiannual reporting requirement at 49 CFR 672.21(d) for each SSOA and RTA to submit a current list of individuals designated as required PTSCTP participants, and the course or courses that the agency has identified as required for PTSCTP recertification.

On April 3, 2025, as part of its implementation of Executive Order (E.O.) 14219, “Ensuring Lawful Governance and Implementation of the President’s ‘Department of Government Efficiency’ Deregulatory Agenda,” issued on February 19, 2025, and E.O. 14192, “Unleashing Prosperity through Deregulation,” issued on January 31, 2025, DOT issued a request for information (RFI) seeking comments and information to assist DOT in identifying existing regulations, guidance, paperwork requirements, and other regulatory requirements to be modified or repealed, consistent with law, to achieve meaningful burden reduction while continuing to meet statutory obligations and ensure the safety of the U.S. transportation system (90 FR 14953). In response to the RFI, the American Public Transportation Association (APTA), a nonprofit group that advocates for the interests of the public transportation industry in the United States, commented that the semiannual reporting requirement in 49 CFR 672.21(d) is an “undue burden” on transit agencies. APTA also noted that some SSOAs are implementing this requirement through the program standards they must establish under 49 CFR 674.27. Responsive to APTA’s comment, and to achieve meaningful burden reduction, FTA published a Notice of Proposed Rulemaking (NPRM) on July 1, 2025, proposing to reduce the frequency of the reporting requirement from semiannual to annual (90 FR 28697). In this final rule, FTA is adopting the change as proposed.

C. Summary of Provisions

FTA is amending 49 CFR 672.21(d) to require annual, rather than semiannual, reporting of compliance with safety training requirements.

II. Notice of Proposed Rulemaking and Response to Comments

FTA issued an NPRM for the PTSCTP on July 1, 2025. The public comment period for the NPRM closed on September 2, 2025. FTA received five comment submissions to the rulemaking docket. Commenters included States, transit agencies, industry associations, and a labor union. Some comments within these submissions were outside the scope of this rulemaking, and FTA does not respond to comments in this final rule that were outside the scope. FTA thanks the industry association that provided these comments and will take them into consideration for the future.

FTA reviewed all relevant comments and took them into consideration when developing the final rule.

Comments: FTA received four comments in support of the proposed modification to § 672.21(d). Two industry associations commented that this modification will appreciably reduce the reporting burden. One RTA and one SSOA also expressed full support of FTA’s proposed amendment. The RTA stated that this amendment will alleviate unnecessary administrative burden while maintaining accountability for compliance with PTSCTP requirements, improve efficiency, and advance regulatory streamlining consistent with E.O.s 14192 and 14219. It also stated that the change will preserve safety oversight integrity, as annual reporting is sufficient for FTA to track PTSCTP compliance.

One labor union strongly opposed FTA’s proposal, arguing that semiannual reporting is an accountability mechanism ensuring agencies are attentive to safety training compliance and certification requirements. The commenter stated that changing this requirement to annual reporting would double the length of time during which noncompliance, errors, or omissions could continue undetected. They further argued the proposal would result in only “trivial” cost savings, and that the estimated burden reduction does not justify the risk of safety oversight gaps. The commenter recommended that FTA retain the current semiannual reporting requirement.

FTA Response: FTA appreciates the comments supporting its proposal and agrees that this change will reduce the reporting burden for RTAs and SSOAs and improve efficiency. FTA appreciates the comment expressing concern with the proposed amendment; however, FTA disagrees that the

proposal would create gaps in safety or oversight. The reporting requirement at § 672.21(d) is not the only accountability mechanism to ensure recipients comply with the PTSCTP safety training and certification requirements. FTA monitors compliance with PTSCTP requirements through the Certifications and Assurances for FTA Grants and Cooperative Agreements (Category 15), which is a required certification under §§ 672.31 and 674.39. SSOAs conduct oversight pursuant to the State Safety Oversight (SSO) regulation at § 674.27(a)(7), which requires SSOAs to ensure RTA compliance with PTSCTP requirements. FTA monitors each SSOA’s compliance with these regulations through SSOA annual reporting to FTA and FTA’s triennial audits of SSOAs under 49 U.S.C. 5329(e)(10). FTA also may review a recipient’s compliance with PTSCTP whenever it deems necessary, including investigating any specific allegations of noncompliance.

Based on FTA’s experience administering the PTSCTP reporting requirements and feedback from the industry, including comments in this docket and APTA’s comment on the RFI described in Section I.B above, FTA finds that the burden of semiannual reporting fails to outweigh the benefit. Annual reporting, combined with existing oversight mechanisms, is sufficient to oversee recipient compliance with PTSCTP requirements. Accordingly, FTA finds that reducing the frequency of reporting from semiannual to annual is justified and is finalizing the change as proposed.

III. Regulatory Analyses and Notices

Executive Orders 12866 and 13563 (Regulatory Review)

E.O. 12866 (“Regulatory Planning and Review”), as supplemented by E.O. 13563 (“Improving Regulation and Regulatory Review”), directs Federal agencies to assess the benefits and costs of regulations and to select regulatory approaches that maximize net benefits when possible. This action does not meet the criteria of a “significant regulatory action.” Therefore, the Office of Management and Budget (OMB) has not reviewed this action.

The amendment to the rule will reduce reporting requirements for SSOAs and RTAs subject to the PTSCTP. Previously, agencies were required to report information on designated participants and recertification courses semiannually to FTA; the amended rule reduces the frequency from semiannual to annual.

The reduced reporting requirements will result in cost savings for regulated entities. The requirements affect 31 SSOAs and 64 RTAs in operation as of March 1, 2023, for a total of 95 agencies. In the 2024 final rule, FTA estimated that an agency would spend four hours per year to fulfill semiannual reporting requirements, for a total of 380 hours per year across the 95 agencies. Reducing the frequency to annual reporting will result in total savings of 190 hours (380 hours ÷ 2) per year.

To estimate cost savings, FTA used May 2024 occupational wage data from the Bureau of Labor Statistics, the latest available as of May 2025, in the “Transit and Ground Passenger Transportation” industry (North American Industry Classification System code 485000).¹ To estimate the wages of agency staff completing the auditing requirements, FTA used the “General and Operations Managers” job category (code 11–1021). FTA used median hourly wages (\$42.45) as a basis for the estimates, multiplying the wages by 1.62 ($\$42.45 \times 1.62 = \$68.69$) to account for employer benefits.²

Over the next ten years, the rule will result in annual cost savings of \$11,000 discounted at a three percent rate and \$9,000 discounted at a seven percent rate in 2024 dollars.

Executive Order 14192 (Deregulatory Action)

E.O. 14192 (“Unleashing Prosperity Through Deregulation”) requires that for “each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.” Implementation Guidance for E.O. 14192, issued by OMB (Memorandum M–25–20, March 25, 2025) defines an E.O. 14192 deregulatory action as “an action that has been finalized and has total costs less than zero.” This final rule is expected to have total costs less than zero and, therefore, is expected to be an E.O. 14192 deregulatory action.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA) (5 U.S.C. 601 *et seq.*) requires

Federal agencies to assess the impact of a regulation on small entities unless the agency determines that the regulation is not expected to have a significant economic impact on a substantial number of small entities.

Under the Act, public-sector organizations and local governments qualify as small entities if they serve a population of less than 50,000. RTAs do not qualify as small entities because they operate in urbanized areas with populations of more than 50,000, and SSOAs do not qualify because they are State agencies. Therefore, FTA certifies that the final rule will not have a significant effect on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

FTA has determined that this final rule does not impose unfunded mandates, as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995). This rule does not include a Federal mandate that may result in expenditures of \$100 million or more adjusted for inflation in any one year, adjusted for inflation, by State, local, and Tribal governments in the aggregate or by the private sector.

Executive Order 13132 (Federalism Assessment)

E.O. 13132 requires agencies to assure meaningful and timely input by State and local officials in the development of regulatory policies that may 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. This action has been analyzed in accordance with the principles and criteria contained in E.O. 13132, dated August 4, 1999, and FTA determined this action will not have a substantial direct effect or sufficient federalism implications on the States. FTA also determined this action will not preempt any State law or regulation or affect the States’ ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

Paperwork Reduction Act

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA) and the White House

Office of Management and Budget’s (OMB) implementing regulation at 5 CFR 1320.8(d), FTA is seeking approval from OMB for a currently approved information collection associated with a notice of proposed rulemaking. The information collection (IC) was previously approved on 10/31/2025. Since FTA is not changing the content of the information being collected but is reducing the burden hours, FTA will request a non-substantive change to align with this rulemaking. This submission reflects updated requirements that lower the responding burden hours and associated costs to recipients.

OMB Control Number: 2132–0578.

Type of Collection: Operators of public transportation systems.

Type of Review: OMB Clearance. Previously Approved Information Collection Request.

Summary of the Collection: The information collection (IC) provides minimum training requirements for Federal and State personnel and contractors who conduct safety audits and examinations of transit systems and for transit agency personnel and contractors who are directly responsible for safety oversight to enhance the technical proficiency.

Need for and Expected Use of the Information to be Collected: Collection of information for this program is necessary to ensure FTA grantees subject to the PTSCTP regulation certify compliance with training and recertification training requirements and allow FTA to monitor ongoing PTSCTP participation and compliance. The program establishes a uniform curriculum for safety training that consists of minimum requirements to enhance the technical proficiency of transit safety personnel.

Respondents: Respondents include State Safety Oversight Agency personnel and contractors who conduct safety audits and examinations of rail transit systems, rail transit agency personnel and contractors who are directly responsible for safety oversight, and bus transit agency personnel and contractors who are directly responsible for safety oversight.

Frequency: Annual, Periodic.

National Environmental Policy Act

The Department has analyzed the environmental impacts of this notice of proposed rulemaking pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). FTA has determined that this rule is categorically excluded pursuant to 23 CFR 771.118(c)(4). Categorical exclusions are categories of actions that

¹ Bureau of Labor Statistics. 2025. “May 2024 National Occupational Employment and Wage Estimates: United States: NAICS 485000—Transit and Ground Passenger Transportation.” <https://data.bls.gov/oes/#/industry/485000>.

² Multiplier derived using Bureau of Labor Statistics data on employer costs for employee compensation in December 2024 (<https://www.bls.gov/news.release/ecec.htm>). Employer costs for State and local government workers averaged \$63.46 an hour, with \$39.22 for wages and \$24.23 for benefit costs. To estimate full costs from wages, one would use a multiplier of \$63.46/\$39.22, or 1.62.

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). See DOT Order 5610.1D § 9. 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. Id. § 9(b). This rulemaking, which reduces the regulatory burden on grant recipients by extending the baseline period to establish a waiver of certain administrative requirements, is categorically excluded pursuant to 23 CFR 771.118(c)(4): “[p]lanning and administrative activities not involving or leading directly to construction, such as: promulgation of rules, regulations, directives, or program guidance.” FTA does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

Executive Order 13175 (Tribal Consultation)

FTA has analyzed this rule under E.O. 13175, dated November 6, 2000, and it will not have substantial direct effects on one or more Indian Tribes; will not impose substantial direct compliance costs on Indian Tribal governments; and will not preempt Tribal laws. Therefore, a Tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

FTA has analyzed this action under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. FTA has determined this action is not a significant energy action under that order and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

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.). You may review DOT’s complete Privacy Act Statement in the **Federal Register** at 65 FR 19477 (April 11, 2000).

Regulation Identifier Number

A Regulation Identifier Number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal

Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this rule with the Unified Agenda.

List of Subjects in 49 CFR Part 672

Mass transportation, Reporting and recordkeeping requirements, Safety.

In consideration of the foregoing, and under the authority of 49 U.S.C. 5329 and 5334, and the delegation of authority at 49 CFR 1.91, the Federal Transit Administration amends title 49, Code of Federal Regulations, part 672, as set forth below:

PART 672—PUBLIC TRANSPORTATION SAFETY CERTIFICATION

■ 1. The authority citation for part 672 continues to read as follows:

Authority: 49 U.S.C. 5329, 5334; 49 CFR 1.91.

■ 2. Amend § 672.21 by revising paragraph (d) introductory text to read as follows:

§ 672.21 Records.

* * * * *

(d) *Annual reporting.* The identified POC must submit documentation annually to FTA, via electronic method defined by FTA, that identifies:

* * * * *

Issued in Washington, DC, under authority delegated in 49 CFR 1.91.

Jamie Pfister,

Acting Executive Director.

[FR Doc. 2026–11271 Filed 6–3–26; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[RTID 0648–XF818; Docket No. 260428–0118]

Pacific Halibut Fisheries of the West Coast; 2026 Catch Sharing Plan; Inseason Action

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

ACTION: Temporary rule; inseason adjustment; request for comments.

SUMMARY: NMFS announces an inseason action for the Pacific halibut

recreational fishery in the International Pacific Halibut Commission’s (IPHC) regulatory Area 2A. This action adds fishing dates (June 8, 9, 15, 16, 22, 23) in the Columbia River subarea. These additional fishing dates are intended to provide additional opportunity for anglers to achieve the overall recreational fishery allocations in the Pacific Fishery Management Council’s (Council) 2026 Pacific Halibut Catch Sharing Plan and to promote full utilization of the 2026 Area 2A Pacific halibut catch limits.

DATES:

Effective date: Effective June 8, 2026.

Comments due date: Comments due on or before June 22, 2026.

ADDRESSES: Submit your comments, identified by NOAA–NMFS–2025–1131, by either of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA–NMFS–2025–1131 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Jennifer Quan, Regional Administrator, c/o Melissa Mandrup, West Coast Region, NMFS, 501 W Ocean Blvd., Long Beach, CA 90802.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the comment period ends. All comments received are a part of the public record and NMFS will post them for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Docket: This rule is accessible via the internet at the Office of the Federal Register website at <https://www.federalregister.gov>. Background information and documents are available at the NOAA Fisheries website at <https://www.fisheries.noaa.gov/action/2026-pacific-halibut-recreational-fishery> and at the Council’s website at <https://www.pcouncil.org>. Other comments received may be accessed through <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Melissa Mandrup, phone: 562–980–3231 or email: melissa.mandrup@noaa.gov.

SUPPLEMENTARY INFORMATION:**Background**

On April 30, 2026, NMFS implemented the 2026 recreational (sport) fishery bag limits, fishing dates, and subarea allocations for subareas off the U.S. West Coast in IPHC regulatory Area 2A via a final rule (91 FR 23369). Inseason modifications to the Area 2A recreational fisheries, including bag limits, state and subarea allocations, and fishing days per calendar week (*i.e.*, fishing dates) are authorized under 50 CFR 300.63(c)(6), if it is determined such action is necessary to meet the Area 2A allocation objectives and if the action will not result in exceeding the allocation.

The final rule implementing the 2026 recreational fishery management measures for Area 2A (91 FR 23369, April 30, 2026) opened the Columbia River subarea for recreational Pacific halibut fishing on April 30, 2026 (Thursday) and on May 1, 3, 7, 8, 10, 14, 15, 17, 21, 22, 24, 28, 29, 31 (Thursday, Friday, Sunday); and June 4, 5, 7, 11, 12, 14, 18, 19, 21, 25, 26, 28 (Thursday, Friday, Sunday). The final rule also stated that, if NMFS determines that sufficient allocation is available to add fishing dates for the Columbia River subarea in June 2026, based on an assessment by NMFS based on catch effort in May and projections for June, NMFS may take inseason action to open the fishery the following additional days in June: June 8, 9, 15, 16, 22, 23 (Monday, Tuesday).

In accordance with 50 CFR 300.63(c), inseason actions are announced in the **Federal Register** and also on the NMFS hotline at (206) 526-6667 or (800) 662-9825. Weekly catch reports are available on the respective state Fish and Wildlife agency websites.

After consulting with the Washington Department of Fish and Wildlife (WDFW) and the Oregon Department of Fish and Wildlife (ODFW), and other appropriate entities, NMFS has determined that this action is necessary to meet the management objective of achieving, but not exceeding, the Area 2A subarea allocations. This action was not previously implemented in the final rule setting the open dates and management measures for 2026 (91 FR 23369, April 30, 2026) and is intended to provide additional opportunity for anglers to achieve the annual recreational fishery allocation. NMFS will continue to monitor the recreational catch estimates for all subareas obtained via state sampling procedures, until NMFS has determined that there is not sufficient allocation for another full day of fishing and the

subarea is closed by NMFS, or until there are no more open fishing dates, whichever is earlier.

Inseason Action

The Pacific halibut fishery regulations for Area 2A at 50 CFR 300.63(c)(6) provide NMFS with the authority to modify annual management measures inseason, including fishing periods, following consultation with the Council, the IPHC, and the affected states, where such inseason action is necessary to allow allocation objectives to be met and will not result in exceeding the allocation for Area 2A (50 CFR 300.63(c)(6)(i)(A), (i)(B) and (ii)(A)).

The Columbia River subarea recreational fishery opened on April 30, 2026. NMFS has determined, through an assessment of recreational catch and effort in May and projections for June, that there is sufficient allocation to open additional fishing dates in June. Catch and effort estimates through May 17, 2026, indicate that 4,579 pounds (2.1 metric tons) of the 19,299 pound (8.8 metric tons) allocation for the Columbia River subarea recreational fishery, or approximately 24 percent of the allocation, have been landed.

Additionally, catch projections through June estimate that 15,774 pounds 7.2 metric tons) of the total allocation would be landed by June 30, or approximately 82 percent, without the opening of additional fishing dates. The projected remaining allocation of 18 percent is sufficient to warrant opening additional fishing days in June.

Accordingly, this inseason action implements the following additional fishing dates for the Columbia River subarea all-depth recreational fishery:

- June 8, 9, 15, 16, 22, and 23.

If the subarea allocation is projected to be reached prior to June 30, the subarea will be closed by NMFS when there is not sufficient subarea allocation for another full day of fishing. However, if the subarea allocation remains for at least another full day of fishing after June 30, NMFS may take additional inseason action to reopen the fishery in August through September, up to 7 days per week.

Classification

NMFS issues this action pursuant to the Northern Pacific Halibut Act of 1982. This action is taken under the regulatory authority at 50 CFR 300.63(c)(6) and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(3)(B), there is good cause to waive prior notice and an opportunity for public comment on this routine inseason action, as notice and comment would be

impracticable and contrary to the public interest. WDFW and ODFW provided updated landings data to NMFS through May 17, 2026, and a catch projection through June. This information indicates that without additional open days approximately 18 percent of the Columbia River subarea's annual recreational fishery allocation would remain at the end of June. Therefore, to promote the full utilization of the subarea's allocation, and thus to create additional opportunity within the fishery achieve the overall Area 2A allocation, additional fishing opportunity is necessary.

The final rule implementing the 2026 recreational fishing measures (91 FR 23369, April 30, 2026) specified that if NMFS determines sufficient allocation is available, additional fishing dates may be warranted in June to increase angler opportunity to achieve the 2026 subarea and Area 2A recreational fishery allocations. Further, the final rule specified the additional dates to be opened in June: June 8, 9, 15, 16, 22, and 23 (Monday, Tuesday), and provided that the determination of whether sufficient allocation remained to open these dates would be based on an assessment, by NMFS, of catch and effort in May and projections for June.

The proposed rule to implement the 2026 recreational fishing measures for Area 2A (91 FR 14511) published on March 25, 2026, and requested public comment through April 9, 2026. The proposed rule identified the original dates that the Columbia River subarea would be open in April, May and June 2026, and specifically identified the additional dates recreational fishing in the subarea may be open in June 2026, if sufficient subarea allocation was determined to remain in May. Both the original open dates for the subarea and the potential additional open dates for the subarea in June, which are identified in the proposed rule, are the same open dates implemented in the final rule and through this inseason action. Thus, the public had notice of these proposed additional dates and an opportunity to comment on them during the comment period on the proposed rule.

Based on recreational catch and effort through May 17, 2026, and projections through June, NMFS has determined that sufficient subarea allocation remains to open additional recreational fishing days in the Columbia River subarea in June. Opening additional dates for recreational fishing in the subarea is deemed necessary to allow the opportunity for the Area 2A allocation objectives to be met in accordance with 50 CFR 300.63(c)(6)(i)(A). Further, this action

should be implemented as soon as possible to allow fishery participants time to prepare to take advantage of the additional fishing dates. Implementing this action through proposed and final rulemaking would reduce the benefits the action is intended to provide to fishery participants in the subarea, as time is limited before the first additional fishing date on June 8, 2026. It is necessary that this rulemaking be implemented in a timely manner so that planning for additional fishing dates can take place, and to allow for business and personal decision making by the regulated public impacted by this action, including recreational charter fishing operations, associated port businesses, and private anglers who do not live near the coastal access points for the fishery, among others. Without implementation of additional fishing dates in the Columbia River subarea, the overall Area 2A recreational fishery allocation is unlikely to be harvested this year, thus limiting the economic benefits of the fishery, in general, and obstructing the goals of the 2026 Area 2A Catch Sharing Plan.

To ensure the regulated public is fully aware of this action, notice of this regulatory action will be provided to anglers through a telephone hotline, news release, and by the relevant state Fish and Wildlife agencies. NMFS will receive public comment for 15 days after publication of this action, in accordance with 50 CFR 300.63(c)(6)(iv). No aspect of this action is controversial, and changes of this nature were anticipated in the process described in regulations at 50 CFR 300.63(c), and in the proposed and final rules implementing the 2026 management measures for the Area 2A recreational fishery.

For these reasons, there is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date and make this action effective immediately upon filing for public inspection, as a delay in the effectiveness of this action would constrain fishing opportunity, be inconsistent with the goals of the 2026 Catch Sharing Plan, and potentially limit the economic opportunity intended by this rule to fishery participants and fishing communities. The purpose of the 30-day delay in effectiveness provision of the Administrative Procedure Act (APA) is generally to give the regulated community time to adjust to new regulations. This rule does not establish any new or unique regulations, nor otherwise make changes that would require fishery participants to purchase new gear or make other time-consuming adjustments. By contrast, this rule

implements routine inseason action. Waiving the 30-day delay in effectiveness will benefit the public because it will provide additional opportunity for recreational Pacific halibut anglers in 2026 and thus increase the likelihood of full utilization of the 2026 allocations in Area 2A. Additionally, NMFS regulations allow the Regional Administrator to modify sport fishing periods, bag limits, size limits, days per calendar week, and subarea allocations in Area 2A, when the action supports allocation objectives being met and such action will not result in exceeding the catch limit for the subarea or for Area 2A. The regulated public is aware of this authority and therefore expects such inseason action throughout the fishing year.

In conclusion, NMFS finds good cause to waive prior notice and an opportunity for public comment and the 30-day delay in effective date for this rule. NMFS recently received information on the progress of landings in the recreational fisheries in the Columbia River subarea, which indicate that additional season dates should be implemented in order to promote the optimal harvest of the subarea's annual allocation. Thus, it is in the public interest that this action not be delayed.

Authority: 16 U.S.C. 773–773k.

Dated: June 2, 2026.

Kelly Denit,

*Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.*

[FR Doc. 2026–11249 Filed 6–3–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 260505–0124]

RIN 0648–BN30

Fisheries of the Caribbean, Gulf of America, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic; Amendment 55

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement Amendment 55 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic (FMP), as prepared and

submitted by the South Atlantic Fishery Management Council (Council). This final rule removes yellowmouth grouper from the other South Atlantic shallow water grouper (other SASWG) complex and establishes a new scamp and yellowmouth grouper complex. This final rule establishes catch levels, sector management measures, and accountability measures (AM) for the new scamp and yellowmouth grouper complex and establishes catch levels for the revised other SASWG complex. In addition, Amendment 55 establishes a rebuilding plan, sector allocations, and status determination criteria (SDC) for the scamp and yellowmouth grouper complex. The purpose of this final rule and Amendment 55 is to rebuild the scamp and yellowmouth grouper stock and achieve optimum yield (OY) while minimizing to the extent practicable adverse social and economic effects.

DATES: This final rule is effective July 6, 2026.

ADDRESSES: Electronic copies of Amendment 55, which includes a fishery impact statement and a regulatory impact review, may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/amendment-55-establish-new-scamp-and-yellowmouth-grouper-complex-rebuilding-plan-catch>.

The unique identification number for the environmental review for Amendment 55 is: EAXX–006–48–1SE–1730464344.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: NMFS and the Council manage the South Atlantic snapper-grouper fishery, which includes scamp, yellowmouth grouper, and the species in the other SASWG complex, under the FMP. The FMP was prepared by the Council, approved by the Secretary of Commerce, and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

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

opportunities and protecting marine ecosystems. To further this goal, the Magnuson-Stevens Act requires fishery managers to minimize bycatch and bycatch mortality to the extent practicable.

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

On March 17, 2025, NMFS published a notice of availability for Amendment 55 and requested public comment (90 FR 12287). On August 25, 2025, NMFS published a proposed rule for Amendment 55 and requested public comment (90 FR 41365). NMFS approved Amendment 55 on June 9, 2025, pursuant to section 304(a)(3) of the Magnuson-Stevens Act. The proposed rule and Amendment 55 outline the rationale for the actions contained in this final rule. The management measures described in Amendment 55 and implemented by this final rule are summarized below.

Unless otherwise noted, all weights in this final rule are described in round weight.

The South Atlantic stock of scamp was assessed for the first time through the Southeast Data, Assessment, and Review (SEDAR) 68 Research Track (RT) assessment in September 2021 (SEDAR 68 RT (2021)). In 2020, the first stage of the SEDAR 68 data process was a Stock Identification (ID) Workshop (SEDAR 68 Stock ID Workshop (2020)), which concluded that scamp are very difficult to distinguish from yellowmouth grouper and, thus, much of the assessment data likely represents both species in unknown proportions. The SEDAR 68 Stock ID Workshop (2020) recommended that the stock assessment be conducted on both scamp and yellowmouth grouper jointly with the two species treated as a single complex because of the low level of yellowmouth grouper landings, the overlap of vessels that land each species, and the likelihood of misidentification between the species. This recommendation resulted in the SEDAR 68 Operational Assessment (OA), which was completed in 2022 (SEDAR 68 OA (2022)). The stock status for scamp and yellowmouth grouper was unknown prior to completion of the SEDAR 68 OA (2022). The Council's Scientific and Statistical Committee (SSC) reviewed the SEDAR 68 OA (2022) at their April 2023 meeting. The assessment included data through 2021 and incorporated the revised landings estimates for

recreational catch using the Marine Recreational Information Program (MRIP) Fishing Effort Survey (FES). The results of the SEDAR 68 OA assessment indicated that the scamp and yellowmouth grouper stock is overfished but not undergoing overfishing. The SSC determined that the assessment was conducted using the best scientific information available and was adequate for determining stock status and supporting total fishing level recommendations. NMFS notified the Council of the overfished status of the scamp and yellowmouth grouper stock via letter dated September 21, 2023.

Following a notification from NMFS to the Council that a stock is overfished, the Magnuson-Stevens Act requires the Council to develop an action to rebuild the affected stock. Therefore, the Council developed Amendment 55 to respond to the results of SEDAR 68 OA (2022).

Amendment 25 to the FMP (Comprehensive Annual Catch Limit Amendment) (77 FR 15916, March 16, 2012) established single species and species complex annual catch limits (ACL) and AMs. Single species ACLs were established for assessed and targeted species, species where ACL = 0, and species that could not be placed in a complex based on the criteria below. Scamp was one of the species that met the criteria for a single species ACL. Complex ACLs for groups of species were established for other snapper-grouper species using associations based on one or more of the following: life history, catch statistics from commercial logbook and observer data, recreational headboat logbook and private/charter survey data, and fishery-independent data. Based on the criteria for complex ACLs in Amendment 25, yellowmouth grouper was included in the other SASWG complex along with red hind, rock hind, yellowfin grouper, coney, and graysby. Regulatory Amendment 13 to the FMP updated the commercial and recreational ACLs for select unassessed species including scamp and yellowmouth grouper (78 FR 36113, June 17, 2013). Amendment 29 to the FMP established the current commercial and recreational ACLs for scamp and yellowmouth grouper (80 FR 30947, June 1, 2015).

Management Measures Contained in This Final Rule

This final rule removes yellowmouth grouper from the other SASWG complex and establishes a new scamp and yellowmouth grouper complex. For the new complex, this final rule establishes the total ACL, sector ACLs, recreational bag limits, commercial trip limits, and

AMs. This final rule also revises the total ACL and sector ACLs for the species remaining within the other SASWG complex. Additionally, Amendment 55 establishes SDC and a rebuilding plan for the new scamp and yellowmouth grouper complex.

Reorganization of Complexes

Yellowmouth grouper has been part of the other SASWG complex containing rock hind, red hind, coney, graysby, yellowmouth grouper, and yellowfin grouper. This final rule removes yellowmouth grouper from the other SASWG complex and establishes a new complex containing both scamp and yellowmouth grouper. Rock hind, red hind, coney, graysby, and yellowfin grouper will remain in the reorganized other SASWG complex.

Scamp and Yellowmouth Grouper Complex Total ACL

As described in Amendment 55, the acceptable biological catch (ABC) for the new scamp and yellowmouth grouper complex equals the total ACL for the complex, and an ABC is established of 67,450 pounds (lb) (30,595 kilograms (kg)) for the 2025 fishing year; 72,200 lb (32,749 kg) for the 2026 fishing year; 75,050 lb (34,042 kg) for the 2027 fishing year; 77,900 lb (35,335 kg) for the 2028 fishing year; and 79,800 lb (36,197 kg) for the 2029 and subsequent fishing years. The ABC values reflect the SSC recommendations, which are based on the latest commercial landings data and recreational data from the MRIP-FES and are considered to be consistent with the best scientific information available. The Magnuson-Stevens Act National Standard 1 guidelines specify that Councils can choose to account for management uncertainty by setting the ACL less than the ABC but also state that ACLs may be set very close to or equal to the ABC. Amendment 55 sets the total ACL equal to the ABC for the new scamp and yellowmouth grouper complex. This level of removals is below the maximum sustainable yield (MSY) and the overfishing limit and is expected to ensure that overfishing will be prevented, the long-term average biomass will be near or above the biomass that would produce the MSY (B_{MSY}), and the overfished stock complex of scamp and yellowmouth grouper will be rebuilt within the rebuilding timeframe.

Scamp and Yellowmouth Grouper Complex Commercial and Recreational ACLs

Amendment 55 revises the commercial and recreational sector allocations for scamp and yellowmouth

grouper. The sector ACLs for scamp and yellowmouth grouper established through Amendment 25 to the FMP have been based on commercial and recreational allocations of 69.36 percent and 30.64 percent, respectively, for scamp and 1.35 percent and 98.65 percent, respectively, for yellowmouth grouper (77 FR 15916, March 16, 2012). Those allocations were set using a formula of $(0.5 * \text{catch history}) + (0.5 * \text{current trend})$ where catch history is equal to the average landings of 1986 through 2008 and current trend is equal to the average landings of 2006 through 2008.

Amendment 55 set the commercial and recreational sector allocations for the scamp and yellowmouth grouper complex based on a new allocation formula known as the split reduction method that uses average landings over a more recent, 5-year time series and accounts for revised recreational landings estimates from the MRIP-FES. Beginning in 2025, the split reduction method allocates the total ACL to each sector based upon the distribution of total average landings during more recent time periods that better reflect the way the fishery is currently operating. The allocation is based on the 5-year total average of commercial and recreational (FES) landings from 2018 through 2022 and split the reduction needed from the current total ACL equitably between the sectors to achieve the reduction in harvest needed to constrain the harvest to the total ACL. In each subsequent year throughout the rebuilding plan, as the total ACL increases the ACL poundage increase is allocated equally between both sectors and added to each sector's respective ACL from the previous year. The commercial and recreational allocation percentages and sector ACLs will change each year from 2025 through 2029 and then remain set at the 2029 level. For the recreational sector, allocation percentages will decline from 64.90 to 62.59 percent through 2029, and for the recreational sector the allocation percentages will increase from 35.10 to 37.41 percent through 2029.

The current commercial and recreational ACLs for scamp are 219,375 lb (99,507 kg) and 116,369 lb (52,784 kg), respectively. Yellowmouth grouper is currently part of the other SASWG complex, and the commercial and recreational ACLs for the other SASWG complex are 55,542 lb (25,193 kg), and 48,648 lb (22,066 kg), respectively.

Amendment 55 uses the split reduction allocation method to more fairly deal with the initial reduction in ACLs for scamp and yellowmouth

grouper and proportionately reduces each sector's allowable catch based on recent landings so that the effect on each sector is more equitable. Similarly, the new allocations will balance the needs of both sectors and also increase each sector's allowable catch proportionately on a poundage basis throughout the rebuilding plan. The new sector allocation method distributes both fishing restrictions and recovery benefits for the scamp and yellowmouth grouper complex fairly and equitably between both sectors. In addition, this allocation method is also reasonably calculated to promote conservation, since it establishes sector catch limits within the boundaries of a total ACL that is based upon an ABC recommendation that would end overfishing and rebuild the stock complex, incorporating the best scientific information available.

When applying the new commercial sector allocation percentage, the revised commercial ACLs for the scamp and yellowmouth grouper complex are 43,772 lb (19,855 kg) for the 2025 fishing year; 46,147 lb (20,932 kg) for the 2026 fishing year; 47,572 lb (21,578 kg) for the 2027 fishing year; 48,997 lb (22,225 kg) for the 2028 fishing year; and 49,947 lb (22,656 kg) for the 2029 and subsequent fishing years.

When applying the recreational sector allocation percentage, the revised recreational ACLs for the scamp and yellowmouth grouper complex are 23,678 lb (10,740 kg) for the 2025 fishing year; 26,053 lb (11,817 kg) for the 2026 fishing year; 27,478 lb (12,464 kg) for the 2027 fishing year; 28,903 lb (13,110 kg) for the 2028 fishing year; and 29,853 lb (13,541 kg) for the 2029 and subsequent fishing years.

Recreational Bag Limits for Scamp and Yellowmouth Grouper

Currently, the recreational bag limit is three scamp or three yellowmouth grouper per person per day within the overall three-fish grouper and tilefish combined aggregate bag limit. This final rule establishes an aggregate complex bag limit of one fish (either scamp or yellowmouth grouper) per person per day within the overall three-fish grouper and tilefish combined aggregate bag limit.

Given the reduction in harvest needed to rebuild the scamp and yellowmouth grouper stock, an aggregate bag limit for these species will continue to allow recreational retention while also helping to constrain recreational harvest to the reduced recreational ACL.

Scamp and Yellowmouth Grouper Complex Commercial Trip Limits

Currently, there is no commercial trip limit for scamp and yellowmouth grouper, either as individual species or as an aggregate of species. This final rule establishes an aggregate commercial trip limit for scamp and yellowmouth grouper of 300 lb (136 kg), gutted weight.

The new commercial trip limit is intended to keep the scamp and yellowmouth grouper portion of the snapper-grouper fishery open and available to fisherman and consumers for as long as possible while reducing harvest to ensure the rebuilding plan is achieved.

Scamp and Yellowmouth Grouper Complex Commercial AMs

There are not currently any commercial AMs for the new scamp and yellowmouth grouper complex. For the new complex, this final rule establishes an in-season commercial closure for the remainder of the fishing year if the combined commercial landings for scamp and yellowmouth grouper reach or are projected to reach the commercial ACL of the complex. This final rule also establishes post-season AMs if the combined commercial landings for scamp and yellowmouth grouper exceed the complex commercial ACL; regardless of stock status or whether the total ACL was exceeded, the commercial ACL of the complex for the following fishing year will be reduced by the amount of the commercial ACL overage in the prior fishing year.

To achieve rebuilding, it is important that the commercial AMs be as effective as possible in preventing commercial landings from exceeding the commercial ACL. An in-season closure and a post-season overage adjustment (payback) of the commercial ACL will ensure that commercial landings remain at or below the proposed commercial ACL.

Scamp and Yellowmouth Grouper Complex Recreational AMs

This final rule establishes a post-season recreational AM. If the combined recreational landings for scamp and yellowmouth grouper exceed the recreational ACL of the complex, then the length of the following year's recreational fishing season for the complex will be reduced by the amount necessary to prevent the recreational ACL from being exceeded in the following year, regardless of stock status.

Recreational landings estimates are not timely enough for in-season monitoring of the complex. The new

post-season AM is consistent with AMs established for similar snapper-grouper species, in which a season reduction is reliant on a single trigger: that recreational landings exceed the recreational ACL. When triggered, this post-season AM will be effective in constraining recreational landings from exceeding the recreational ACL during the following year.

Other SASWG Complex Total ACL and Sector ACLs

The current ABC for the other SASWG complex that contains rock hind, red hind, coney, graysby, yellowmouth grouper, and yellowfin grouper is 104,190 lb (47,260 kg), and was implemented by Amendment 29 to the FMP (80 FR 30947, June 1, 2015). The total ACL was set equal to the ABC and included recreational estimates from MRIP's Coastal Household Telephone Survey (CHTS). The current commercial ACL is 55,542 lb (25,193 kg) and the recreational ACL is 48,648 lb (22,066 kg).

Amendment 55 does not change the ABC for the reorganized other SASWG complex and keeps it as 104,190 lb (47,260 kg). The revised total ACL for the reorganized other SASWG complex is 100,151 lb (45,428 kg) and retains recreational estimates from MRIP-CHTS in the estimation of the total ACL. The commercial ACL is 53,380 lb (24,213 kg), and the recreational ACL is 46,771 lb (21,215 kg). For the complex, while the ABC does not change with the removal of yellowmouth grouper from the complex, the total ACL is reduced by the amount that had been attributed to yellowmouth grouper. As a result of the statutory timeline required under the Magnuson-Stevens Act, it was decided not to update the ABC after the removal of yellowmouth grouper given the unassessed species remaining in the complex and extended timing that would have been needed to provide that update. The sector allocations for the other SASWG complex do not change in Amendment 55 and remain at 1.35 percent commercial and 98.65 percent recreational.

The species within the other SASWG complex are considered data limited, and none of the species in the complex have stock assessments. Following the SSC's Unassessed Stocks Workgroup meeting in 2020, an ABC was recommended; however, this catch level was determined by the SSC using the third highest landings and only reliable catch methodologies, which are both no longer considered best scientific information available. During the SSC's April 2023 meeting, the SSC recommended that the other SASWG

complex ACL be modified while still retaining the MRIP-CHTS recreational estimates included in the estimation of the total ACL. The SSC also recommended that the other SASWG complex ABC and ACL be revised in the upcoming Unassessed Species Amendment using MRIP-FES recreational estimates. As the Unassessed Species Amendment is not expected to be completed until 2026 or later, an action to update the other SASWG complex ABC and ACL using MRIP-FES recreational data was not included in Amendment 55. The MRIP-FES based catch estimates for the other SASWG complex species have not yet been through a sufficient scientific review process, which the SSC determined was necessary prior to developing new ABCs and ACLs based on the FES data. Amendment 55 does not modify the current commercial or recreational AMs for the other SASWG complex (50 CFR 622.193(j)).

Management Measures in Amendment 55 Not Codified by This Final Rule

In addition to the measures within this final rule, Amendment 55 establishes biological reference points or SDC and a rebuilding plan for the scamp and yellowmouth grouper stock.

Scamp and Yellowmouth Grouper Complex MSY

MSY is defined as the largest long-term average catch that can be taken from a stock under current conditions. Amendment 55 establishes the MSY proxy for the scamp and yellowmouth grouper complex as the yield when fishing at the fishing mortality rate (F) that produces a spawning potential ratio (SPR) of 40 percent. Currently, scamp (individually) and yellowmouth grouper (as part of the other SASWG complex) have MSY proxies of F30%SPR; however, SEDAR 68 OA (2022) recommended an MSY proxy for the scamp and yellowmouth grouper stock complex of F40%SPR. As described in Amendment 55, the MSY proxy recommendation is to use F30%SPR for very resilient stocks and use F40%SPR for species with life-history characteristics consistent with scamp and yellowmouth grouper.

Based on information from the NMFS Southeast Fisheries Science Center (SEFSC) that the best scientific information available recommends that F40%SPR is more likely than F30%SPR to achieve a level of biomass that will produce the MSY for the scamp and yellowmouth grouper stock complex, and Amendment 55 establishes the MSY proxy of F40%SPR for the scamp and yellowmouth grouper complex.

Scamp and Yellowmouth Grouper Complex Maximum Fishing Mortality Threshold (MFMT)

MFMT is defined as the level of fishing mortality above which overfishing is occurring. Amendment 55 establishes an MFMT equal to F40%SPR for the scamp and yellowmouth grouper complex, with an estimated value of 0.28. Currently, scamp (individually) and yellowmouth grouper (as part of the other SASWG complex) have an MFMT equal to the MSY proxy of F30%SPR; however, SEDAR 68 OA (2022) recommended an MFMT equal to the MSY proxy of the yield at F40%SPR for the scamp and yellowmouth grouper stock complex. The new MFMT is based on the best scientific information available and is consistent with the new MSY.

Scamp and Yellowmouth Grouper Complex Minimum Stock Size Threshold (MSST)

MSST is defined as the biomass level below which a stock is declared overfished. Amendment 55 establishes MSST equal to 75 percent of the spawning stock biomass (SSB) at F40%SPR, with a currently estimated value of 801.60 metric tons. Currently, scamp (individually) and yellowmouth grouper (as part of the other SASWG complex) have an MSST equal to the SSB at MSY (SSB_{MSY}) times either one minus the natural mortality (M) or 0.5, whichever is greater. However, SEDAR 68 OA (2022) defined the MSST as 75 percent of SSB at F40%SPR for the scamp and yellowmouth grouper stock complex. This new MSST for the scamp and yellowmouth grouper stock complex is based on the best scientific information available.

Scamp and Yellowmouth Grouper Complex OY

OY is the long-term average yield desired from a stock or fishery as reduced from MSY for the fishery based on relevant economic, social, and ecological factors. Amendment 55 establishes an OY of 95 percent MSY for the scamp and yellowmouth grouper complex, which produces an OY of 353,670 lb (160,422 kg) and an MSY of 372,280 lb (168,863 kg). Uncertainty in landings estimates for scamp and yellowmouth grouper exists, but scientific uncertainty had been appropriately accounted for in the SSC's ABC recommendation, and the 5 percent buffer between OY and the MSY will account for the uncertainty in social, economic, and biological factors.

Rebuilding Plan for the South Atlantic Scamp and Yellowmouth Grouper Stock Complex

Amendment 55 establishes a 10-year rebuilding plan for the complex, which is the longest allowable rebuilding scenario (Tmax) allowed by the Magnuson-Stevens Act except in certain cases (16 U.S.C. 1854(e)(4)(A)) and is consistent with the Magnuson-Stevens Act National Standard 1 guidelines for stocks that are projected to rebuild in 10 years or less (50 CFR 600.310(j)(3)(i)(B)(1)). The Council's preferred choice of the 10-year timeframe for rebuilding beginning in 2025 is intended to reduce the severity of the proposed rebuilding measures and thus minimize short-term negative social and economic impacts on fishing communities consistent with National Standard 8.

Comments and Responses

NMFS received seven comments on Amendment 55 and the proposed rule during their respective comment periods. Comments were received from individuals and the U.S. Seafood Policy Council. Most of the comments were in support of all, or parts of, Amendment 55 and the proposed rule, and NMFS agrees with those comments in support. Some comments received were not related to Amendment 55 or the proposed rule and are, therefore, not responded to in this final rule. Comments that suggested alternatives to the preferred alternatives in Amendment 55 and the proposed rule or questioned the rationale and analysis in the proposed rule are summarized and responded to below. No changes were made to this final rule based on public comment.

Comment 1: The proposed rule does not clearly articulate the scientific basis for separating yellowmouth grouper from the other SASWG complex beyond stock assessment data. Providing explicit population modeling results and genetic or ecological distinctions would strengthen stakeholder understanding of the reorganization of the complexes. SDCs for the complex are referenced without detailing threshold biomass or exploitation rate levels, and defining these SDCs quantitatively would enhance enforcement consistency and clarity to the public.

Response: The latest SEDAR stock assessment, the SEDAR 68 OA (2022), assessed scamp and yellowmouth grouper in the South Atlantic as a single stock due to the low level of yellowmouth grouper landings, the overlap of vessels that land each

species, and the likelihood of misidentification between scamp and yellowmouth grouper. The assessment includes information on explicit population modeling results and genetic or ecological distinctions. SEDAR 68 OA (2022) provides the basis for the reorganization of the complex and the SSC found the assessment was conducted using the best scientific information available. Also, including yellowmouth grouper with scamp in a new complex will allow for future changes to catch levels and management measures necessary to efficiently address the overfished status of these two species based on the best scientific information available. Threshold biomass or exploitation rate levels for the scamp and yellowmouth grouper complex were included in SEDAR 68 OA (2022). SDC benchmarks are quantitatively described in both Amendment 55 and the proposed rule.

Comment 2: The sector ACLs for the new scamp and yellowmouth grouper complex are described broadly in the proposed rule, but the methodology for determining allocations among commercial, recreational, and subsistence fisheries is not transparent. Providing details about the allocation formula and allocation assumptions would increase credibility and reduce disputes over fairness.

Response: NMFS disagrees that the ACL sector allocation information was not transparent in the proposed rule. The methodology for determining sector allocations is described in both Amendment 55 and the proposed rule. The commercial and recreational sector allocations for the scamp and yellowmouth grouper complex are based on the new split reduction method that uses average landings over a more recent, 5-year time series and accounts for revised recreational landings estimates from the MRIP-FES. This method proportionately distributes the reductions in total harvest needed for the complex between the commercial and recreational sectors based upon the distribution of landings under more recent time periods that better reflect the way the fishery is currently operating. As described in Amendment 55 and stated in the proposed rule, the sector allocations and sector ACLs are proportional to each sector's share of total average landings from 2018 through 2022 and split the reduction needed from the current total ACL equitably among the sectors to achieve the reduction in harvest needed to constrain the harvest to the total ACL. In subsequent years, as the total ACL increases the total ACL poundage increase will be split equally between

both sectors and added to each sector's ACL from the previous year. This approach will in effect gradually shift the allocation between the sectors over time. The 2029 sector ACL values will remain in effect unless changed by future action. This sector allocation method more fairly deals with the initial reduction in ACLs for scamp and yellowmouth grouper that will result from the updated catch levels and reduces the proportion of each sector's allowable catch based on recent landings so that the effect on each sector is more equitable. Similarly, the new allocations will balance the needs of both sectors and increase each sector's allowable catch proportionately on a poundage basis throughout the rebuilding plan. The new sector allocation method distributes both fishing restrictions and recovery benefits for scamp and yellowmouth grouper fairly and equitably among both sectors in the new complex.

The FMP does not currently have any specific management measures for subsistence fishing, and there is no portion of the total ACL for either the new complex or the previously implemented other SASWG complex allocated to subsistence fishing. Amendment 55 did not consider any changes to which entities receive allocation, and although the commenter refers to a subsistence fishery, neither this comment nor any other suggested the creation of a new category for allocation of the ACL.

Comment 3: The success of the rebuilding plan for the scamp and yellowmouth grouper complex hinges on accurate biomass estimates and fishing mortality rates, but the proposed rule does not specify how these parameters will be updated during the rebuilding plan's implementation.

Response: Information on scamp and yellowmouth grouper complex is collected through both fishery dependent and independent methods such as logbooks, trip tickets, dock-side intercepts, mail-in surveys, headboat surveys, discard logbooks, and dealer reports. This information was used to estimate biomass and fishing mortality rates for the scamp and yellowmouth stocks through the SEDAR 68 OA 2022 assessment process, and it will be used to determine whether the rebuilding goals of the stock are being achieved through future assessments and updates.

Comment 4: The scamp and yellowmouth grouper complex AMs appear to focus on post-season overage adjustments, but proactive in-season monitoring and in-season closures are not discussed. Incorporating dynamic in-season AM triggers would help

prevent overfishing before the applicable ACLs are exceeded.

Response: Amendment 55 and the proposed rule discuss in-season monitoring and in-season closures. Specifically, as described in Amendment 55 and the proposed rule, an in-season commercial closure will occur if commercial landings for the scamp and yellowmouth complex reach or are projected to reach the commercial ACL of the complex.

Additionally, as noted above, this final rule also establishes a post-season recreational AM. If the combined recreational landings for scamp and yellowmouth grouper exceed the recreational ACL of the complex, then the length of the following year's recreational fishing season for the complex will be reduced by the amount necessary to prevent the recreational ACL from being exceeded. Recreational landings estimates are not timely enough for effective implementation of an in-season AM for the recreational sector. When triggered, this recreational post-season AM will be effective in constraining recreational landings from exceeding the recreational ACL during the following year. The combination of the commercial in-season and post-season AMs and the recreational post-season AM are expected to be effective in helping manage landings with respect to the sector ACLs and the overall stock health.

Comment 5: The economic impact analysis is limited in its treatment of potential short-term losses to specific fishing communities as the rebuilding plan takes effect. Adding a detailed socio-economic model by sector and geography would help target mitigation strategies.

Response: The combined social and economic analyses presented in Amendment 55 address sector-based effects and impacts and provide information on the geographical distribution of landings and affected fishing communities (<https://www.fisheries.noaa.gov/action/amendment-55-establish-new-scamp-and-yellowmouth-grouper-complex-rebuilding-plan-catch>). The information presented on specific fishing communities is limited because of the need to preserve data confidentiality.

Comment 6: The proposed rule for Amendment 55 does not indicate whether bycatch and habitat interactions will be tracked as part of the management of the new scamp and yellowmouth grouper complex. Integrating ecosystem-based monitoring would improve sustainability beyond single-species rebuilding targets.

Response: Data needed to evaluate bycatch and habitat interactions will continue to be collected for the new scamp and yellowmouth complex (see tracking of landings in response to *Comment 3*). Bycatch and habitat interactions are more fully described in Chapter 3, Appendix G (Bycatch Practicability Analysis), and Appendix E (Essential Fish Habitat and Ecosystem Based Fishery Management of Amendment 55). NMFS agrees that information on these and other ecosystem interactions can help to inform the development of an effective management strategy, such as the one proposed in Amendment 55 that is designed to rebuild scamp and yellowmouth grouper as a complex based on the best scientific information available (SEDAR 68 OA (2022)).

Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with Amendment 55, the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

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

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

A final regulatory flexibility analysis (FRFA) was prepared, as required by section 604 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 604). The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, NMFS's responses to those comments, and a summary of the analyses completed to support the action. A copy of this analysis is available from NMFS (see **ADDRESSES**). A summary of the FRFA follows.

The Magnuson-Stevens Act provides the statutory basis for this final rule. A description of this final rule, why it is being implemented, and the purpose of this final rule are contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this final rule.

Public comments relating to social and economic implications and potential impacts on small businesses are addressed in the responses to *Comment 5* in the **COMMENTS AND RESPONSES** section of this final rule. No changes to this final rule were made in response to this public comment. No comments were received from the Office of Advocacy for the Small Business Administration.

This final rule will: (1) reorganize the other SASWG complex by removing yellowmouth grouper from it and establish a new South Atlantic scamp and yellowmouth grouper complex, (2) establish the total ACL for the scamp and yellowmouth grouper complex, (3) establish sector ACLs for the scamp and yellowmouth grouper complex consistent with the sector allocations in Amendment 55, (4) establish an aggregate scamp and yellowmouth grouper complex recreational bag limit, (5) establish an aggregate commercial trip limit for scamp and yellowmouth grouper, (6) establish commercial AMs for the scamp and yellowmouth grouper complex, (7) establish recreational AMs for the scamp and yellowmouth grouper complex, and (8) revise the total ACL and sector ACLs for the other SASWG complex by removing the portions of the total and sector ACLs that are currently attributed to yellowmouth grouper.

Actions (1) through (3) and (8), above, apply to all commercial fishing businesses, charter vessel and headboat (for-hire) fishing businesses, and recreational fishers (anglers) that fish for scamp or yellowmouth grouper in Federal waters of the South Atlantic. Actions (4) and (7) apply only to for-hire fishing businesses and recreational anglers. Finally, actions (5) and (6) apply only to commercial fishing businesses. None of the changes implemented by this final rule directly apply to federally-permitted dealers. Any change in the supply of scamp or yellowmouth grouper available for purchase by dealers and associated economic effects as a result of this final rule would be indirect effects and would, therefore, fall outside the scope of the RFA.

Although many components of this final rule apply to for-hire vessels, they are not expected to have any direct effects on these entities. For-hire vessels sell fishing services to recreational anglers. The changes to the scamp and

yellowmouth grouper catch limits and management measures are not expected to directly alter the services sold by these vessels. Any change in demand for these fishing services, and associated economic effects, as a result of this final rule would be a consequence of a change in anglers' behavior and would, therefore, be indirect. Based on the historically-minimal level of recreational target effort for scamp and yellowmouth grouper in the South Atlantic and the number of substitute species available, NMFS does not expect any change in for-hire trip demand to result from this final rule; however, should it occur, the associated indirect effects would fall outside the scope of the RFA. For-hire captains and crew are currently permitted to retain scamp and yellowmouth grouper under the recreational bag limits; however, they are not permitted to sell these fish. As such, for-hire captains and crew are affected only insofar as they fish themselves as recreational anglers.

For purposes of the RFA, recreational anglers are not considered to be entities, so they are also outside the scope of this FRFA. Small entities include small businesses, small organizations, and small governmental jurisdictions (see 5 U.S.C. 601(3) through (6)). Recreational anglers are not businesses, organizations, or governmental jurisdictions. Therefore, the remainder of this analysis focuses on the impacts on commercial vessels.

As of August 26, 2021, there were 579 valid or renewable South Atlantic snapper-grouper unlimited permits and 112 valid or renewable 225-lb (102.1 kg) trip-limited permits. On average from 2018 through 2022, there were 137 federally-permitted commercial vessels with reported landings of scamp or yellowmouth grouper in the South Atlantic. Their average annual vessel-level gross revenue from all species for

2018 through 2022 was \$82,458 (2022 dollars), and scamp and yellowmouth grouper accounted for approximately 4.1 percent of this revenue. For commercial vessels that harvest scamp or yellowmouth grouper in the South Atlantic, NMFS estimates that economic profits are –\$742 (2022 dollars) or –0.9 percent of annual gross revenue, on average. The negative value for economic profits presented here does not necessarily mean the average business is operating at a loss in an accounting sense; rather, the owner is not being fully compensated for their time or asset depreciation when compared to the next best use of their labor and capital resources. The maximum annual revenue from all species reported by a single vessel that harvested scamp and yellowmouth grouper from 2018 through 2022 was \$441,332 (2022 dollars).

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. All of the commercial fishing businesses directly regulated by this final rule are believed to be small entities based on the NMFS size standard. No other small entities that will be directly affected by this final rule have been identified.

This final rule will reorganize the other SASWG complex by removing yellowmouth grouper from it and establishing a new South Atlantic scamp and yellowmouth grouper complex. These changes will not

directly constrain harvest or fishing effort and therefore have no direct effects on small entities.

This final rule will also establish a total ACL for the new scamp and yellowmouth grouper complex based on the most recent recommendations from the SSC in response to the SEDAR 68 OA in 2022 for scamp and yellowmouth grouper. These catch limits reflect a shift in recreational reporting units from the MRIP-CHTS to the MRIP-FES. The total ACL will be set equal to the ABC in each year of the rebuilding plan according to the values provided in table 1. The 2029 values will remain in effect unless changed by a future action. Because the scamp and yellowmouth grouper complex has not yet been established and there are no sector allocations for the complex, a hypothetical status quo allocation of 64.90 percent of the total ACL, based on the average landings distribution by sector from 2018 through 2022, is used in Amendment 55 to calculate a *de facto* commercial ACL. This allows for a rough assessment of how commercial landings for scamp and yellowmouth grouper may change under the new scamp and yellowmouth grouper complex total ACL and absent the establishment of sector allocations or ACLs. Relative to the 5-year average (2018 through 2022) historical landings of 75,540 lb (34,264 kg) and applying a hypothetical commercial sector allocation of 64.90 percent, the new scamp and yellowmouth grouper total ACL would result in an expected decrease in commercial landings during the rebuilding timeframe, as shown in table 1. As discussed below, Amendment 55 and this final rule will also establish commercial and recreational allocation percentages and sector ACLs, and, therefore, economic effects to small entities are quantified as part of that discussion.

TABLE 1—NEW SCAMP AND YELLOWMOUTH GROUPER TOTAL ACLS, WITH COMMERCIAL ACLS BASED ON A HYPOTHETICAL ALLOCATION OF 64.90 PERCENT, AS DERIVED FROM THE AVERAGE SCAMP AND YELLOWMOUTH GROUPER LANDINGS DISTRIBUTION BY SECTOR FROM 2018 THROUGH 2022

Year	Total ACL in lb (kg)	Commercial ACL in lb (kg)	Difference between new commercial ACL and 5 year average landings (2018–2022) in lb (kg)
2025	67,450 (30,595)	43,772 (19,855)	– 31,768 (– 14,410)
2026	72,200 (32,749)	46,855 (21,253)	– 28,685 (– 13,011)
2027	75,050 (34,042)	48,704 (22,092)	– 26,836 (– 12,173)
2028	77,900 (35,335)	50,554 (22,931)	– 24,986 (– 11,333)

TABLE 1—NEW SCAMP AND YELLOWMOUTH GROUPER TOTAL ACLS, WITH COMMERCIAL ACLS BASED ON A HYPOTHETICAL ALLOCATION OF 64.90 PERCENT, AS DERIVED FROM THE AVERAGE SCAMP AND YELLOWMOUTH GROUPER LANDINGS DISTRIBUTION BY SECTOR FROM 2018 THROUGH 2022—Continued

Year	Total ACL in lb (kg)	Commercial ACL in lb (kg)	Difference between new commercial ACL and 5 year average landings (2018–2022) in lb (kg)
2029+	79,800 (36,197)	51,787 (23,490)	– 23,753 (– 10,774)

Amendment 55 and this final rule will set scamp and yellowmouth grouper sector allocations and sector ACLs in 2025 proportional to each sector's share of total average landings (commercial and recreational combined) from 2018 through 2022 (table 2). In subsequent years, as the total ACL increases, the total ACL poundage increase will be split equally between both sectors and added to each sector's ACL from the previous year. This approach will in effect gradually shift the allocation percentages over time. The 2029 values will remain in effect unless changed by future action. As shown in table 2, the combined economic effects of the new ACLs in conjunction with the revisions to the commercial allocation are estimated to be negative but modestly improving from 2025 through 2029. In 2029 and subsequent years, ex-vessel revenues are estimated to be static. This analysis utilizes a round weight to gutted weight

conversion factor of 1.18 and an average ex-vessel price of \$7.44 per lb, gutted weight (2022 dollars). This analysis also assumes the full commercial ACL will be harvested each year and that commercial ACL is compared to average annual commercial landings from 2018 through 2022. The average per-vessel estimates are calculated by dividing the total estimated change in ex-vessel revenue by the average number of vessels with reported landings of scamp and yellowmouth grouper from 2018 through 2022. On average from 2025 through 2029, the per vessel loss in ex-vessel revenue is estimated to be \$1,300 per year (less than 2 percent of average annual per vessel revenue). It is noted that scamp and yellowmouth grouper make up a relatively small portion of annual gross revenue for vessels that land these species (4.1 percent), and on trips where these species are harvested, they comprise less than 11 percent of trip revenue on average (2018 to 2022).

Additionally, anecdotal information suggests these species are not typically targeted but are often caught while fishing for other snapper-grouper species. Therefore, NMFS assumes scamp and yellowmouth grouper are harvested as secondary, if not incidental, species on trips targeting other species and that this final rule will not materially affect fishing behavior, effort, or operating costs. As a result, the estimated reductions in annual ex-vessel revenue shown in table 2 are assumed to be straight losses in per vessel annual economic profits ranging from \$1,178 to \$1,462 (2022 dollars). These decreases will exacerbate the already negative average economic profits of affected small entities. Individual fishing businesses, however, may experience varying levels of economic effects, depending on their overall fishing practices, operating characteristics, and profit maximization strategies.

TABLE 2—NEW COMMERCIAL ALLOCATIONS AND COMMERCIAL ACLS WITH CHANGES IN EXPECTED LANDINGS AND EX-VESSEL REVENUE RELATIVE TO THE STATUS QUO

[Measured by average landings and ex-vessel revenue from 2018–2022]

Year	Commercial allocation	Commercial ACL in lb (kg)	Change in landings in lb (kg) gutted weight relative to no action (status quo)	Change in ex-vessel revenue relative to no action (status quo; 2022 dollars)	Average per vessel change in ex-vessel revenue (2022 dollars)
2025	0.6490	43,772 (19,855)	– 26,922 (– 12,212)	– \$200,300	– \$1,462
2026	0.6392	46,147 (20,932)	– 24,909 (– 11,299)	– 185,325	– 1,353
2027	0.6339	47,572 (21,578)	– 23,702 (– 10,751)	– 176,341	– 1,287
2028	0.6290	48,997 (22,225)	– 22,494 (– 10,203)	– 167,356	– 1,222
2029+	0.6259	49,947 (22,656)	– 21,689 (– 9,838)	– 161,366	– 1,178

In addition to the changes mentioned above, this final rule will establish an aggregate commercial trip limit of 300 lb (136 kg), gutted weight, for scamp and yellowmouth grouper. Under status quo management, where yellowmouth grouper is included in the other SASWG

complex and scamp is managed individually, implementation of this commercial trip limit would be expected to reduce commercial scamp and yellowmouth grouper landings by 7.96 percent or 5,096 lb (2,312 kg), gutted weight, per year. This reduction

in landings would represent an estimated annual loss of \$37,912 (2022 dollars) in ex-vessel revenue and economic profits to the commercial sector. However, the commercial trip limit will be established in conjunction with the new scamp and yellowmouth

grouper complex commercial ACLs (table 2), and NMFS expects the commercial sector to fully harvest its ACL during each year of the rebuilding timeframe, even with the proposed 300 lb (136 kg), gutted weight, commercial trip limit in place. Therefore, these economic effects are subsumed under those described for the new complex allocations and commercial ACLs (table 2). In general, reducing the commercial trip limit, even if aggregate landings and ex-vessel revenue remain the same, may reduce the economic efficiency of individual trips, which may have negative consequences on economic profits. These effects cannot be quantified with existing data.

This final rule will also establish commercial AMs for the scamp and yellowmouth grouper complex, such that if commercial landings reach or are projected to reach the commercial ACL, commercial harvest of scamp and yellowmouth grouper will be closed for the remainder of the fishing year. In addition, under the commercial AMs implemented by this final rule, if commercial landings of the complex exceed the commercial ACL of the complex, regardless of stock status or whether the total ACL was exceeded, the commercial ACL for the following fishing year will be reduced by the amount of the commercial ACL overage in the prior fishing year. These AMs will help ensure that commercial landings are constrained to the scamp and yellowmouth grouper complex commercial ACLs. In the event of an overage of the commercial ACL of the complex, commercial fishing businesses would be expected to experience reduced landings, ex-vessel revenue, and economic profits in the following year due to a reduced commercial ACL;

however, this reduction would be at least partially offset by the additional landings that occurred over and above the commercial ACL in the year of the overage. These effects cannot be quantified with available data.

Finally, this final rule revises the total ACL and sector ACLs for the other SASWG complex by subtracting the 4,039 lb (1,832 kg) from the total ACL that is currently attributed to yellowmouth grouper. The new total ACL will be 100,151 lb (45,428 kg). Applying the current sector allocations for the other SASWG complex of 53.3 percent commercial and 46.7 percent recreational, the new commercial ACL for that complex is 53,380 lb (24,213 kg) and the new recreational ACL is 46,771 lb (21,215 kg). Because the reductions to the total and sector ACLs for the other SASWG complex are equivalent to only what is currently attributed to yellowmouth grouper, no additional economic effects relative to those already described above for the new scamp and yellowmouth grouper complex are expected.

Three Alternatives to the Action To Establish an ABC and ACL for the New Complex

Three alternatives were considered for the action to establish an ABC and total ACL for the new scamp and yellowmouth grouper complex. The first alternative, the no action alternative, would not establish an ABC or total ACL and, therefore, would not be expected to constrain harvest or result in direct economic effects when compared to recent 5-year average landings and the existing separate ACLs for the two grouper species. This alternative was not selected because it would be inconsistent with the SSC's latest catch limit recommendations for

scamp and yellowmouth grouper, the requirements of the Magnuson-Stevens Act for the proposed new scamp and yellowmouth grouper complex, and the transition to the MRIP-FES.

The second alternative to the action to establish an ABC and total ACL for the scamp and yellowmouth grouper complex would adopt the revised ABCs recommended by the SSC and set the total ACL equal to 95 percent of the ABC as opposed to 100 percent of the ABC in the preferred alternative. The change in weight (lb/kg) between the total ACLs under this alternative and the total ACLs in this final rule, along with the expected change in ex-vessel revenue, are provided in table 3. Relative to the total ACLs set by this final rule and assuming a hypothetical commercial allocation of 64.90 percent (based on the distribution of historical landings by sector from 2018 through 2022), this alternative would reduce the *de facto* commercial ACL by a range of 2,188 lb (992 kg) in 2025 to 2,589 lb (1,174 kg) in 2029 and subsequent years (table 3). Assuming the commercial ACL would be harvested in full under either the total ACLs implemented by this final rule or the second alternative to the total ACL action, this difference translates to an additional loss in ex-vessel revenue and economic profits of \$13,797 (2022 dollars) to \$16,326 or \$15,237 on average (2025 through 2029). The second alternative was not selected because (1) it would be less effective at achieving the objectives of the FMP and (2) the current ACL monitoring mechanisms in the South Atlantic, coupled with the existing and new management measures, are sufficient to prevent overages of the total ACL and thus do not require a buffer between the ABC and total ACL.

TABLE 3—DIFFERENCES IN TOTAL ACL, COMMERCIAL ACL, AND EX-VESSEL REVENUE UNDER THE SECOND ALTERNATIVE TO THE ACTION TO ESTABLISH AN ABC AND TOTAL ACL FOR THE SCAMP AND YELLOWMOUTH GROUPER COMPLEX

Year	Total ACL set by this final rule in lb (kg)	Total ACL in lb (kg) under Alternative 2	Difference in total ACL in lb (kg)	Difference in commercial ACL in lb (kg) using allocation of 64.90 percent	Change in potential ex-vessel revenue (2022 dollars)
2025	67,450 (30,595)	64,078 (29,065)	– 3,372 (– 1,530)	– 2,188 (– 992)	– \$13,797
2026	72,200 (32,749)	68,590 (31,112)	– 3,610 (– 1,637)	– 2,343 (– 1,063)	– 14,771
2027	75,050 (34,042)	71,298 (32,340)	– 3,752 (– 1,702)	– 2,435 (– 1,104)	– 15,352
2028	77,900 (35,335)	74,005 (33,568)	– 3,895 (– 1,767)	– 2,528 (– 1,147)	– 15,937
2029+	79,800 (36,197)	75,810 (34,387)	– 3,990 (– 1,810)	– 2,589 (– 1,174)	– 16,326

The third alternative to the action to establish an ABC and total ACL for the

scamp and yellowmouth grouper complex would adopt the revised ABCs

recommended by the SSC and set the total ACL equal to 90 percent of the

ABC as opposed to 100 percent of the ABC in the preferred alternative. The change in weight (lb/kg) between the total ACLs under this alternative and the total ACLs in this final rule, along with the expected change in ex-vessel revenue, are provided in table 4. Relative to the total ACLs set by this final rule and assuming a hypothetical commercial allocation of 64.90 percent (based on the distribution of historical landings by sector from 2018 through 2022), this third alternative would

reduce the *de facto* commercial ACL by a range of 4,377 lb (1,985 kg) in 2025 to 5,179 lb (2,349 kg) in 2029 and subsequent years (table 4). Assuming the commercial ACL would be harvested in full under either the total ACLs implemented by this final rule or the third alternative to the total ACL action, this difference translates to an additional loss in ex-vessel revenue and economic profits of \$27,599 (2022 dollars) to \$32,652 or \$30,475 on average (2025 through 2029). The third

alternative was not selected because (1) it would be less effective at achieving the objectives of the FMP and (2) that the current ACL monitoring mechanisms in the South Atlantic, coupled with the existing and new management measures, will be sufficient to prevent overages of the total ACL; therefore, a buffer between the ABC and the total ACL as provided in alternative 3 is not required.

TABLE 4—DIFFERENCES IN TOTAL ACL, COMMERCIAL ACL, AND EX-VESSEL REVENUE UNDER THE THIRD ALTERNATIVE TO THE ACTION TO ESTABLISH AN ABC AND TOTAL ACL FOR THE SCAMP AND YELLOWMOUTH GROUPER COMPLEX

Year	Total ACL set by this final rule in lb (kg)	Total ACL in lb (kg) under Alternative 3	Difference in total ACL in lb (kg)	Difference in commercial ACL in lb (kg) using allocation of 64.90 percent	Change in potential ex-vessel revenue (2022 dollars)
2025	67,450 (30,595)	60,705 (27,535)	–6,745 (–3,059)	–4,377 (–1,985)	–\$27,599
2026	72,200 (32,749)	64,980 (29,474)	–7,220 (–3,275)	–4,685 (–2,125)	–29,542
2027	75,050 (34,042)	67,545 (30,638)	–7,505 (–3,404)	–4,870 (–2,209)	–30,708
2028	77,900 (35,335)	70,110 (31,801)	–7,790 (–3,533)	–5,055 (–2,293)	–31,874
2029+	79,800 (36,197)	71,820 (32,577)	–7,980 (–3,620)	–5,179 (–2,349)	–32,652

Two Alternatives to the Action To Establish Sector Allocations and Sector ACLs for the New Complex

Two alternatives were considered for the action to establish scamp and yellowmouth grouper sector allocations and sector ACLs. The first alternative, the no action alternative, would not set sector allocations, and thus commercial and recreational landings combined would be constrained by the total ACL,

as opposed to having individual commercial and recreational ACLs. As a result, it is assumed that the proportion of the total ACL harvested by each sector would remain similar to the recent 5-year average of landings (2018 through 2022), with the commercial sector accounting for 64.90 percent of the total ACL. Relative to the allocation set by this final rule, this alternative, when applied to the new total ACLs in table 1, would result in an increase in

ex-vessel revenue and economic profits that ranges from \$0 to \$11,599 (table 5) or \$6,602 on average (2025 through 2029). The first alternative to the sector ACLs set in this final rule was not selected because this alternative would not establish sector allocations and, therefore, would not be as effective at achieving the objectives of the FMP and would not align with the purpose of this final rule and Amendment 55.

TABLE 5—COMPARISON OF COMMERCIAL ALLOCATION, COMMERCIAL ACL, AND EX-VESSEL REVENUE UNDER THE FIRST ALTERNATIVE TO THE ACTION TO ESTABLISH SECTOR ALLOCATIONS AND SECTOR ACLS FOR THE NEW COMPLEX

Year	Commercial allocation set by this final rule	Alternative 1 Allocation	Commercial ACL in lb (kg) under Alternative 1 allocation	Change in commercial ACL in lb (kg) under Alternative 1 allocation	Change in potential ex-vessel revenue (2022 dollars)
2025	0.6490	0.6490	43,772 (19,855)	0 (0)	\$0
2026	0.6392	0.6490	46,855 (21,253)	708 (321)	4,461
2027	0.6339	0.6490	48,704 (22,092)	1,132 (513)	7,138
2028	0.6290	0.6490	50,554 (22,931)	1,557 (706)	9,814
2029+	0.6259	0.6490	51,787 (23,490)	1,840 (835)	11,599

The second alternative to the allocation implemented by this final rule would set scamp and yellowmouth grouper sector allocations and sector ACLs in 2025 proportional to each sector's share of total average landings (commercial and recreational combined) from 2013 through 2022 (table 6). In subsequent years, as the total ACL increases, the total ACL poundage increase would be split equally between

both sectors and added to each sector's ACL from the previous year. This second alternative would in effect gradually shift the allocation percentages over time. The 2029 values would remain in effect unless changed by future action. Relative to the allocation set by this final rule, this second alternative, when applied to the new total ACLs in table 1, would result in an average annual decrease in ex-

vessel revenue and economic profits of approximately \$6,379 (table 6). The second alternative to the sector ACLs set in this final rule was not selected because the 10-year average used to calculate the initial allocation in 2025 was less representative of the current fishery and, therefore, would be less effective at achieving the objectives of the FMP.

TABLE 6—COMPARISON OF COMMERCIAL ALLOCATION, COMMERCIAL ACL, AND EX-VESSEL REVENUE UNDER THE SECOND ALTERNATIVE TO THE ACTION TO ESTABLISH SECTOR ALLOCATIONS AND SECTOR ACLS FOR THE NEW COMPLEX

Year	Commercial allocation set by this final rule	Alternative 2 allocation	Commercial ACL in lb (kg) under Alternative 2 allocation	Change in commercial ACL in lb (kg) under Alternative 2 allocation	Change in potential ex-vessel revenue (2022 dollars)
2025	0.6490	0.6340	42,763 (19,397)	–1,009 (–458)	–\$6,360
2026	0.6392	0.6251	45,132 (20,472)	–1,015 (–460)	–6,398
2027	0.6339	0.6204	46,561 (21,120)	–1,011 (–459)	–6,374
2028	0.6290	0.6160	47,986 (21,766)	–1,011 (–459)	–6,372
2029+	0.6259	0.6132	48,933 (22,196)	–1,014 (–460)	–6,391

Four Alternatives to the Action To Establish a Commercial Trip Limit

Four alternatives were considered for the action to establish a commercial trip limit of 300 lb (136 kg), gutted weight. The first alternative, the no action alternative, would not establish a commercial trip limit. Therefore, it would not be expected to change fishing practices or commercial harvests of scamp and yellowmouth grouper, nor would it be expected to result in direct economic effects. This alternative was not chosen because it would be less effective at constraining harvest to the commercial catch levels set by this final rule and would lead to a shorter commercial fishing season.

The second alternative to the commercial trip limit of 300 lb (136 kg), gutted weight, would set the commercial trip limit at 200 lb (91 kg), gutted weight. Under status quo management, under which yellowmouth grouper is included in the other SASWG complex and scamp is managed individually, implementation of a 200 lb (91 kg), gutted weight, commercial trip limit would be expected to reduce commercial scamp and yellowmouth grouper landings by 16.52 percent or 10,576 lb (4,797 kg) per year. Relative to the commercial trip limit implemented by this final rule, this second alternative would result in an estimated annual reduction in ex-vessel revenue and economic profit that is \$40,770 (2022 dollars) greater. However, this second alternative would be established in conjunction with the new scamp and yellowmouth grouper complex commercial ACLs (table 2), and NMFS expects the commercial sector would fully harvest its ACL each year of the rebuilding timeframe, even with a 200 lb (91 kg), gutted weight, commercial trip limit in place. Therefore, the economic effects of the lower trip limit would be subsumed under those described for the allocations and commercial ACLs set by this final rule (table 2). In general, a lower commercial trip limit may reduce economic efficiency on commercial trips, which

may lead to a reduction in economic profits. These effects cannot be quantified with existing data. This alternative was not chosen because the lower trip limit would make trips to catch scamp and yellowmouth grouper too costly and inefficient.

The third alternative to the commercial trip limit of 300 lb (136 kg), gutted weight, would set the commercial trip limit at 400 lb (181 kg), gutted weight. Under status quo management, implementation of a 400 lb (181 kg), gutted weight, commercial trip limit would be expected to reduce commercial scamp and yellowmouth grouper landings by 4.35 percent or 2,785 lb (1,263 kg) per year. Relative to the commercial trip limit implemented by this final rule, this alternative would result in an estimated annual reduction in ex-vessel revenue and economic profit that is \$17,194 (2022 dollars) smaller. However, the commercial trip limit would be established in conjunction with the new commercial ACLs (table 2), and NMFS expects the commercial sector would fully harvest its ACL each year of the rebuilding timeframe with a 400 lb (181 kg), gutted weight, commercial trip limit in place. Therefore, these economic effects would be the same as those described for the allocations and commercial ACLs set by this final rule (table 2). In general, a less restrictive commercial trip limit may increase economic efficiency on commercial trips, which may lead to an increase in economic profits. These effects cannot be quantified with existing data. This alternative was not chosen because it would be less effective at constraining harvest to the commercial catch levels set by this final rule and would lead to a shorter commercial fishing season.

The fourth alternative to the commercial trip limit of 300 lb (136 kg), gutted weight, would set the commercial trip limit at 500 lb (227 kg), gutted weight. Under status quo management, implementation of a 500 lb (227 kg), gutted weight, commercial trip limit would be expected to reduce

commercial scamp and yellowmouth grouper landings by 2.46 percent or 1,575 lb (714 kg) per year. Relative to the commercial trip limit implemented by this final rule, this alternative would result in an estimated annual reduction in ex-vessel revenue and economic profit that is \$26,196 (2022 dollars) smaller. However, the commercial trip limit would be established in conjunction with the new commercial ACLs (table 2), and NMFS expects the commercial sector would fully harvest its ACL each year of the rebuilding timeframe with a 500 lb (227 kg), gutted weight, commercial trip limit in place. Therefore, these economic effects would be the same as those described for the allocations and commercial ACLs set by this final rule (table 2). Again, a less restrictive commercial trip limit may increase economic efficiency on commercial trips, which may lead to an increase in economic profits. These effects cannot be quantified with existing data. This alternative was not chosen because it would be less effective at constraining harvest to the commercial catch levels implemented by this final rule and would lead to a shorter commercial fishing season.

Two Alternatives to the Proposed Action To Establish Commercial AMs for the New Complex

Two alternatives were considered for the action to establish commercial AMs for the scamp and yellowmouth grouper complex. The first alternative, the no action alternative, would not establish commercial AMs and, therefore, would have no direct economic effects on any small entities. This alternative was not chosen because the Magnuson-Stevens Act requires AMs.

The second alternative to the commercial AMs action would establish commercial AMs for the scamp and yellowmouth grouper complex such that if commercial landings reach or are projected to reach the commercial ACL, commercial harvest of scamp and yellowmouth grouper would be closed for the remainder of the fishing year.

Under this alternative, if commercial landings exceed the commercial ACL, the total ACL is exceeded, and the scamp and yellowmouth grouper complex is overfished, the commercial ACL for the following fishing year would be reduced by the amount of the commercial ACL overage in the prior fishing year. This second alternative would be less likely to result in an overage adjustment (payback) of commercial ACL overages than the commercial AMs implemented by this final rule because, under this second alternative, the overage adjustments wouldn't be triggered unless additional conditions are met. As a result, the second alternative would be less likely to negatively impact commercial fishing businesses through reduced commercial ACLs in years following commercial ACL overages. This alternative was not chosen because it would be less effective at constraining harvest to the commercial catch levels, thereby reducing protection to the scamp and yellowmouth grouper stock.

One Alternative to the Proposed Action To Reverse the Total and Sector ACLs for the Other SASWG Complex

Finally, one alternative was considered for the action to revise the total ACL and sector ACL for the other SASWG complex. This alternative, the no action alternative, would not adjust the other SASWG complex total and sector ACL to account for the removal of yellowmouth grouper from the complex. The total ACL for this complex would remain at 104,190 lb (47,260 kg) and the commercial ACL would remain at 55,542 lb (25,193 kg). This alternative was not selected because it would retain catch levels that are inclusive of yellowmouth grouper and would, therefore, be inconsistent with the new scamp and yellowmouth grouper complex and associated catch levels that are implemented by this final rule. Under this alternative, catch levels for the remaining species in the other SASWG complex would be too high, would not provide adequate protection to those stocks, and would be inconsistent with the Magnuson-Stevens Act and the FMP.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency will publish one or more guides to assist small entities in complying with the rule and will designate such publications as "small entity compliance guides." The agency will explain the actions a small entity is required to take to comply with a rule

or group of rules. As part of this rulemaking process, a fishery bulletin to permit holders that also serves as a small entity compliance guide was prepared. This final rule and the guide (*i.e.*, bulletin) will be available on the Southeast Regional Office website (see **ADDRESSES**). Hard copies of the guide and this final rule will be available upon request (see **ADDRESSES**).

No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this final rule. This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 622

Commercial, Fisheries, Fishing, Recreational, Scamp, Snapper-grouper, South Atlantic, Yellowmouth grouper.

Dated: May 19, 2026.

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

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

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

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

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

■ 2. In § 622.187, revise paragraphs (b)(2)(iii), (iv), and (v) and add paragraph (b)(2)(vi) to read as follows:

§ 622.187 Bag and possession limits.

* * * * *

(b) * * *
(2) * * *

(iii) No more than one fish may be a golden tilefish; (iv) No more than two fish may be blueline tilefish. However, no blueline tilefish may be retained by the captain or crew of a vessel operating as a charter vessel or headboat. The bag limit for such captain and crew is zero; and

(v) No more than one fish may be a scamp or a yellowmouth grouper, combined.

(vi) No goliath grouper or Nassau grouper may be retained.

* * * * *

■ 3. In § 622.191, add paragraph (a)(16) to read as follows:

§ 622.191 Commercial trip limits.

* * * * *

(a) * * *

(16) *Scamp and yellowmouth grouper, combined.* Until the applicable commercial ACL specified in § 622.193(i)(1)(i) is reached, 300 lb (136 kg), gutted weight. See § 622.193(i)(1)(i) for the limitations regarding scamp and yellowmouth grouper after the applicable commercial ACL is reached.

* * * * *

■ 4. In § 622.193, revise paragraphs (i) and (j) to read as follows:

§ 622.193 Annual catch limits (ACLs) and accountability measures (AMs).

* * * * *

(i) *Scamp and yellowmouth grouper, combined*—(1) *Commercial sector.* (i) If commercial landings for scamp and yellowmouth grouper, combined, as estimated by the SRD, reach or are projected to reach the applicable commercial ACL, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of scamp and yellowmouth grouper is prohibited and harvest or possession of scamp and yellowmouth grouper in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.*, in state or Federal waters. The commercial ACL for scamp and yellowmouth grouper, combined, is 43,772 lb (19,855 kg), round weight, for the 2025 fishing year; 46,147 lb (20,932 kg), round weight, for the 2026 fishing year; 47,572 lb (21,578 kg), round weight, for the 2027 fishing year; 48,997 lb (22,225 kg), round weight, for the 2028 fishing year; and 49,947 lb (22,656 kg), round weight, for the 2029 and subsequent fishing years.

(ii) If commercial landings for scamp and yellowmouth grouper, combined, as estimated by the SRD, exceed the applicable commercial ACL specified in paragraph (i)(1)(i) of this section, and regardless of the stock status of either species and whether the total ACL specified in paragraph (i)(3) of this section is exceeded, then during the following fishing year, the AA will file a notification with the Office of the Federal Register to reduce the applicable commercial ACL specified in paragraph (i)(1)(i) of this section by the amount of the commercial ACL overage.

(2) *Recreational sector.* If recreational landings for scamp and yellowmouth grouper, combined, as estimated by the

SRD, exceed the applicable recreational ACL, and regardless of the stock status of either species, then in the following fishing year, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season to ensure that the recreational ACL is not exceeded. On and after the effective date of such a notification, the bag and possession limits for scamp and yellowmouth grouper in or from the South Atlantic EEZ are zero. The recreational ACL for scamp and yellowmouth grouper, combined, is 23,678 lb (10,740 kg), round weight, for the 2025 fishing year; 26,053 lb (11,817 kg), round weight, for the 2026 fishing year; 27,478 lb (12,464 kg), round weight, for the 2027 fishing year; 28,903 lb (13,110 kg), round weight, for the 2028 fishing year; and 29,853 lb (13,541 kg), round weight, for the 2029 and subsequent fishing years.

(3) *Total ACL.* The total ACL for scamp and yellowmouth grouper, combined, is 67,450 lb (30,595 kg), round weight, for the 2025 fishing year; 72,200 lb (32,749 kg), round weight, for the 2026 fishing year; 75,050 lb (34,042 kg), round weight, for the 2027 fishing year; 77,900 lb (35,335 kg), round weight, for the 2028 fishing year; 79,800 lb (36,197 kg), round weight, for the 2029 and subsequent fishing years.

(j) *Other SASWG complex (including red hind, rock hind, yellowfin grouper, coney, and graysby)*—(1) *Commercial sector.* (i) If commercial landings for other SASWG combined, as estimated by the SRD, reach or are projected to reach the commercial ACL of 53,380 lb (24,213 kg), round weight, the AA will file a notification with the Office of the

Federal Register to close the commercial sector for this complex for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of red hind, rock hind, yellowfin grouper, coney, and graysby is prohibited, and harvest or possession of any of these species in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.*, in state or Federal waters.

(ii) If commercial landings for other SASWG combined, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 100,151 lb (45,428 kg), round weight, is exceeded, and at least one of the species in other SASWG combined is overfished based on the most recent status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* (i) If recreational landings for other SASWG combined, as estimated by the SRD, reach or are projected to reach the recreational ACL of 46,771 lb (21,215 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if any stock in other

SASWG combined is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for any species in the other SASWG combined in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for other SASWG combined, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if at least one of the species in other SASWG combined is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 100,151 lb (45,428 kg), round weight, is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for any species in the other SASWG combined in or from the South Atlantic EEZ are zero.

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[FR Doc. 2026–11221 Filed 6–3–26; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 91, No. 107

Thursday, June 4, 2026

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–4649; Project Identifier MCAI–2025–00835–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2025–04–05, which applies to all Airbus SAS Model A330–841 and –941 airplanes. AD 2025–04–05 requires a revision of the existing airplane flight manual (AFM) and removal of the previously required limitations; a revision of the existing minimum equipment list (MEL); one-time or repetitive seal integrity tests of each engine bleed air system (EBAS) high pressure valve (HPV); additional maintenance instructions and corrective actions; and repetitive replacement of affected HPV clips; as applicable. AD 2025–04–05 also limits the installation of affected HPV clips. Since the FAA issued AD 2025–04–05, an improved EBAS HPV with unaffected HPV clips was certified, and it was determined that the bleed monitoring computer (BMC) software (SW) must be updated. This proposed AD would continue to require the actions in AD 2025–04–05, except for repetitive replacement of affected HPV clips. This proposed AD would also require updating the BMC SW, additional work, and an additional revision of the existing MEL for the engine bleed overpressure valve; as applicable. This proposed AD would also prohibit the installation of certain BMC SW. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by July 20, 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–2026–4649; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*. You may find this material on the EASA website at *ad.easa.europa.eu*. It is also available at *regulations.gov* under Docket No. FAA–2026–4649.

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

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3225; email: *Dan.Rodina@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under the **ADDRESSES** section. Include “Docket No. FAA–2026–4649; Project

Identifier MCAI–2025–00835–T” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Dan Rodina, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3225; email: *Dan.Rodina@faa.gov*. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2025–04–05, Amendment 39–22963 (90 FR 10853, February 28, 2025) (AD 2025–04–05), for all Airbus SAS Model A330–841 and –941 airplanes. AD 2025–04–05 was prompted by an MCAI originated by EASA, which is the Technical Agent for the Member States of the European Union. EASA issued EASA AD 2023–0111R1, dated May 28, 2024 (EASA AD

2023–0111R1), to correct an unsafe condition.

AD 2025–04–05 requires a revision of the existing AFM and removal of the previously required limitations; a revision of the existing MEL; one-time or repetitive seal integrity tests of each EBAS HPV; additional maintenance instructions and corrective actions; and repetitive replacement of affected HPV clips; as applicable. AD2025–04–05 also limits the installation of affected HPV clips. The FAA issued AD 2025–04–05 to address a leaking HPV that may expose the pressure regulating valve (PRV), which is installed downstream from the HPV to high pressure, possibly damaging the PRV itself and preventing its closure. The unsafe condition, if not addressed, could result in high pressure and temperatures in the duct downstream from the PRV, with possible duct burst, damage to several systems, and consequent loss of control of the airplane.

Actions Since AD 2025–04–05 Was Issued

AD 2025–04–05 explains that the FAA considers the requirements “interim action” and was considering further rulemaking. The FAA has now determined that further rulemaking is necessary, and this proposed AD follows from that determination.

Since the FAA issued AD 2025–04–05, EASA superseded EASA AD 2023–0111R1 with EASA AD 2025–0104, dated May 7, 2025, which was revised by EASA AD 2025–0104R1, dated March 19, 2026 (EASA AD 2025–0104R1) (also referred to as the MCAI). The MCAI states, since EASA AD 2023–0111R1 was issued, an improved HPV has been certified (Airbus Modification 210503), which introduces several design improvements and is equipped with HPV clips that do not have to be replaced at predefined intervals; new service information has been issued, which provides instructions to replace the affected HPV with the improved HPV; other service information has been issued, which provides instructions to do additional work on airplanes that have embodied Airbus Service Bulletin A330–36–3055 at the original issue; new master minimum equipment list (MMEL) content has been certified, which introduces additional instructions for airplanes on which BMC SW 4.0 or 4.1 is installed. The MCAI also states that it has been determined that the optional modification to install BMC SW 5.0 must be mandated on airplanes on which BMC SW 4.0 or 4.1 is installed, additional work defined in a later revision of the other service information

must be accomplished, and new MMEL content must be implemented for airplanes on which BMC SW 4.0 or 4.1 is installed.

The FAA is proposing this AD to address the unsafe condition on these products. You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–4649.

Explanation of Retained Requirements

Although this proposed AD does not explicitly restate the requirements of AD 2025–04–05, this proposed AD would retain certain requirements of AD 2025–04–05. Those requirements are referenced in EASA AD 2025–0104R1, which, in turn, is referenced in paragraph (g) of this proposed AD.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2025–0104R1 specifies procedures for the following retained actions:

- For Group 1 airplanes (equipped with BMC SW 4.0) and Group 2 airplanes (equipped with BMC SW 4.1 standard), a revision of the Limitations section of the existing AFM; and for Groups 1 and 2 and Group 3 (equipped with BMC SW 5.0 or later approved SW standard and an affected HPV) airplanes, removal of the previously required limitations.
 - For Groups 1 and 2 airplanes, implementation of the MMEL update that includes new provisions and procedures for Air Conditioning Pack, Engine Bleed Air Supply System, Engine Bleed IP (Intermediate Pressure) Check Valve, and Engine Bleed HP (High Pressure) Valve; and cancellation of the dispatch restrictions.
 - For Group 2 airplanes, a seal integrity test of each HPV; for Group 1 airplanes, repetitive seal integrity tests of each HPV; and corrective actions, which include replacement of the HPV, a detailed inspection of the wing bellow on engine 1(2), and replacement of any damaged or deformed wing bellow.
- EASA AD 2025–0104R1 describes the following retained maintenance instructions, among other actions, to be accomplished following certain faults or failures, on Groups 1 and 2 airplanes:
- HPV troubleshooting procedure and additional maintenance actions after any Class 1 maintenance message associated with an HPV fault and corrective actions, which includes replacement of the HPV or wing bellow.
 - HPV seal integrity test and the additional maintenance actions after any Class 1 or Class 2 maintenance message associated with a PRV fault and corrective actions, which includes replacement of the HPV and PRV, a

detailed inspection of the wing bellow on engine 1(2), and replacement of any damaged or deformed wing bellow.

- A visual (borescope) inspection of the EBAS to detect signs of foreign object debris (FOD), including metallic debris in the butterfly valve and dents or damage of the flaps of the intermediate pressure check valve (IPCV), and dents and missing segments in the PRV, the header of the HP/IP duct, y-duct, and pylon ducts after any failure of an HPV clip and/or any of the HPV butterfly sealing rings, and corrective actions, which includes FOD removal and replacement of the IPCV or PRV.

- A seal integrity test of each HPV after any takeoff or go-around accomplished with “packs OFF” or “APU bleed ON” or “engine bleed OFF” and corrective actions, which include replacement of the HPV, a detailed inspection of the wing bellow on engine 1(2), and replacement of any damaged or deformed wing bellow.

- Additional actions to be performed for any Class 1 maintenance message associated with an HPV fault.

EASA AD 2025–0104R1 also specifies the following retained limitations for the installation of affected parts:

- For Groups 1, 2, and 3 airplanes, installation of an affected HPV clip on an affected HPV on an airplane, provided it is a new affected clip (*i.e.*, not previously installed on any HPV) and that following installation, it is replaced according to the referenced service information.
- For Groups 1, 2, and 3 airplanes, installation of an affected HPV on an airplane, provided it is a serviceable HPV and that following installation, the affected HPV clips of that HPV are replaced with new clips according to the referenced service information.

EASA AD 2025–0104R1 also specifies that, for Group 1 airplanes, modification (update to BMC SW 4.1) of the airplane terminates the repetitive seal integrity tests of each HPV.

EASA AD 2025–0104R1 specifies the following new actions:

- For Groups 1 and 2 airplanes, modification (update to BMC SW 5.0) of the airplane, which includes deletion of the operations engineering bulletin (OEB) reminder data from the flight warning computer (FWC) database.
- For Group 3 airplanes, accomplishment of additional work (deletion of the OEB reminder data from the FWC database).
- For Groups 1 and 2 airplanes, implementation of the MMEL update that includes new provisions for Engine Bleed Overpressure Valve.

EASA AD 2025–0104R1 also prohibits the installation of the following affected parts:

- BMC SW 4.0 or BMC SW 4.1 on any Group 3 or Group 4 (embodied with Airbus modifications 210503 and 210504 in production) airplane, and on any Group 1 or 2 airplane after modification (update to BMC SW 5.0) of the airplane.
- An affected HPV on any Group 4 airplane.

EASA AD 2025–0104R1 also specifies that, for Groups 1, 2, and 3 airplanes, modification of both affected HPVs terminates the HPV clip replacement for the airplane, provided no affected HPV is re-installed on that airplane; and if modification of the two affected HPV are accomplished at different times, the HPV clip replacement is only applicable to the affected HPV.

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

FAA’s Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would retain certain requirements of AD 2025–04–05.

This proposed AD would require accomplishing the actions specified in EASA AD 2025–0104R1 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Compliance With AFM and MEL Revisions

EASA AD 2025–0104R1 requires operators to “inform all flight crews” of revisions to the AFM and MEL, and thereafter to “operate the aeroplane accordingly.” However, this proposed AD would not specifically require those actions as those actions are already required by FAA regulations. FAA regulations require operators furnish to pilots any changes to the AFM (for example, 14 CFR 121.137) and to ensure the pilots are familiar with the AFM (for example, 14 CFR 91.505). As with any other flightcrew training requirement, training on the updated AFM content is tracked by the operators and recorded in each pilot’s training record, which is available for the FAA to review. FAA regulations also require pilots to follow the procedures in the existing AFM including all updates. Section 91.9 requires that any person operating a civil aircraft must comply with the operating limitations specified in the AFM. FAA regulations (14 CFR 121.628(a)(2)) require operators to provide pilots with access to all the information contained in the operator’s MEL. Further, § 121.628(a)(5) requires airplanes to be operated under all applicable conditions and limitations contained in the operator’s MEL. Therefore, including a requirement in this proposed AD to operate the airplane according to the revised AFM and MEL would be redundant and unnecessary.

Explanation of Required Compliance Information

In the FAA’s ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2025–0104R1 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2025–0104R1 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2025–0104R1 does not mean that operators need to comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in EASA AD 2025–0104R1. Material required by EASA AD 2025–0104R1 for compliance will be available at *regulations.gov* under Docket No. FAA–2026–4649 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 22 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2025–04–05	Up to 15 work-hours × \$85 per hour = \$1,275.	Up to \$28	Up to \$1,303	Up to \$28,666.
New actions for Groups 1 and 2 airplanes (software update, additional work, and MEL revision).	5 work-hours × \$85 per hour = \$425.	\$524	\$949	Up to \$20,878.*
New actions for Group 3 airplanes (additional work).	2 work-hours × \$85 per hour = \$170.	0	\$170	Up to \$3,740.*

* The FAA has no definitive data to determine how many affected airplanes are in each airplane group.

The FAA estimates the following costs to do any necessary on-condition actions that would be required based on

the results of any required actions. The FAA has no way of determining the

number of aircraft that might need these on-condition actions:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
Up to 19 work-hours × \$85 per hour = \$1,615	Up to \$114,742	Up to \$116,357.

The FAA has received no definitive data on which to base the cost estimates for the maintenance actions specified in this AD.

ESTIMATED COSTS FOR OPTIONAL MODIFICATION OF BOTH AFFECTED HPVS

Labor cost	Parts cost	Cost per product
11 work-hours × \$85 per hour = \$935	\$96,885	\$97,790

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Would not affect intrastate aviation in Alaska, and
- (3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by:
 - a. Removing Airworthiness Directive (AD) 2025–04–05, Amendment 39–22963 (90 FR 10853, February 28, 2025); and
 - b. Adding the following new AD:

Airbus SAS: Docket No. FAA–2026–4649; Project Identifier MCAI–2025–00835–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by July 20, 2026.

(b) Affected ADs

This AD replaces AD 2025–04–05, Amendment 39–22963 (90 FR 10853, February 28, 2025) (AD 2025–04–05).

(c) Applicability

This AD applies to all Airbus SAS Model A330–841 and –941 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 36, Pneumatic.

(e) Unsafe Condition

This AD was prompted by reports of leaking bleed system high pressure valves (HPV), likely due to HPV clip failure and sealing ring damage. This AD was also prompted by certification of an improved HPV with unaffected HPV clips and the determination that the bleed monitoring computer (BMC) software must be updated. The FAA is issuing this AD to address a leaking HPV that may expose the pressure regulating valve (PRV), which is installed downstream from the HPV to high pressure, possibly damaging the PRV itself and preventing its closure. The unsafe condition, if not addressed, could result in high pressure and temperatures in the duct downstream from the PRV, with possible duct burst, damage to several systems, and consequent loss of control of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required

actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2025–0104R1, dated March 19, 2026 (EASA AD 2025–0104R1).

(h) Exceptions to EASA AD 2025–0104R1

(1) Where EASA AD 2025–0104R1 refers to May 21, 2025 (the effective date of the original issue of EASA AD 2025–0104, dated May 7, 2025), this AD requires using the effective date of this AD.

(2) Where EASA AD 2025–0104R1 refers to May 28, 2024 (the effective date of EASA AD 2023–0111R1, dated May 28, 2024), this AD requires using April 4, 2025 (the effective date of AD 2025–04–05).

(3) Where EASA AD 2025–0104R1 refers to June 2, 2023 (the effective date of the original issue of EASA AD 2023–0111, dated May 26, 2023), this AD requires using April 4, 2025 (the effective date of AD 2025–04–05).

(4) Where paragraph (19) of EASA AD 2025–0104R1 refers to December 8, 2022 (the effective date of EASA AD 2022–0227, dated November 24, 2022), this AD requires using April 4, 2025 (the effective date of AD 2025–04–05).

(5) Where paragraph (21) of EASA AD 2025–0104R1 refers to December 8, 2022 (the effective date of EASA AD 2022–0227, dated November 24, 2022), this AD requires using July 18, 2023 (the effective date of AD 2023–11–08, Amendment 39–22454 (88 FR 38384, June 13, 2023)).

(6) Where EASA AD 2025–0104R1 refers to September 5, 2022 (the effective date of EASA AD 2022–0181, dated August 29, 2022), this AD requires using September 15, 2022 (the effective date of AD 2022–19–05, Amendment 39–22174 (87 FR 54870, September 8, 2022)).

(7) Where EASA AD 2025–0104R1 defines a Serviceable HPV, in part, as "EBAS HPV, eligible for installation in accordance with Airbus instructions", this AD requires replacing that text with "EBAS HPV eligible for installation".

(8) Where paragraphs (1), (2), (3), (7), and (29) of EASA AD 2025–0104R1 specify to inform all flightcrews of airplane flight manual (AFM) revisions and dispatch limitations, and thereafter operate the airplane accordingly, this AD does not require those actions, as those actions are already required by existing FAA operating regulations (see 14 CFR 91.9, 91.505, and 121.137 for AFM requirements and 14 CFR 121.628(a)(2) and (5) for minimum equipment list requirements).

(9) Where paragraph (20) of EASA AD 2025–0104R1 specifies "as required by paragraph (17) of the original issue of this AD", this AD requires replacing that text with "as required by AD 2025–04–05 as

specified in paragraph (17) of EASA AD 2023–0111R1”.

(10) Where paragraph (30) of EASA AD 2025–0104R1 specifies “Modification of both EBAS HPV”, this AD requires replacing that text with “Modification of both affected HPVs”.

(11) This AD does not adopt the “Remarks” section of EASA AD 2025–0104R1.

(i) No Reporting Requirement

Although the material referenced in EASA AD 2025–0104R1 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, 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 (k) of this AD and email to: AMOC@faa.gov.

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

(ii) AMOCs approved previously for AD 2025–04–05 are approved as AMOCs for the corresponding provisions of EASA AD 2025–0104R1 that are required by paragraph (g) of this AD.

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

(3) *Required for Compliance (RC)*: Except as required by paragraphs (i) and (j)(2) of this AD, if any material referenced in EASA AD 2025–0104R1 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.

(k) Additional Information

For more information about this AD, contact Dan Rodina, Aviation Safety

Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3225; email: Dan.Rodina@faa.gov.

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0104R1, dated March 19, 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 June 2, 2026.

Brian Knaup,

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

[FR Doc. 2026–11218 Filed 6–3–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AS93

Processing Certain Veteran-Requested Veteran Readiness and Employment Benefit Changes Without Administrative Delays

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend regulations under the Veteran Readiness and Employment (VR&E) program to ensure veterans’ requests to forgo, suspend, reduce, or terminate their benefits and services may be processed timely and without unnecessary delays. The current regulation requires VR&E to provide at least 30 days advance notice and opportunity for response before taking such actions, even in cases where VR&E is acting on a veteran’s request. VA also proposes to clarify existing regulatory exceptions to advance notice

to reduce or eliminate potential overpayments for veterans.

DATES: Comments must be received by August 3, 2026.

ADDRESSES: You may submit comments through www.regulations.gov under RIN 2900–AS93. That website includes a plain-language summary of the rulemaking. Instructions for accessing agency documents, submitting comments, and viewing the rulemaking docket are available on

www.regulations.gov under “FAQ.”

FOR FURTHER INFORMATION CONTACT:

Pamela Salazar, Supervisor of National Policy, Veteran Readiness and Employment Service, Veterans Benefits Administration, (202) 461–9600 or pamela.salazar@va.gov.

SUPPLEMENTARY INFORMATION: Under 38 CFR 21.420(a), VR&E must notify veterans in writing of findings affecting receipt of Chapter 31 benefits. VR&E proposes to amend § 21.420(a) by adding the term “decisions” to clarify that the regulation addresses both decisions and findings that affect a veteran’s benefits. VR&E also proposes to amend § 21.420(d) to clarify that prior notification of an adverse action would not be required when veterans request to forgo, suspend, reduce, or terminate their benefits under Chapter 31. In accordance with 38 U.S.C. 5104, VR&E would provide the veteran with a written notice confirming any action taken regarding their request to forgo, suspend, reduce, or terminate their Chapter 31 benefits. This notice would include an explanation of the veteran’s appeal rights. The only change under this proposed amendment to the regulation is that VR&E would not send a notification prior to acting on the veteran’s request.

The purpose of providing prior notification of an adverse action is to allow the veteran time to meet with their Vocational Rehabilitation Counselor (VRC) to review the reason for the proposed action and submit any materials to VA that are relevant to the proposed action prior to the adverse action taking effect. However, there would be no need to provide prior notification when VR&E acts upon the veteran’s request to forgo, suspend, reduce, or terminate benefits because VR&E would be following the veteran’s instructions and the veteran would not disagree with an action they requested that VR&E take. When the veteran initiates the request to forgo, suspend, reduce, or terminate their Chapter 31 benefits, as a matter of practice, the VRC will discuss or likely will have already discussed the advantages and disadvantages of the requested action,

which would assist the veteran in making a well-informed decision. Additionally, the standard 30-day due process period required before implementing an adverse action can, in certain circumstances, result in unintended consequences that may cause undue hardship for the veteran. For example, if a veteran wants to use another VA benefit program while their Chapter 31 case is open, they would be prevented from doing so because it would result in duplication of benefits. The proposed revision would allow VR&E to take immediate action at the request of the veteran to forgo, suspend, reduce, or terminate benefits and services under the Chapter 31 program.

Current § 21.420(d) provides that VR&E does not need to provide advance notification if an adverse action “arises as a consequence of a change in training time or other such alteration in circumstances.” In addition to cases in which a veteran requests to forgo, suspend, reduce, or terminate benefits, we would clarify that advance notification is also not needed for cases involving a dependent reporting error, a veteran’s death, or other unexpected circumstance causing a change to a veteran’s payment. VR&E would ensure the accuracy of the relevant information in these other cases and that any administrative update takes place quickly to ensure that no overpayment or no significant overpayment is created that would cause an undue burden on the veteran.

Executive Orders 12866, 13563, and 14192

VA examined the impact of this rulemaking as required by Executive Orders 12866 (Sept. 30, 1993) and 13563 (Jan. 18, 2011), which 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. The Office of Information and Regulatory Affairs has determined that this rulemaking is not a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563.

Economic Impact: This proposed rule, once finalized, is expected to be a deregulatory action under Executive Order 14192. The proposed amendment to 38 CFR 21.420 would clarify that VA is not required to provide prior notification of adverse action when a veteran voluntarily requests to forgo, suspend, reduce, or terminate their Chapter 31 benefits under the VR&E program. This change reduces administrative burden and processing delays by eliminating unnecessary

procedural requirements in cases where the veteran has initiated the action. It enhances program efficiency and responsiveness by allowing VA to act immediately on a veteran’s informed decision, thereby avoiding potential duplication of benefits, and minimizing the risk of overpayments.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). This proposed rule would only affect individuals who request to forgo, suspend, reduce, or terminate their VR&E benefits or services and would not have any impact on small entities. Therefore, under 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Unfunded Mandates

This proposed rule would not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year.

Paperwork Reduction Act

This proposed rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Education, Employment, Grant programs—education, Grant programs—veterans, Health care, Loan programs—education, Loan programs—veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Signing Authority

Douglas A. Collins, Secretary of Veterans Affairs, approved this document on May 28, 2026, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication

electronically as an official document of the Department of Veterans Affairs.

Gabriela DeCuir,

*Alternate Federal Register Liaison Officer,
Department of Veterans Affairs.*

For the reasons stated in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 21 as set forth below:

PART 21—VETERAN READINESS AND EMPLOYMENT AND EDUCATION

Subpart A—Veteran Readiness and Employment

■ 1. The authority citation for part 21, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), chs. 18, 31, and as noted in specific sections.

■ 2. Amend § 21.420 by revising the introductory text of paragraph (a) and the introductory text of paragraph (d) to read as follows:

§ 21.420 Informing the veteran.

(a) *General.* VA will inform a veteran in writing of decisions and findings affecting receipt of benefits and services under Chapter 31. This includes veterans:

* * * * *

(d) *Prior notification of adverse action.* Except in cases of: a veteran’s request to forgo, suspend, reduce, or terminate benefits; needing to correct or update information regarding a veteran’s dependents; a veteran’s death; or other unexpected circumstance causing a change to a veteran’s payment, VA shall provide the veteran at least 30 days to review any proposed adverse action before it is implemented. Exceptions to the prior notification requirement will allow prompt adjustment of awards and prevent the creation of debts. During the 30-day period, the veteran shall be given the opportunity to:

* * * * *

[FR Doc. 2026–11195 Filed 6–3–26; 8:45 am]

BILLING CODE 8320–01–P

POSTAL REGULATORY COMMISSION

39 CFR part 3050

[Docket No. RM2026–6; Order No. 9592]

Periodic Reporting

AGENCY: Postal Regulatory Commission.
ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is acknowledging a recent Postal Service filing requesting the Commission initiate a rulemaking proceeding to consider changes to analytical

principles relating to periodic reports. This document informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 27, 2026; *Reply Comments are due:* August 3, 2026.

ADDRESSES: Submit comments electronically via the Commission’s Filing Online system at <https://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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- I. Introduction
- II. Proposal
- III. Notice and Comment
- IV. Ordering Paragraphs

I. Introduction

On May 28, 2026, the Postal Service filed a petition pursuant to 39 CFR 3050.11 requesting that the Commission initiate a rulemaking proceeding to consider a proposed change to analytical principles relating to the Postal Service’s periodic reports.¹ The

Petition identifies the proposed analytical principles change filed in this docket as updates and refinements to the reporting of window service costs. Petition, Proposal at 3. Specifically, the Postal Service seeks to overhaul the existing methodology to correct identified mathematical and econometric errors and to reflect changes in window service volumes and operations. *Id.*

II. Proposal

Background. The Postal Service states that the existing methodology for reporting window service costs was established in Docket No. R90–1 and refined in Docket Nos. R97–1 and R2006–1. *Id.* The Postal Service notes that there have been significant changes in window service volume and operations since the established methodology was last updated. *Id.* The Postal Service also identifies errors in the established methodology that, when corrected, contradict existing “assumptions that both network time and waiting time were one hundred percent variable with visit time during the late 1980s.” *Id.* The Postal Service additionally identifies data limitations underpinning the established methodology that can be ameliorated by using modern data captured using its

Retail Systems Software (RSS) point-of-sale system. *Id.* at 4.

Proposal. The Postal Service proposes correcting, updating, and/or refining four of the five variabilities that go into calculating volume variable window service costs. *Id.* at 5. Visit time variability is proposed to be updated using RSS data, the application of Stochastic Frontier Analysis (SFA) to account for non-item time, and a revised method for directly estimating the response in visits to changes in window service volumes. *Id.* at 5–9. Network variability is proposed to be updated by correcting a mistaken formula in the established methodology and making improvements to comport with current Commission standards. *Id.* at 9–10. Waiting time variability is proposed to be updated to adjust assumptions in the established methodology and to account for the decline in window service volume. *Id.* at 10–14. Non-acceptance variability is proposed to be updated to correct an implicit variability for non-acceptance costs of 100 percent. *Id.* at 14–15.

Impact. The proposed changes would decrease the affected variabilities, which would cause a corresponding decrease in volume variable window service costs. *See id.* at 15–17. The claimed impacts on window service costs are:

Product	Established unit WS cost	Proposed unit WS cost	Unit WS cost change
First-Class Mail	\$0.007	\$0.003	– \$0.004
USPS Marketing Mail	0.002	0.001	– 0.001
Periodicals	0.0014	0.0006	– 0.0008
Package Services	0.049	0.028	– 0.021
Domestic Competitive Products	0.096	0.049	– 0.047
Certified Mail	0.652	0.431	– 0.221
Money Orders	2.032	0.978	– 1.053

Id. at 17. The claimed impacts on unit costs range from –0.3 percent to –0.0 percent for First-Class Mail; –0.1 percent to –1.4 percent for USPS Marketing Mail; –0.1 percent to –0.7 percent for Periodicals; –0.1 percent to –2.5 percent for Package Services; –12.1 percent to –37.1 percent for Ancillary Services, and average –1.4 percent for domestic Competitive products.²

III. Notice and Comment

Pursuant to 39 CFR 3050.11(d)(1), the Commission establishes Docket No. RM2026–6 to consider the matters

raised by the Petition. More information on the Petition may be accessed via the Commission’s website at <https://www.prc.gov>. Interested persons may submit comments on the Petition and the Proposal no later than July 27, 2026. Reply comments are due August 3, 2026. Pursuant to 39 U.S.C. 505, Madison Lichtenstein is designated as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding. 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.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. RM2026–6 to consider the matters raised by the Petition of the United States Postal Service to Initiate a Proceeding to Change Analytical Principles, and Notice of Filing USPS–RM2026–6–NP–1, filed May 28, 2026.

2. Pursuant to 39 U.S.C. 505, the Commission appoints Madison Lichtenstein to serve as an officer of the Commission (Public Representative) to

¹ Petition of the United States Postal Service to Initiate a Proceeding to Change Analytical Principles, and Notice of Filing USPS–RM2026–6–NP1, May 28, 2026 (Petition). The proposed change

is attached to the Petition (Proposal). The Petition was accompanied by a study supporting its Proposal. *See* Michael D. Bradley, *Updating and Refining Window Service Costs*, May 28, 2026.

² *Id.* at 20. For Market Dominant products, a full breakdown by product of the claimed impact on unit costs can be found in Table 2 in the Proposal. *See id.*

represent the interests of the general public in this docket.

3. Comments by interested persons in this proceeding are due no later than July 27, 2026.

4. Reply Comments are due August 3, 2026.

5. This Order, or abstract thereof, shall be published in the **Federal Register**.

By the Commission.

Mallory S. Richards,

Attorney-Advisor.

[FR Doc. 2026-11157 Filed 6-3-26; 8:45 am]

BILLING CODE 7710-FW-P

Notices

Federal Register

Vol. 91, No. 107

Thursday, June 4, 2026

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Commodity Credit Corporation

[Docket ID FSA–2025–0136]

Office of The Secretary; Privacy Act of 1974; System of Records

AGENCY: Department of Agriculture, USDA

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the Privacy Act of 1974 and Office of Management and Budget (OMB) Circular No. A–108, the U.S. Department of Agriculture (USDA) gives notice that it proposes to modify an existing system of records notice titled Farm Records File (Automated) USDA/FSA–2, which currently includes information for certain Farm Service Agency (FSA) Farm Programs and records about the majority of agricultural producers in the United States. USDA is modifying the system to add new purposes, new categories of covered individuals, new categories of records and record sources, a new system location, and four new routine uses, all related to USDA activities under the Agricultural Foreign Investment Disclosure Act of 1978 (AFIDA).

DATES: This notice of revision will be open for a *30-day notice and comment period* following its publication in the **Federal Register**, during which written comments may be submitted. *Submit comments on or before July 6, 2026.* This notice will be effective upon publication. Routine uses will become effective on the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: We invite you to submit comments on this notice. In your comment, include the system of records

number (USDA/FSA–2) and Docket ID: FSA–2025–0136. You may submit comments, identified by Docket ID: FSA–2025–0136, in the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments. Comments will be posted and made publicly available on www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: System Owner, Farm Production and Conservation—Business Center, U.S. Department of Agriculture; telephone: (816) 926–6951; email: SM.FPAC.PRIVACY.OFFICE@USDA.GOV. Individuals with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice and text telephone (TTY mode)) or dial 711 for Telecommunications Relay Service (both voice and text telephone users can initiate this call from any telephone).

SUPPLEMENTARY INFORMATION: USDA maintains the Farm Records File (Automated), USDA/FSA–2 Privacy Act system of records to collect and manage information about the majority of agricultural producers in the United States. USDA also administers activities under AFIDA, which requires that foreign persons with interest in U.S. agricultural lands report information to USDA. Through this notice, USDA is adding all records received, maintained, or generated under AFIDA to the Farm Records File (Automated), USDA/FSA–2 system of records. USDA is revising the categories of individuals covered in the system of records to include those persons who may provide USDA with information under AFIDA, such as representatives of foreign persons with interest in agricultural land or their representatives. USDA is adding USDA employees administering or performing activities under AFIDA, members of the public, and representatives of foreign persons as new record source categories. USDA is also adding administration of AFIDA and recording foreign ownership of U.S. agricultural lands as new purposes of the system, and storage of AFIDA records in an online database and in USDA offices in Washington DC as new system locations. The last revision of Farm Records File (Automated), USDA/FSA–2, was published in the **Federal Register** on March 22, 2019 (84 FR 10770–10775).

To ensure compliance with all applicable federal laws, USDA is adding four new routine uses related to the administration of AFIDA and modifying eight routine uses to provide more information about the purpose of each routine use, as discussed below.

Revised Routine Use D

We are revising routine use D to specify that the purpose of the audit may be related to the Federal Credit Reform Act or other statutes.

Revised Routine Use E

We are revising routine use E to align with Office of Management and Budget memorandum M–17–12, “Preparing for and Responding to a Breach of Personally Identifiable Information.”

Revised Routine Use F

We are revising routine use F to specify that USDA will require individuals provided information under this routine use to comply with all applicable requirements and limitations of disclosure imposed by the Privacy Act.

Revised Routine Use R

We are revising routine use R to specify that it is for purposes related to the redemption of all commodities, not solely cotton, pledged under an FSA Marketing Assistance Loan.

Revised Routine Use S

We are revising routine use S to specify that it is for the purpose of classification and grading of all commodities, not solely cotton.

Revised Routine Use T

We are revising routine use T to specify that it may apply to any congressional request for the purpose of evaluating information relevant to specific states, committees, or topics in which members have interest.

Revised Routine Use AA

We are revising routine use AA to specify that it is for the purpose of accurately calculating producer and government share of producers’ insurance premiums in accordance with the Agricultural Act of 2014.

Revised Routine Use EE

We are revising routine use EE to ensure it is consistent with OMB Memorandum M–25–32, “Preventing

Improper Payments and Protecting Privacy through Do Not Pay.”

Proposed New Routine Use GG

We are adding new routine use GG to establish that USDA will disclose records to members of Congress or Congressional staff for purposes related to agriculture or national security. National security concerns have increased in recent years, and Members of Congress have expressed interest in AFIDA and its requirements in this context.

Proposed New Routine Use HH

We are adding new routine use HH to establish that USDA will disclose records to other federal agencies, including member agencies of the Committee on Foreign Investment in the United States (CFIUS). CFIUS is an interagency committee authorized to review certain transactions involving foreign investment in the United States to determine the effect of such transactions on the national security of the United States. Its member agencies require access to AFIDA records and include the U.S. Departments of Treasury, Homeland Security, Commerce, Defense, and State.

Proposed New Routine Use II

We are adding new routine use II to establish that USDA will disclose records to appropriate agencies or organizations within the United States, whether federal, State, Territorial, local, or Tribal, or any other public authority, for the purpose of tracking, validating, or administering use of agricultural land within that agency or organization's jurisdiction. AFIDA is a statute that requires foreign persons, as defined in 7 CFR 781.2, with interest in U.S. agricultural land to report information to USDA. Other agencies track or record foreign interest in U.S. assets and real estate. USDA and other agencies, in particular state agencies, have an interest in sharing this information for reasons including efficiency and validation of data.

Proposed New Routine Use JJ

We are adding new routine use JJ to establish that any report submitted to the Secretary of Agriculture under AFIDA will be available for public inspection at USDA in Washington, DC, not later than 10 days after the Secretary receives the report as required by 7 U.S.C. 3506.

Privacy Act

As required by the Privacy Act (specifically 5 U.S.C. 552a(r)) and implemented by the Office of

Management and Budget (OMB) Circular A-108, Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act, USDA provided a report of this system of records to the Office of Information and Regulatory Affairs, Office of Management and Budget; the Chairman, Committee on Government Reform and Oversight, House of Representatives; Governmental Affairs, United States Senate.

William Beam,

Administrator, Farm Service Agency, and Executive Vice President, Commodity Credit Corporation.

SYSTEM NAME AND NUMBER:

Farm Records File (Automated), USDA/FSA-2.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

This system of records is under the control of the Administrator for Farm Programs, Farm Service Agency (FSA), 1400 Independence Avenue SW, Stop 0539, Washington, DC 20250-0539.

Records are maintained at the FSA county offices, the FSA State offices, the FSA National office, the FSA Aerial Photography Field Office, and the USDA National Information Technology Center, in online databases, and in USDA offices in Washington, DC. The address of each FSA county office and FSA State office can be found in the local telephone directory under the heading “United States Government, Department of Agriculture, Farm Service Agency.” The FSA Aerial Photography Field Office is located in Salt Lake City, UT. The USDA National Information Technology Center is located in Kansas City, MO.

SYSTEM MANAGER(S):

Administrator for Farm Programs, FSA, 1400 Independence Avenue SW, Stop 0539, Washington, DC 20250-0539; *sm.fsa.ao@usda.gov*, (202) 720-9875.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104; 44 U.S.C. Chapter 31; 18 U.S.C. 2071; 18 U.S.C. 641; 36 CFR Chapter XII, Subchapter B; Agricultural Act of 2014, Public Law 113-79; Agricultural Adjustment Act of 1938, 7 U.S.C. 1281 *et seq.*; Agricultural Foreign Investment Disclosure Act of 1978, 7 U.S.C. 3501 *et seq.*; Agricultural Improvement Act of 2018, Public Law 115-334; Agricultural Risk Protection Act of 2000, Public Law 106-224, 114 Stat. 358; Conservation Stewardship Program, 16 U.S.C. 3839aa-21 *et seq.*;

Consolidated Farm and Rural Development Act of 1972, 7 U.S.C. 1921 *et seq.*; Emergency Farm Loan Program, 7 U.S.C. 1961 *et seq.*; Environmental Quality Incentives Program, 16 U.S.C. 3839aa *et seq.*; Farm Security and Rural Investment Act of 2002, Public Law 107-171; Federal Crop Insurance Act of 1938, 7 U.S.C. 1501 *et seq.*; Food, Conservation, and Energy Act of 2008, Public Law 110-246; Food Security Act of 1985, 7 U.S.C. 1631 *et seq.*; Food Security Act of 1985, Title II, 16 U.S.C. 3831 *et seq.*; Soil Conservation and Domestic Allotment Act of 1936, 16 U.S.C. 590a *et seq.*; Watershed Protection and Flood Prevention Act of 1954, 16 U.S.C. 1001 *et seq.*

PURPOSE(S) OF THE SYSTEM:

To deliver Federal farm program benefits and loans that are authorized by law to farm and ranch owners and operators to support farms and ranches, protect the environment, and enhance the marketing of agriculture products. To administer AFIDA and record foreign interest in U.S. agricultural lands.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current, former, and prospective producers or landowners, farm and ranch owners, operators, tenants, applicants, borrowers, cooperators, representatives of partner organizations, entity members and other FSA agricultural production program participants; persons providing USDA with information under ADIFA, persons who are alleged or adjudicated to be noncompliant with AFIDA reporting requirements, complainants who report potential noncompliance, and witnesses or other persons with knowledge or information pertaining to noncompliance.

CATEGORIES OF RECORDS IN THE SYSTEM:

The information in the system of records consists of electronic and hard copy documentation of participation in FSA programs, including active programs as well as discontinued programs, and records received, maintained, or generated in the administration of AFIDA. This includes names and addresses of producers and also includes, but is not necessarily limited to:

- Farm allotments, quotas, bases, and history;
- Compliance data; producer entity data;
- Combined producer data;
- Production and marketing data;
- Lease and transfer of allotments and quotas;
- Appeals;

- New grower applications;
- Conservation program documents;
- Program participation and payment documents; including information related to a person's indirect interest in payments through shares or interest in a payee entity;
- Appraisals, leases, and data for farm reconstitution;
- For payment limitation and conservation compliance purposes, financial statements, and other applicable farm information such as tax statements, wills, trusts, partnership agreements, and corporate charters; and
- Records received, maintained, or generated in the administration of AFIDA. Information about foreign interest in U.S. agricultural land, including legal names, addresses, citizenship information, country in which a legal entity is created or organized, principal place of business, form FSA-153, social security and tax identification numbers, nature and name of the person holding the interest; type of interest held, including percent ownership or leasehold interest; acreage records related to identification of the land; purchase price and current value; how the land was acquired or transferred, including information about persons to whom the land is transferred; current and expected use of the land and date land was acquired or transferred; records related to noncompliance, including investigative or enforcement records, and information about other foreign persons who may have indirect interest in the land.

RECORD SOURCE CATEGORIES:

Information in this system of records is submitted by FSA State and county committees and their representatives, the Office of Inspector General and other investigatory agencies, the Office of the General Counsel, the Natural Resources Conservation Service, by third parties, by the individual who is the subject of the record, by USDA employees administering or performing activities under AFIDA, by members of the public, and by foreign persons or their representatives about interests in U.S. agricultural land.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records or information contained in this system of records may be disclosed outside USDA as a routine use (see 5 U.S.C. 552a(b)(3)) as follows:

A. To the Department of Justice when:

1. USDA or any part of USDA;
2. Any USDA employee in an official capacity if the Department of Justice has agreed to represent the employee; or

3. The United States Government is a party to litigation or has an interest in such litigation, and by careful review, USDA determines that the records are both relevant and necessary to the litigation and the use of such records by the Department of Justice is therefore deemed by USDA to be for a purpose that is compatible with the purpose for which USDA collected the records.

B. To a Member of Congress or to a Congressional office in response to any inquiry made at the written request of the individual about whom the record pertains.

C. To the National Archives and Records Administration (NARA) or to other Federal government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To any agency, organization, or individual engaged in performing audit, oversight, or evaluation activities authorized by law, including the Government Accountability Office and external auditing firms conducting reviews related to the Federal Credit Reform Act or other applicable statutes, but only such information as is necessary and relevant to the specific audit, oversight, or evaluation.

E. To appropriate agencies, entities, and persons when:

1. USDA suspects or has confirmed that there has been a breach of the system of records.

2. USDA has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, USDA (including its information systems, programs, and operations), the Federal Government, or national security; and

3. The disclosure made to such agencies, entities, and individuals is reasonably necessary to assist in connection with USDA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

F. To contractors, grantees, experts, consultants, and their agents, and others performing or working on a contract, grant, cooperative agreement, or other assignment for USDA, when necessary to accomplish a USDA function related to this system of records. USDA will require individuals provided information under this routine use to comply with all applicable requirements and limitations of disclosure imposed by the Privacy Act.

G. When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general law or particular

program law, or by regulation, rule, or order issued as a result of that law, disclosure may be made to the appropriate agency, whether federal, foreign, State, local, or Tribal, or other public authority responsible for enforcing, investigating, or prosecuting such violation or charged with enforcing or implementing the law, or rule, regulation, or order issued as a result of that law, if the information disclosed is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of the receiving entity.

H. To a cooperative marketing association (CMA), designated marketing association (DMA), or loan servicing agent (LSA) approved to carry out Commodity Credit Corporation (CCC) price support loan and marketing programs, which are administered by FSA on behalf of CCC. Records that will be disclosed include only data that is necessary for the CMA, DMA, or LSA to make producer eligibility determinations, reasonable quantity determinations, producer payment limitations, and denied benefit determinations.

I. To the Internal Revenue Service to establish the tax liability of individuals as required by the Internal Revenue Code.

J. To State or local tax authorities having an agreement with CCC to withhold taxes or fees from loan proceeds.

K. To the Department of Interior, Bureau of Reclamation (BOR), but only that data necessary for the BOR to administer the Reclamation Act of 1982, as amended.

L. To boards or other entities authorized by State law to collect commodity assessments.

M. To the Peanut Board, with respect to producers of peanuts and their participation in the peanut price support program.

N. To the Department of Interior, Bureau of Indian Affairs, the name and correspondence address of producers to assist in the distribution of funds to Native American Indians.

O. To candidates for FSA county committee positions, the names and correspondence addresses of producers in the county for the purpose of county committee elections.

P. To the public, farm allotment and quota data for marketing quota crops, as allowed by the Agricultural Act of 1938, as amended, and payment information for farm and related programs including information of indirect benefits from payments as indicated by shares of each individual or entity that receive payments or that themselves are

considered to have an indirect interest in payments.

Q. To State Foresters, the names and correspondence addresses of producers and crop-specific data regarding their operations with respect to forestry conservation practices.

R. To commodity buyers, the name and correspondence address of commodity producers for purposes related to the redemption of commodities pledged under an FSA Marketing Assistance Loan.

S. To commodity delivery points, the names, correspondence addresses, farm numbers, commodity acreages of producers for the purpose of commodity classification and grading.

T. To members of Congress, the names and correspondence addresses of all producers in the system of records for the purpose of evaluating information relevant to specific states, committees, or topics in which members have interest.

U. To the public when they need to obtain the names and correspondence addresses of producers who have commodity loans with FSA or CCC to prevent one of those producers from purchasing a commodity that has been placed under a CCC loan.

V. To State or local taxing authorities or their contracted appraisal companies, the name and correspondence address of producers for tax appraisal purposes.

W. To State-certified or State-licensed appraisers and employees of federal agencies qualified to perform and actually performing real estate appraisals for USDA. Records that will be disclosed include only the data that is necessary for the appraiser to complete the appraisal.

X. To cooperating persons or federal, State, local, or Tribal agencies working in cooperation with the Secretary in any USDA program. Records that will be disclosed include only the data that is necessary for the cooperating person or agency to complete work on the USDA program.

Y. To any federal agency or any approved insurance provider (AIP), the information collected using the Comprehensive Information Management System (CIMS) used to administer the programs of the Federal Crop Insurance Corporation (FCIC) and FSA as specified in 7 U.S.C. 8002(b)(2). All information disclosed to CIMS may be further disclosed to any contractor engaged in the development or maintenance of CIMS. Select CIMS data may also be further disclosed to AIPs and AIP employees, insurance agents, and loss adjusters, but will be limited to only the producer reported information that is associated with a given AIP's

insured producers and that insured producer's farming operations (for data to be disclosed, the producer must actually be insured by the given AIP). For the disclosure of CLU information, CIMS will provide the AIP a limited file of CLU information containing data elements for those States in the AIP plan of operation to include Shape, (CLU boundaries), Location State Code, Location County Code, Administrative State Code, Administrative County Code, CLU Number, CLU Calculated Acres, CLU Class, Last Change Date, Common Land Unit Identifier, Farm Number, Tract Number, and Field Number information. The limited CLU data set provided to the AIP will not contain data reported to FSA by the producer via the FSA-578, "Report of Acreage" (for example, planted acres, name, address, crops, etc.).

Z. To any federal agency or any AIP, the information in the USDA data warehouse and data mining operation Agricultural Risk Protection Act of 2000 (7 U.S.C. 1515(j)). All information disclosed to the USDA data warehouse and data mining operation may be further disclosed to any contractor engaged in the development or maintenance of the USDA data warehouse and data mining operation. Select data may also be further disclosed to AIPs and AIP employees, insurance agents, and loss adjusters. Disclosure is limited to only the producer reported information that is associated with a given AIP's insured producers and that insured producer's farming operations (for data to be disclosed, the producer must actually be insured by the given AIP).

AA. For the purpose of accurately calculating producer and government share of producers' insurance premiums in accordance with the Agricultural Act of 2014 (*i.e.*, 2014 Farm Bill), to the AIPs (excluding the AIP's insurance agents) and loss adjusters, USDA will disclose records that may include the producer's name, crop name, FSA county office address, program years, and the last 4 digits of producer's tax ID number. USDA may disclose a copy of both current and prior Producer Print and Map Photocopies, Farm Operating Plan for Payment Eligibility Review for an Individual, Highly Erodible Land Conservation (HELC), and Wetland Conservation (WC) Certification. Disclosure will be made only in response to a properly submitted request for certain information.

BB. USDA will disclose information about individuals from this system of records in accordance with the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C.

6101–6106); section 204 of the EGovernment Act of 2002 (44 U.S.C. 3501 note), and the Office of Federal Procurement Policy Act (41 U.S.C. 403–440), or similar laws requiring agencies to make available publicly names, locations, and other information concerning federal financial assistance, including grants, subgrants, loan awards, cooperative agreements, and other financial assistance; and contracts, subcontracts, purchase orders, task orders, and delivery orders.

CC. To a court or adjudicative body in a proceeding when:

1. USDA or any component of USDA;
2. Any USDA employee in his or her official capacity;
3. Any USDA employee in his or her individual capacity where USDA has agreed to represent the employee; or
4. The United States Government is a party to litigation or has an interest in such litigation, and by careful review, USDA determines that the records are both relevant and necessary to the litigation and the use of such records is therefore deemed by USDA to be for a purpose that is compatible with the purpose for which USDA collected the records.

DD. Information may be disclosed to federal agencies pursuant to the Debt Collection Improvement Act and related authorities for any purpose related to debt collection, including locating debtors for debt collection efforts and/or effecting remedies against monies payable to such debtors by the Federal Government. In accordance with computer matching or data sharing programs, information may be disclosed to federal agencies, the Department of Housing and Urban Development for the purpose of evaluating a loan applicant's creditworthiness, information that will allow for the pre-screening of applicants through the Credit Alert Verification Reporting System (CAIVRS) computer matching program. An applicant will be pre-screened for any debts owed or loans guaranteed by the Federal Government to ascertain if the applicant is delinquent in paying a debt owed to or insured by the Federal Government. Authorized employees of, and approved private lenders acting on behalf of, the federal agencies participating in the CAIVRS computer matching program will be able to search the CAIVRS database. The disclosure may include the applicant's name, home address, Social Security Number, and income or financial information.

EE. To the U.S. Department of the Treasury when disclosure of the information is relevant to review payment and award eligibility through the Do Not Pay Working System for the

purposes of identifying, preventing, or recouping improper payments to an applicant for, or recipient of, Federal funds, including funds disbursed by a state (meaning a state of the United States, the District of Columbia, a territory or possession of the United States, or a federally recognized Indian tribe) in a state-administered, federally funded program.

FF. To another Federal agency or Federal entity, when USDA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

GG. Specifically, regarding records and information collected under AFIDA, to a Member of Congress or to a Congressional staff member in response to a request related to agriculture or national security interests.

HH. Specifically regarding information and records collected under AFIDA, to any federal agencies, including member agencies of the Committee on Foreign Investment in the United States (CFIUS), including but not limited to the Department of Treasury, Department of State, Department of Homeland Security, Department of Defense, and Department of Commerce, for the purposes of identifying, assessing, or addressing national-security risks associated with foreign ownership, acquisition, or control of U.S. agricultural land.

II. Specifically regarding information and records collected under AFIDA, to appropriate agencies or organizations within the United States, whether federal, State, Territorial, local, or Tribal, or other public authority, for the purpose of tracking, validating, or administering use of agricultural land within that agency or organization's jurisdiction.

JJ. Specifically, regarding information and records collected under AFIDA, to the public. Any report submitted to the Secretary of Agriculture under section 3501 of AFIDA will be available for public inspection at USDA in Washington, DC, not later than 10 days after the Secretary receives the report for the purpose of meeting statutory requirements in 7 U.S.C. 3506.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system of records are stored electronically on security measure protected (for example, eAuthentication, password, restricted access protocol, etc.) databases, electronically on e-media devices (computer hard drive, magnetic disc, tape, digital media, CD, DVD, etc.), and on paper copy. Record storage is located within secured or locked facilities.

See also "Policies and Practices for Retrieval of Records," "Policies And Practices for Retention And Disposal Of Records," "Administrative, Technical, and Physical Safeguards," "Record Access Procedure" and "Notification Procedures" below.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by the individual's name, Social Security Number, tax identification number, loan number, or farm number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained in file folders and Department computer systems at applicable locations as set out above under the heading "System Location." Detailed retention and disposal instructions are provided in Records Control Schedule RG 0145: Farm Service Agency and Records Control Schedule RG 0161: Commodity Credit Corporation.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records in this system of records are safeguarded in accordance with applicable rules and policies, including all applicable USDA automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer systems containing the records in this system of records is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES:

To request notification of and access to any record contained in the system of records, or to contest the content of a record, submit a request in writing to the FSA FOIA officer or the FOIA officer for the relevant part of USDA responsible for your information (FOIA contact information is at <http://www.da.usda.gov/foia.htm>). If you believe more than one USDA agency maintains Privacy Act records

concerning you, submit the request to the Chief FOIA Officer, Department of Agriculture, 1400 Independence Avenue SW, Washington, DC 20250.

When seeking records about yourself from this system of records or any other Departmental system of records, your request must conform with the Privacy Act regulations in 7 CFR 1.110–1.122, as follows. Verify your identity by providing your:

- Full name,
- Current address, and
- Date and place of birth.

You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, which is a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief FOIA Officer, Department of Agriculture, 1400 Independence Avenue SW, Washington, DC 20250. In addition, you should provide the following:

- Explain why you believe USDA would have information on you,
- Identify which USDA agency you believe may have the information about you,
- Specify when you believe the records would have been created, and
- Provide any other information that will help the FOIA staff determine which USDA component agency may have responsive records.

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying agreement for you to access the records.

If your request does not include the information specified above, FSA may not be able to conduct an effective search, and may result in your request being denied due to lack of specificity or lack of compliance with applicable regulations.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the above listed System Manager and should include the reason for contesting the information as well as the proposed amendment to the information with supporting information to show how the record is inaccurate. A request for contesting records pertaining to an individual should contain:

- Name,
- Address,
- ZIP code,
- Name of system of record,
- Year of records in question, and
- Any other pertinent information to help identify the file.

NOTIFICATION PROCEDURE:

An individual may request information regarding this system of records or information as to whether the system contains records pertaining to the individual from the System Manager above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

The prior document for this system of records was published on March 22, 2019 (84 FR 10770).

[FR Doc. 2026–11227 Filed 6–3–26; 8:45 am]

BILLING CODE 3411–E2–P

DEPARTMENT OF COMMERCE**Census Bureau**

Agency Information Collection Activities; Submission for OMB Review; Comment Request; High-Frequency Surveys Program/Household Trends and Outlook Pulse Survey (HTOPS)

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. On January 15, 2025, the Department of Commerce (Department) received clearance from the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 to conduct the Household Trends and Outlook Pulse Survey (HTOPS) recruitment operation, January topical operation and February topical operation (0607–1029). We received approval for the March, April, and May HTOPS collections on April 11, 2025. On June 16, 2025, we were approved for the June and August 2025 topical collections. On September 24, 2025, we were approved for the September, October, and December 2025 topical collections. On March 12, 2026, we were approved for the March and May 2026 data collections. The HTOPS is designed to ensure availability of frequent data collection for nationwide estimates on a variety of topics for a variety of subgroups of the population. This notice serves to inform of the Department's intent to request clearance from OMB to conduct the HTOPS 2026 July, September, and November data collections. The July, September, and November surveys will include content from the Household Pulse Survey. Household Pulse Survey content

continues to serve as an experimental endeavor in cooperation with other federal agencies to produce near real-time data to understand the effects of current events, including health events, and other social or economic events facing the nation or a significant portion of the nation.

Data collected in the HTOPS demonstrates the ability to quickly collect and disseminate high-frequency data products that inform the public in urgent circumstances. Data products will include public-use data files and detailed data tables, which can be used by federal, state, and local agencies; academic and non-government organizations; the media; and the public.

It is the Department's intention to commence data collection using the revised instruments on or about July 1, 2026, September 2, 2026, and October 28, 2026. 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 publication to the **Federal Register** on December 9, 2024 (89 FR 97582), February 28, 2025 (90 FR 10879), May 13, 2025 (90 FR 20272), August 20, 2025 (90 FR 40560), and February 9, 2026 (91 FR 5705) during a 30-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau, Commerce.

Title: High Frequency Surveys Program/Household Trends and Outlook Pulse Survey.

OMB Control Number: 0607–1029.

Form Number(s): None.

Type of Request: Regular submission, Request for a Revision of a Currently Approved Collection.

Number of Respondents: 13,564 (162,768 annually).

Average Hours Per Response: .333 (20 minutes).

Burden Hours: 4,517 (54,202 annually).

Needs and Uses: The High-Frequency Surveys Program was established as a natural progression from the creation of the Household Pulse Survey. The Household Trends and Outlook Pulse Survey is a probability-based, nationwide, nationally representative survey designed to test methods to collect data on a variety of topics of interest, and for conducting experimentation on alternative question wording and methodological approaches. The goal of the HTOPS is to ensure availability of frequent data

collection for nationwide estimates on a variety of topics and a variety of subgroups of the population, meeting standards for transparent quality reporting of the federal statistical agencies and the Office of Management and Budget.

Households selected for the HTOPS are recruited from the Census Bureau's gold standard Master Address File. This ensures that the HTOPS is rooted in this rigorously developed and maintained frame and available for linkage to administrative records securely maintained and curated by the Census Bureau. Invitations to complete the monthly surveys will be sent via mailed letters. Questionnaires will be mainly internet self-response. The HTOPS will maintain representativeness by allowing respondents who do not use the internet to respond via computer-assisted telephone interviewing (CATI). Each HTOPS monthly data collection will rely on an independent, cross-sectional sample to maintain representativeness.

Affected Public: Households.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Sections 141, 182 and 193.

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 0607–1029.

Sheleen Dumas,

Departmental PRA Compliance Officer, Office of the Under Secretary of Economic Affairs, Commerce Department.

[FR Doc. 2026–11172 Filed 6–3–26; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B-55-2026]

**Foreign-Trade Zone (FTZ) 129,
Notification of Proposed Production
Activity; Corvus Energy USA Ltd.;
(Maritime Battery Equipment);
Bellingham, Washington**

Corvus Energy USA Ltd. submitted a notification of proposed production activity to the FTZ Board (the Board) for its facility in Bellingham, Washington within Subzone 129C. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on May 29, 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: energy storage systems (duty rate is 3.4%).

The proposed foreign-status materials/components include: stainless steel snap rings, steel compression springs, aluminum end plates, aluminum enclosure weldment, printed circuit boards (duty rates range from duty-free to 2.5%).

The request indicates that certain materials/components are subject to duties under section 122 of the Trade Act of 1974 (Section 122) and section 301 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 (PF) status (19 CFR 146.41). The request also indicates that aluminum end plate and aluminum enclosure weldment are subject to an antidumping/countervailing duty (AD/CVD) order/investigation if imported from China. The Board's regulations (15 CFR 400.13(c)(2)) require that merchandise subject to AD/CVD orders, or items which would be otherwise subject to suspension of liquidation under AD/CVD procedures if they entered U.S. customs territory, be admitted to the zone in PF 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 14, 2026.

A copy of the notification will be available for public inspection in the "Online FTZ Information System" section of the Board's website.

For further information, contact Christopher Williams at christopher.williams@trade.gov.

Dated: June 2, 2026.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2026-11256 Filed 6-3-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S-291-2026]

**Foreign-Trade Zone 7; Application for
Subzone; Venture Steel, Inc.;
Bayamón, Puerto Rico**

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Puerto Rico Industrial Development Company, grantee of FTZ 7, requesting subzone status for the facility of Venture Steel, Inc., located in Bayamón, Puerto Rico. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on June 2, 2026.

The proposed subzone (4.327 acres) is located at 284 Calle B, Luchetti Industrial Park, Lot 30, Bayamón, Puerto Rico. No authorization for production activity has been requested at this time. The proposed subzone would be subject to the existing activation limit of FTZ 7.

In accordance with the FTZ Board's regulations, Camille Evans of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: ftz@trade.gov. The closing period for their receipt is July 14, 2026. Rebuttal comments in response to material submitted during the foregoing period may be submitted through July 29, 2026.

A copy of the application will be available for public inspection in the "Online FTZ Information Section" section of the FTZ Board's website, which is accessible via www.trade.gov/ftz.

For further information, contact Camille Evans at Camille.Evans@trade.gov.

Dated: June 2, 2026.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2026-11257 Filed 6-3-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-095]

**Aluminum Wire and Cable From the
People's Republic of China:
Rescission 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 rescinding the administrative review of the antidumping duty (AD) order on aluminum wire and cable from the People's Republic of China (China). The period of review (POR) is December 1, 2023, through November 30 2024.

DATES: Applicable June 4, 2026.

FOR FURTHER INFORMATION CONTACT: Sarah Keith, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0264.

SUPPLEMENTARY INFORMATION:**Background**

On December 23, 2019, Commerce published in the **Federal Register** the antidumping duty order on aluminum wire and cable from China.¹ On December 3, 2024, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the *Order*.² On January 27, 2025, based on a timely request³ for an administrative review, Commerce initiated an antidumping duty administrative review of the sole mandatory respondent, Tanghenam Electric Wire & Cable Co., Ltd., (Tanghenam).⁴ On September 9, 2025, Commerce released a memorandum

¹ See *Aluminum Wire and Cable from the People's Republic of China: Antidumping Duty and Countervailing Duty Orders*, 84 FR 70496 (December 23, 2019) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 89 FR 95737 (December 3, 2024).

³ See Tanghenam's Letter, "Request for Administrative Review," dated December 31, 2024.

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 8187 (January 27, 2025) (*Initiation Notice*).

indicating that there were no reviewable entries of subject merchandise during the POR based on a U.S. Customs and Border Protection (CBP) entry data query.⁵ Further, on December 11, 2025, we notified interested parties of our intent to rescind this administrative review due to a lack of suspended entries.⁶ Interested parties submitted comments on Commerce's notice of intent to rescind this review.⁷

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁸ Additionally, due to workflow delays and outages experienced by Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by 21 days.⁹ On February 9, 2026, Commerce extended the deadline for issuing the preliminary results by 110 days.¹⁰ Accordingly, the deadline for these results is now May 28, 2026.

For a complete description of the events that followed the initiation of this review, see the Issues and Decision Memorandum.¹¹ A list of the topics discussed in the Issues and Decision Memorandum is attached as an appendix to this notice. 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 Preliminary Decision

Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Order

The product covered by the *Order* is aluminum wire and cable. For a full description of the scope of the *Order*, see the Issues and Decision Memorandum.

Analysis of Comments Received

Commerce addressed the issues raised in parties' comments on Commerce's notice of intent to rescind this review in the accompanying Issues and Decision Memorandum. The issues are identified in the appendix to this notice.

Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of an antidumping duty order where it concludes there were no suspended entries of subject merchandise during the POR for an exporter or producer. Normally, upon completion of an administrative review, the suspended entries are liquidated at the antidumping duty assessment rate(s) based on the final results for the review period. Therefore, for an administrative review to be conducted, there must be a suspended entry that Commerce can instruct U.S. Customs and Border Protection to liquidate at the calculated antidumping duty assessment rate for the review period. As explained in detail in the Issues and Decision Memorandum, there were no suspended entries of subject merchandise from Tanghenam during the POR. Accordingly, in the absence of suspended entries of subject merchandise during the POR, we are rescinding this administrative review in accordance with 19 CFR 351.213(d)(3).

Cash Deposit Requirements

As Commerce is rescinding this administrative review, cash deposit rates will not change. Accordingly, the current cash deposit requirements shall remain in effect until further notice.

Assessment

Commerce will instruct CBP to assess antidumping duties on all appropriate entries of subject merchandise. Antidumping duties shall be assessed at rates equal to the cash deposit rate of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of

publication of this rescission notice in the **Federal Register**.

Notification Regarding Administrative Protective Order (APO)

This notice serves as a final reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of the APO materials, or conversion to judicial protective order is hereby requested. Failure to comply with regulations and terms of an APO is a violation, which is subject to sanction.

Notification to Interested Parties

This notice is published in accordance with section 751 of the Act and 19 CFR 351.213(d)(4).

Dated: May 28, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. Discussion of the Issues
 - Comment 1: Rescission of the Administrative Review Because of No Suspended Entries
 - Comment 2: Rescission of the Administrative Review Under Section 751(a)(2)(C) of the Act
- V. Recommendation

[FR Doc. 2026–11258 Filed 6–3–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–837, A–533–828, A–588–068, A–201–831, A–580–852, A–549–820, and C–533–829]

Prestressed Concrete Steel Wire Strand From Brazil, India, Japan, Mexico, the Republic of Korea, and Thailand: Continuation of Antidumping Duty and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC) finding that revocation of the

⁵ See Memorandum, “Customs Entries from October 19, 2023, through November 31, 2024,” dated September 9, 2025 (CBP Data Release).

⁶ See Memorandum, “Notice of Intent to Rescind Review,” dated December 11, 2025.

⁷ See Petitioner's Letter, “Response to Notice of Intent to Rescind Administrative Review,” dated December 22, 2025; see also Tanghenam's Letter, “Tanghenam's Comments on the Notice of Intent to Rescind,” dated December 29, 2025; see also Petitioner's Letter, “Rebuttal Comments on Notice of Intent to Rescind Administrative Review,” dated January 8, 2026; see also Tanghenam's Letter, “Tanghenam's Comments on the Notice of Intent to Rescind,” dated January 8, 2026.

⁸ See Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated November 14, 2025.

⁹ See Memorandum, “Tolling of all Case Deadlines,” dated November 24, 2025.

¹⁰ See Memorandum, “Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,” dated February 9, 2026.

¹¹ See Memorandum, “Issues and Decision Memorandum for the Rescission of the Antidumping Duty Administrative Review of Aluminum Wire and Cable from the People's Republic of China; 2023–2024,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

antidumping duty (AD) orders on prestressed concrete steel wire strand (PC strand) from Brazil, India, Japan, Mexico, the Republic of Korea (Korea), and Thailand and the countervailing duty (CVD) order on PC strand from India would likely lead to the continuation or recurrence of dumping, countervailable subsidies, and material injury to an industry in the United States, Commerce is publishing a notice of continuation of these AD and CVD orders.

DATES: Applicable June 2, 2026.

FOR FURTHER INFORMATION CONTACT: David De Falco, Trade Agreements Policy and Negotiations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2178.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1978, the U.S. Treasury Department published the *Finding* on Japan in the **Federal Register**.¹ On January 28, 2004 Commerce published in the **Federal Register** the *AD Orders* on PC strand from Brazil, India, Mexico, Korea, and Thailand.² On February 4, 2004, Commerce published in the **Federal Register** the *CVD Order* on PC strand from India.³

On October 1, 2025, the ITC instituted,⁴ and on October 3, 2025, Commerce initiated,⁵ the fourth and sixth sunset review of the *Finding*, *AD Orders*, and *CVD Order* (collectively, the *Orders*), pursuant to section 751(c)

of the Tariff Act of 1930, as amended (the Act). As a result of its reviews, Commerce determined that revocation of the *Orders* would likely lead to the continuation or recurrence of dumping and countervailable subsidies, and therefore, notified the ITC of the magnitude of the margins of dumping and subsidy rates likely to prevail should the *Orders* be revoked.⁶

On June 2, 2026, the ITC published its determination, pursuant to sections 751(c) and 752(a) of the Act, that revocation of the *Orders* would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁷

Scope of the Orders

The merchandise subject to this *Order* is prestressed concrete steel wire strand (PC strand), which is steel strand produced from wire of non-stainless, non-galvanized steel, which is suitable for use in prestressed concrete (both pre-tensioned and post-tensioned) applications. The product definition encompasses covered and uncovered strand and all types, grades, and diameters of PC strand.

The merchandise under the *Orders* is currently classifiable under subheadings 7312.10.3010 and 7312.10.3012 of the Harmonized Tariff Schedule of the United States (HTSUS). Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Continuation of the Orders

As a result of the determinations by Commerce and the ITC that revocation of the *Orders* would likely lead to continuation or recurrence of dumping, countervailable subsidies, and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, Commerce hereby orders the continuation of the *Orders*. U.S. Customs and Border Protection will continue to collect AD and CVD cash

deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the *Orders* will be June 2, 2026.⁸ Pursuant to section 751(c)(2) of the Act and 19 CFR 351.218(c)(2), Commerce intends to initiate the next five-year reviews of the *Orders* not later than 30 days prior to fifth anniversary of the date of the last determination by the ITC.

Administrative Protective Order (APO)

This notice also serves as a final reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

These five-year (sunset) reviews and this notice are in accordance with sections 751(c) and 751(d)(2) of the Act and published in accordance with section 777(i) of the Act, and 19 CFR 351.218(f)(4).

Dated: June 2, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2026-11266 Filed 6-3-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-883]

Lattice Boom Crawler Cranes From Japan: Final 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) determines that lattice boom crawler cranes (cranes) from Japan are being, or likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is April 1, 2024, through March 31, 2025.

DATES: Applicable June 4, 2026.

⁸ *Id.*

¹ See *Steel Wire Strand for Prestressed Concrete from Japan; Finding of Dumping*, 43 FR 47599 (December 8, 1978) (*Finding*) conducted by the U.S. Treasury Department (at the time a determination of dumping resulted in a “finding” rather than the later applicable “order”).

² See *Notice of Antidumping Duty Order: Prestressed Concrete Steel Wire Strand from Brazil*, 69 FR 4112 (January 28, 2004); *Notice of Antidumping Duty Order: Prestressed Concrete Steel Wire Strand from India*, 69 FR 4110 (January 28, 2004); *Notice of Antidumping Duty Order: Prestressed Concrete Steel Wire Strand from Mexico*, 69 FR 4112 (January 28, 2004); *Notice of Antidumping Duty Order: Prestressed Concrete Steel Wire Strand from the Republic of Korea*, 69 FR 4109 (January 28, 2004); and *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Prestressed Concrete Steel Wire Strand from Thailand*, 69 FR 4111 (January 28, 2004); (collectively, *AD Orders*).

³ *Notice of Countervailing Duty Order: Prestressed Concrete Steel Wire Strand from India*, 69 FR 5319 (February 4, 2004) (*CVD Order*).

⁴ See *Prestressed Concrete Steel Wire Strand from Brazil, India, Japan, Mexico, South Korea, and Thailand; Institution of Five-Year Reviews*, 90 FR 47337 (October 1, 2025).

⁵ See *Initiation of Five-Year (Sunset) Reviews*, 90 FR 48048 (October 3, 2025).

⁶ See *Prestressed Concrete Steel Wire Strand from Brazil, India, Mexico, the Republic of Korea, and Thailand: Final Results of the Expedited Fourth Sunset Review of the Antidumping Duty Orders*, 69 FR 18417 (April 10, 2026), and accompanying Issues and Decision Memorandum (IDM); see also *Prestressed Concrete Steel Wire Strand from Japan: Final Results of the Expedited Sixth Sunset Review of the Antidumping Duty Finding*, 91 FR 18409 (April 10, 2026); see also *Prestressed Concrete Steel Wire Strand from India: Final Results of the Expedited Fourth Sunset Review of the Countervailing Duty Order*, 91 FR 18397 (April 10, 2026).

⁷ See *Prestressed Concrete Steel Wire Strand from Brazil, India, Japan, Mexico, South Korea, and Thailand*, 91 FR 32999 (June 2, 2026) (*ITC Final Determination*).

FOR FURTHER INFORMATION CONTACT:

Dmitry Vladimirov or Thomas Schauer, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0665 or (202) 482-0410, respectively.

SUPPLEMENTARY INFORMATION:**Background**

On January 16, 2026, Commerce published in the **Federal Register** its preliminary affirmative determination in the LTFV investigation of cranes from Japan.¹

A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.² 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>.

Scope of the Investigation

The products covered by this investigation are cranes from Japan. For a complete description of the scope of this investigation, see Appendix I.

Scope Comments

In the Preliminary Scope Memorandum, we set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope) in scope-specific case briefs or other written comments.³ No interested party submitted scope comments; therefore, we have made no modifications to the scope language as it appeared in the *Preliminary Determination*.⁴ See Appendix I.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in March and April 2026, we conducted verifications of the sales and cost information submitted by the mandatory respondents, Kobelco Construction Machinery Co., Ltd. (Kobelco) and Sumitomo Heavy Industries Construction Cranes Co., Ltd. (Sumitomo), for use in the final determination.⁵ We conducted the verifications using standard verification procedures, which included an examination of relevant sales and accounting records, and original source documents provided by Kobelco and Sumitomo.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by interested parties in this investigation are 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 Appendix II.

Changes Since the Preliminary Determination

We made certain changes to the *Preliminary Determination*. For a discussion of these changes, see the Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provide that Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined.⁶ 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 final determination, Commerce calculated rates that are not zero, *de minimis*, or based entirely on facts otherwise available for Kobelco and Sumitomo. Consequently, the simple average of the rates calculated for Kobelco and Sumitomo is assigned as the rate for all other producers and exporters.⁷

Final Determination

Commerce determines that the following estimated weighted-average dumping margins exist for the POI, April 1, 2024, through March 31, 2025:

Exporter/producer	Weighted-average dumping margin (percent)
Kobelco Construction Machinery Co., Ltd	12.36
Sumitomo Heavy Industries Construction Cranes Co., Ltd	20.00
All Others	16.18

Disclosure

Commerce intends to disclose the calculations performed in connection with this final determination to parties

to the proceeding 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).

¹ See *Lattice Boom Crawler Cranes from Japan: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 91 FR 2098 (January 16, 2026) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

² See Memorandum, “Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Lattice Boom Crawler Cranes from Japan,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See Memorandum, “Less-Than-Fair-Value Investigation of Lattice Boom Crawler Cranes from Japan: Preliminary Scope Decision Memorandum,”

dated January 13, 2026 (Preliminary Scope Memorandum).

⁴ *Id.*

⁵ See Memoranda, “Verification of the Cost Response of Kobelco Construction Machinery Co., Ltd.,” dated March 18, 2026; “Home Market Sales Verification of Kobelco Construction Machinery Co., Ltd.,” dated March 26, 2026; “CEP Sales Verification of Kobelco Construction Machinery Co., Ltd.,” dated March 30, 2026; “Home Market Sales Verification of Sumitomo Heavy Industries Construction Cranes Co., Ltd.,” dated April 8, 2026; “CEP Sales Verification of Link-Belt Cranes, L.P., LLLP,” dated April 9, 2026; “Verification of the Cost Response of Sumitomo Heavy Industries Construction Cranes Co., Ltd. (HSC),” dated April 27, 2026, and “Verification of the {Further Manufacturing} Cost Response of {Link-Belt Cranes,

L.P., LLLP},” dated May 1, 2026 (the subject line of this verification report inadvertently stated “Verification of the Cost Response of Sumitomo Heavy Industries Construction Cranes Co., Ltd. (HSC)”).

⁶ See 19 CFR 351.109(f).

⁷ Our normal practice is to calculate the all-others rate by weight averaging the estimated weighted-average dumping margins that it calculated for the respondents using their publicly ranged values of sales of subject merchandise during the POI. See, e.g., *Certain Corrosion-Resistant Steel Products from Canada: Final Affirmative Determination of Sales at Less Than Fair Value*, 90 FR 42194, 42195–96 (August 29, 2025). However, because Kobelco did not provide publicly ranged values of its sales of subject merchandise during the POI, we were unable to do this. See 19 CFR 351.109(f)(2)(ii).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after January 16, 2026, the date of publication of the *Preliminary Determination* in the **Federal Register**, for Kobelco and all other producers and exporters. For Sumitomo, which received zero margin in the *Preliminary Determination* and a margin above *de minimis* in this final determination, in accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. CBP to suspend liquidation of all entries of subject merchandise, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. These suspension of liquidation instructions will remain in effect until further notice.

Pursuant to section 735(c)(1)(B) of the Act and 19 CFR 351.210(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this final 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.

ITC Notification

In accordance with section 735(d) of the Act, Commerce will notify the ITC of its final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of cranes from Japan no later than 45 days after this final

determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, all cash deposits posted will be refunded, and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed in the "Suspension of Liquidation" section above.

Administrative Protective Order (APO)

This notice serves as a final reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation subject to sanction.

Notification to Interested Parties

This final determination and notice are issued and published in accordance with sections 735(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: June 1, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation consists of lattice boom crawler cranes, and lattice boom crawler crane assemblies. Lattice boom crawler cranes combine the assemblies defined below, among other components, including a lower carriage assembly fitted with tank-link crawler tracks, an upper carriage housing the operator cab, engine, and hydraulics, and a boom made of steel pipe welded together in a distinctive lattice pattern. The scope of this investigation covers lattice boom crawler cranes and lattice boom crawler crane assemblies, whether assembled or unassembled, and whether or not the lattice boom crawler crane contains any additional features that provide for functions beyond the primary lifting function. All lattice boom crawler cranes are included in the scope regardless of maximum lift capacity, lattice boom length, jib configuration, or other added features.

Subject merchandise includes, but is not limited to, the following lattice boom crawler crane assemblies which can be imported in isolation or combined in different configurations at the time of import:

- Lattice boom assemblies and pieces thereof. Lattice boom assemblies are formed of interlocking sections of welded high-strength steel pipe, that form the lifting attachment of the crane. A lattice boom is formed by welding main chords together with lacing pipes typically arranged in a "W" or "V" pattern. Lattice boom assemblies consist of a boom butt (also known as a boom bottom or boom base), which attaches to the upper carriage assembly, and a boom head (also known as a boom tip or boom hat), which forms the other end of the boom structure. In between the boom butt and boom head, boom inserts of various lengths can be inserted to reach the desired boom height and load bearing capability. Lattice boom assemblies may be imported with boom butt, boom tip, and boom inserts together, but boom butt, boom tip, and boom inserts imported alone are also covered by the scope.

- Lower carriage assembly. The lower carriage assembly (also may be referred to as a carbody or lower works) is constructed with high-strength steel components and forms the base of the crawler crane. The lower carriage assembly typically includes various motors, drive mechanisms, and hydraulics. The lower carriage assembly may also include a set of counterweights to provide backward stability for the assembled crane. The lower carriage typically has a circular center that is connected to the upper carriage assembly with a bearing. The lower and upper carriage assemblies may or may not be connected by a bearing at the time of importation. Steel arms extend from the center of the lower carriage and connect to the front and rear of the crawler assemblies that are positioned on both sides of the lower carriage assembly. The lower carriage assembly may also contain a hydraulic system that allows for the extension and retraction of the crawler assemblies to create a wider base. A lower carriage assembly may be imported with or without crawler assemblies.

- Crawler assembly. Each lattice boom crawler crane contains at least two crawler assemblies, which are continuous tracks that provide mobility and distribute the crane's weight evenly across the ground. The tracks of a lattice boom crawler crane consist of steel track shoes, which are interlocking steel plates that form the tread of the tracks and make direct contact with the ground, a track chain, which is a continuous loop of interconnected steel links, and a crawler body and track rollers, which support the track shoes and track chain. Typically, drive motors mounted on the lower carriage assembly connect to crawler-mounted drive sprockets, which engage the track chain and allow the LBCC to move forward and backward.

- Upper carriage assembly. The upper carriage assembly, also known as the upper works, typically includes the operator's cab, hydraulic systems, engine, boom hoist, mast, and a turntable base with swing drive

mechanism that connects to the lower carriage assembly and allows the upper carriage to pivot on the lower carriage assembly. The upper and lower carriage assemblies may or may not be connected by a bearing at the time of importation. The upper carriage assembly may also include a separate counterweight tray and counterweights, which allow the crane to maintain balance while lifting heavy loads, as well as a gantry, which helps lift the boom and counterweights during installation, although the counterweight tray, counterweights, and gantry are not required to be attached for the upper carriage assembly to be a subject assembly. The boom butt may or may not be attached to the upper carriage assembly at the time of entry.

- **Hoisting assembly.** The hoisting assembly, housed within the upper carriage assembly and lattice boom assembly, powers the lifting and lowering of loads and typically consists of a hoisting line of high strength steel cable, a hoist motor, hoist brakes, hoisting drums, and a hook block formed from steel sheaves, which helps distribute the load on the hoisting line and increases lifting capacity. The main hoisting line typically runs from the hoist drums, housed in the upper carriage assembly, up through the lattice boom (which may or may not house additional hoist drums) and hook block.

- **Jib assemblies.** Jib assemblies are optional components that can be added to the top end of the boom to provide the crane with greater reach. Similar to lattice boom assemblies, jib assemblies typically consist of interlocking sections of welded steel pipe, arranged in a “V” or “W” lattice pattern. Jib assemblies can consist of either fixed jib, which extends from the main lattice boom at a fixed angle, or a luffing jib, which can be raised or lowered by the operator through a separate set of controls.

Importation of any of these assemblies, whether assembled or unassembled, constitutes unfinished lattice boom crawler cranes for purposes of this investigation. Inclusion of other components not identified as comprising the finished or unfinished lattice boom crawler cranes and lattice boom crawler crane assemblies do not remove the products from the scope.

Processing of lattice boom crawler cranes and lattice boom crawler crane assemblies such as welding, joining, bolting, painting, coating, finishing, or assembly, either in the country of manufacture of the in-scope product or in a third country does not remove the product from the scope. Lattice boom crawler cranes and lattice boom crawler crane assemblies subject to this investigation include those that are produced in the subject country whether assembled with other components in the subject country or in a third country. Processing or completion of finished and unfinished lattice boom crawler cranes and the covered lattice boom crawler crane assemblies either in the subject country or in a third country does not remove the product from the scope.

Lattice boom crawler cranes subject to this investigation are typically classifiable under subheadings 8426.49.0010 and 8426.49.0090 of the Harmonized Tariff Schedule of the

United States (HTSUS). Lattice boom crawler crane assemblies may also be classified under subheadings 8426.49.0010 or 8426.49.0090, or may be classified under subheadings 8431.49.1090, 8431.49.1060, or 8425.19.0000 of the HTSUS. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Changes Since the *Preliminary Determination*
- IV. Discussion of the Issues
 - General Comments*
 - Comment 1: Particular Market Situation—Currency Undervaluation
 - Comment 2: Particular Market Situation—Chinese Steel Production Overcapacity
 - Comment 3: Differential Pricing
 - Comments Relating to Kobelco*
 - Comment 4: Adverse Facts Available
 - Comment 5: Control Number
 - Comment 6: U.S. Date of Sale for FOB Port Sales
 - Comments Relating to Sumitomo*
 - Comment 7: Adverse Facts Available on U.S. Sales
 - Comment 8: Partial Adverse Facts Available on Home Market Sales
 - Comment 9: Used Cranes and Certain Assemblies
 - Comment 10: Differential Pricing Analysis for Certain U.S. Sales to Canadian Customers
 - Comment 11: U.S. Inventory Costs and Rebates
 - Comment 12: Inventory Adjustments in Further Manufacturing General and Administrative Expenses
 - Comment 13: Constructed Export Price Offset
 - Comment 14: Ministerial Errors
- V. Recommendation

[FR Doc. 2026–11262 Filed 6–3–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–834]

Large Diameter Welded Pipe From the Republic of Türkiye: Preliminary Results and Rescission, in Part, of Countervailing Duty Administrative Review; 2024

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies were provided to HDM Çelik Boru Sanayi Ve Ticaret A.S. (HDM Çelik), a producer/exporter of large

diameter welded pipe (LDWP) from the Republic of Türkiye (Türkiye) during the period of review (POR) January 1, 2024, through December 31, 2024. In addition, Commerce is rescinding this review, in part, with respect to 11 companies. Interested parties are invited to comment on these preliminary results.

DATES: Applicable June 4, 2026.

FOR FURTHER INFORMATION CONTACT:

Maria Papakostas, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0086.

SUPPLEMENTARY INFORMATION:

Background

On June 25, 2025, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the countervailing duty order on LDWP from Türkiye.¹ On July 14, 2025, Commerce selected HDM Çelik as the mandatory respondent in this review.² Due to a lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.³ 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.⁴ Finally, on March 13, 2026, we extended the deadline for the preliminary results of this review until May 29, 2026.⁵

For a complete description of the events that followed the initiation of this review, see the Preliminary Decision Memorandum.⁶ A list of topics

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 26967 (June 25, 2025); see also *Large Diameter Welded Pipe from the Republic of Turkey: Countervailing Duty Order*, 84 FR 18771 (May 2, 2019) (*Order*).

² See Memorandum, “Respondent Identification,” dated July 14, 2025.

³ See Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated November 14, 2025.

⁴ See Memorandum, “Tolling of all Case Deadlines,” dated November 24, 2025.

⁵ See Memorandum, “Extension of Deadline for Preliminary Results of 2024 Countervailing Duty Administrative Review,” dated March 13, 2026.

⁶ See Memorandum, “Decision Memorandum for the Preliminary Results of the 2024 Countervailing Duty Administrative Review of Large Diameter

Continued

included in the Preliminary Decision Memorandum is provided in Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Order

The product covered by the Order is LDWP from Türkiye. For a complete description of the scope of the Order, see the Preliminary Decision Memorandum.

Rescission of Administrative Review, In Part

Pursuant to 19 CFR 351.213(d)(3), it is Commerce’s practice to rescind an administrative review of a countervailing duty order where it concludes that there were no suspended entries of subject merchandise during the POR.⁷ Normally, upon completion of an administrative review, the suspended entries are liquidated at the CVD assessment rate calculated for the POR.⁸ Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct U.S. Customs and Border Protection (CBP) to liquidate at the CVD rate calculated for the POR.⁹ Commerce notified all interested parties of its intent to rescind this administrative review regarding the companies listed in Appendix II.¹⁰ No

Welded Pipe from the Republic of Türkiye,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁷ See, e.g., *Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Rescission of Countervailing Duty Administrative Review*; 2024, 90 FR 48043 (October 3, 2025).

⁸ See 19 CFR 351.212(b)(2).

⁹ See, e.g., *Shanghai Sunbeauty Trading Co. v. United States*, 380 F.Supp.3d 1328, 1337 (CIT 2019), at 12 (referring to section 751(a) of the Act, the U.S. Court of International Trade held that “[w]hile the statute does not explicitly require that an entry be suspended as a prerequisite for establishing entitlement to a review, it does explicitly state the determined rate will be used as the liquidation rate for the reviewed entries. This result can only obtain if the liquidation of entries has been suspended”; see also *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments*; 2018–2019, 86 FR 36102, and accompanying Issues and Decision Memorandum at Comment 4; and *Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation: Notice of Rescission of Antidumping Duty Administrative Review*, 77 FR 65532 (October 29, 2012) (noting that “for an administrative review to be conducted, there must be a reviewable, suspended entry to be liquidated at the newly calculated assessment rate”).

¹⁰ See Memorandum, “Notice of Intent to Rescind Review, in Part,” dated August 14, 2025.

party commented on this memorandum. In the absence of any suspended entries of subject merchandise from these companies during the POR, we are rescinding this administrative review for the companies listed in Appendix II, in accordance with 19 CFR 351.213(d)(3).

Methodology

Commerce is conducting this administrative review in accordance with 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, i.e., a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.¹¹ For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, we preliminarily determine the following net countervailable subsidy rate exists for the POR, January 1, 2024, through December 31, 2024:

Company	Subsidy rate (percent <i>ad valorem</i>)
HDM Çelik Boru Sanayi Ve Ticaret A.S. ¹²	3.37

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties for these preliminary results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(3) of the Act, Commerce intends to verify the information relied upon in making its final results.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this review. Rebuttal briefs, limited to issues

¹¹ 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.

¹² This rate also applies to HDM Spiral Kaynaklı Çelik Boru A.Ş., the English name of which is HDM Spirally Welded Steel Pipe Inc.

raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹³ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁴ All briefs must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline.

As provided under 19 CFR 351.309(c)(2)(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.¹⁵ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁶

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party’s name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.¹⁷

Assessment Rates

Consistent with section 751(a)(1) of the Act and 19 CFR 351.212(b)(2), upon issuance of the final results, Commerce shall determine, and CBP shall assess,

¹³ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (APO and Service Procedures).

¹⁴ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁵ We use the term “issue” here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁶ See APO and Service Procedures.

¹⁷ See 19 CFR 351.310(d).

countervailing duties on all appropriate entries covered by this review.

For the companies listed in Appendix II for which the review is being rescinded, Commerce will instruct CBP to assess countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue rescission instructions to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**.

Commerce intends to issue assessment instructions to CBP regarding HDM Çelik 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

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.107(e), Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties with regard to shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review, as follows: (1) the cash deposit rate for the company listed above will be equal to the company-specific estimated individual countervailable subsidy rates determined in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) if both the producer and exporter of the subject merchandise have company-specific estimated subsidy rates assigned, and their rates differ, then the applicable cash deposit rate will be the higher of these two rates; (3) if either the producer or the exporter, but not both, of the subject merchandise has a company-specific estimated subsidy rate assigned, the applicable cash deposit rate will be that company's company-specific rate; and (4) the cash deposit rate for all other producers and exporters will be continue to be 3.72 percent, the all-others subsidy rate established in the investigation.¹⁸ These cash deposit

instructions, when imposed, shall remain in effect until further notice.

Final Results of Review

Unless the deadline is extended, Commerce intends to issue the final results of this administrative review, which will include the results of Commerce's analysis of the issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Notification to Interested Parties

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: May 29, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. Diversification of Türkiye's Economy
- V. Subsidies Valuation
- VI. Analysis of Programs
- VII. Recommendation

Appendix II

Companies With No Reviewable Entries—Rescinded From Review

1. Cagil Makina San ve Tic A.S. AKA Cagil Makina A.S.
2. Çimtas Boru Imalatirai Ticaret Ltd.
3. Emek Boru Makina Sanayi ve Ticaret A.S.
4. Erciyas Celik Boru Sanayi A.S.
5. Mazlum Mangtay Boru Son. Ins. Tar.Urn.San.ve Tic. A.S.
6. Noksels Celik Boru Sanayi A.S.
7. Ozbal Celik Boru San. Tic. Ve TAAH A.S.
8. Spirally Welded Steel Pipe Inc.
9. Toscelik Profil ve Sac End. A.S.
10. Toscelik Spiral Boru Uretim A.S.
11. Umrans Celik Boru Sanayii A.S.

[FR Doc. 2026–11264 Filed 6–3–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–857]

Certain Freight Rail Couplers and Parts Thereof From Mexico: Final Results of Antidumping Duty Administrative Review; 2023–2024

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that certain freight rail couplers and parts thereof (freight rail couplers) from Mexico were sold in the United States at less than normal value during the period of review (POR), May 3, 2023, through October 31, 2024.

DATES: Applicable June 4, 2026.

FOR FURTHER INFORMATION CONTACT: Patrick Barton, 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) 482–0012.

SUPPLEMENTARY INFORMATION:

Background

On January 30, 2026, Commerce published the *Preliminary Results* of this review in the **Federal Register**, and invited interested parties to comment on those results.¹ For a summary of the events that occurred since the *Preliminary Results*, see the Issues and Decision Memorandum.² Commerce conducted this administrative review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order³

The products covered by this *Order* are freight rail couplers from Mexico. For a complete description of the scope, see the Issues and Decision Memorandum.

Analysis of Comments Received

The sole issue raised in the case and rebuttal briefs is addressed in the Issues and Decision Memorandum. A list of topics and the issue that parties raised is attached at an appendix to this notice. The Issues and 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

¹ See *Certain Freight Rail Couplers and Parts Thereof from Mexico: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2023–2024*, 91 FR 4059 (January 30, 2026) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

² See Memorandum, “Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review: Certain Freight Rail Couplers and Parts Thereof from Mexico; 2023–2024,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See *Certain Freight Rail Couplers and Parts Thereof from Mexico: Antidumping Duty Order*, 88 FR 78308 (November 15, 2023) (*Order*).

¹⁸ See *Order*.

complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Changes Since the Preliminary Results

Based on our review of the record and comments received from interested parties regarding the *Preliminary Results*, we made no changes to the margin calculated for Amsted Rail Company, Inc.; ASF–K de Mexico, S. de R.L. de C.V. (collectively, Amsted). However, we intend to instruct U.S. Customs and Border Protection (CBP) to assess duties on an *ad valorem* basis, rather than the per-unit basis relied upon in the Draft Customs Instructions Memorandum.⁴

Final Results of Review

Commerce determines that the following estimated weighted-average dumping margin exists for the period May 3, 2023, through October 31, 2024:

Producer or exporter	Weighted-average dumping margin (percent)
Amsted Rail Company, Inc.; ASF–K de Mexico, S. de R.L. de C.V.	6.50

Disclosure

Normally, Commerce will disclose to the parties in a proceeding the calculations performed in connection with the final results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce made no changes to the *Preliminary Results* calculations, there are no new calculations to disclose.

Assessment Rate

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 covered by this review. Pursuant to 19 CFR 351.212(b)(1), and based on the unique factors of the instant case and the merchandise under review, we calculated the importer-specific antidumping duty assessment rate by aggregating the total amount of dumping calculated for the examined sales of the importer and dividing each of this

⁴ See Memorandum, “Draft Customs Instructions,” dated February 4, 2026 (Draft Customs Instructions Memorandum), at Attachment 2.

amount by the total estimated entered value associated with those sales. To determine whether an importer-specific, per-unit assessment rate is *de minimis*, in accordance with 19 CFR 351.106(c)(2), we also calculated an importer-specific *ad valorem* ratio based on estimated entered values. Where either the respondent’s weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific assessment rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Commerce’s “automatic assessment” will apply to entries of subject merchandise during the POR produced by Amsted for which it did not know that the merchandise it sold to an intermediary (e.g., a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate companies involved in the transaction. Commerce intends to issue assessment instructions to CBP no earlier than 41 days after the date of publication of the final results of this review in the **Federal Register** in accordance with 19 CFR 356.8(a). If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (i.e., within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rates for the company identified above in the “Final Results of Review” section will be equal to the company-specific weighted-average dumping margin established in the final results of this administrative review; (2) for merchandise exported by a company not covered in this administrative review but covered in a completed prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review or completed prior segment of this proceeding but the producer is, the cash deposit rate will be the company-

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rates for the company identified above in the “Final Results of Review” section will be equal to the company-specific weighted-average dumping margin established in the final results of this administrative review; (2) for merchandise exported by a company not covered in this administrative review but covered in a completed prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review or completed prior segment of this proceeding but the producer is, the cash deposit rate will be the company-

specific 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 or exporters will continue to be 48.10 percent, the rate established in the less-than-fair-value investigation.⁵ 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 this POR. Failure to comply with this requirement could result in Commerce’s presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order (APO)

This notice also serves as a final reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5) and 19 CFR 351.213(h)(1).

Dated: June 1, 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 Issue
 - Comment: Whether Commerce Should Apply an *Ad Valorem* Assessment Rate

⁵ See *Order*, 88 FR at 78308.

VI. Recommendation

[FR Doc. 2026–11263 Filed 6–3–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–469–814]

**Chlorinated Isocyanurates From Spain:
Final Results of Antidumping Duty
Administrative Review; 2023–2024**

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that sales of chlorinated isocyanurates (chlorinated isos) from Spain were not sold in the United States at less than normal value during the period of review (POR), June 1, 2023, through May 31, 2024.

DATES: Applicable June 4, 2026.

FOR FURTHER INFORMATION CONTACT:

Colton Dulin, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1222.

SUPPLEMENTARY INFORMATION:**Background**

On October 3, 2025, Commerce published the *Preliminary Results* of this administrative review in the **Federal Register** and invited comments from interested parties.¹ We received no comments from interested parties on the *Preliminary Results*, and we made no changes from the *Preliminary Results*. Accordingly, no decision memorandum accompanies this notice and the *Preliminary Results* are hereby adopted as these final results. Commerce conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order²

The products covered by the *Order* are chlorinated isos, which are derivatives of cyanuric acid, described as chlorinated s-triazine triones. For a full description of the scope of the *Order*, see the *Preliminary Results* PDM.

¹ See *Chlorinated Isocyanurates from Spain: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2023–2024*, 90 FR 48044 (October 3, 2025) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

² See *Chlorinated Isocyanurates from Spain: Notice of Antidumping Duty Order*, 70 FR 36562 (June 24, 2005) (*Order*).

Final Results of Review

As a result of our review, we determine the following estimated weighted-average dumping margins for the period June 1, 2023, through May 31, 2024:

Manufacturer/exporter	Weighted-average dumping margin (percent)
Ercros S.A	0.00

Disclosure

Normally, Commerce discloses to interested parties the calculations of the final results of an administrative review within five days of a public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because we have made no changes from the Preliminary Results, there are no calculations to disclose.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce has determined in these final results of this review, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise during the POR. Pursuant to 19 CFR 351.212(b)(1), we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for examined sales to each importer to the total entered value of those sales. Where an importer-specific assessment rate is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. In accordance with Commerce's "automatic assessment" practice, for entries of subject merchandise that entered the United States during the POR that were produced by Ercros for which it did not know that its merchandise was destined to the United States, Commerce will instruct CBP to liquidate unreviewed entries at the all-others rate (*i.e.*, 24.83 percent),³ if there is no rate for the intermediate company(ies) involved in the transaction.⁴

Commerce intends to issue assessment instructions to CBP no

³ See *Order*.

⁴ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

earlier than 35 days after the date of publication of these 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 statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of chlorinated isos from Spain entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice in the **Federal Register**, as provided for by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Ercros will be equal to the weighted-average dumping margin established in the final results of this administrative review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rates will be zero; (2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the producer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the 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 manufacturers or exporters will continue to be 24.83 percent, the all-others rate established in the investigation.⁵ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Order (APO)

This notice also serves as a 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), which continues to govern business proprietary information in this segment of the proceeding. 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 terms of an APO is a sanctionable violation.

⁵ See *Order*.

Notification to Interested Parties

These final results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: June 1, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2026–11260 Filed 6–3–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–122]

Certain Corrosion Inhibitors From the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review; 2024–2025

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that producers/exporters subject to this review made sales of subject merchandise at less than normal value (NV) during the period of review (POR) March 1, 2024, through February 28, 2025. Interested parties are invited to comment on these preliminary results of review.

DATES: Applicable June 4, 2026.

FOR FURTHER INFORMATION CONTACT:

Dusten Hom, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5075.

SUPPLEMENTARY INFORMATION:

Background

On March 19, 2021, based on timely requests of review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the antidumping duty (AD) order on certain corrosion inhibitors from the People's Republic of China (China) with respect to 10 companies.¹ On June 11, 2025, Commerce selected Anhui Trust Chem Co., Ltd. (ATC) and Nantong Botao Chemical Co., Ltd (Botao) as the mandatory respondents in this review.²

¹ See *Certain Corrosion Inhibitors from the People's Republic of China: Antidumping Duty Order*, 86 FR 14869 (March 19, 2021) (*Order*).

² See Memorandum, “Respondent Selection,” dated June 11, 2025.

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days,³ and, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁴ On January 20, 2026, Commerce extended the deadline for issuing the preliminary results of this review until June 1, 2026.⁵

For a complete description of the events that followed the initiation of this administrative review, *see* the Preliminary Decision Memorandum.⁶ A list of this topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/frnotices>.

Scope of the Order

The merchandise subject to the *Order* is corrosion inhibitors from China. For a complete description of the scope of the *Order*, *see* the Preliminary Decision Memorandum.⁷

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act). Because China is a non-market economy (NME) country within the meaning of section 771(18) of the Act, we calculated normal value in accordance with section 773(c) of the Act. For a full description of the methodology underlying our

³ See Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated November 14, 2025.

⁴ See Memorandum, “Tolling of All Case Deadlines,” dated November 24, 2025.

⁵ See Memorandum, “Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,” dated January 20, 2026.

⁶ See Memorandum, “Decision Memorandum for Preliminary Results of the Antidumping Duty Administrative Review of Certain Corrosion Inhibitors from the People's Republic of China; 2024–2025,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁷ See Preliminary Decision Memorandum at the “Scope” section for more details.

preliminary results, *see* the Preliminary Decision Memorandum.

Separate Rates

We preliminarily determine that, in addition to ATC and Botao, two companies not individually examined are eligible for separate rates in this administrative review, Gold Chemical Limited (Gold Chemical) and Kanghai Chemical Co., Ltd. (Chuzhou Kanghai).⁸ The Act and Commerce's regulations do not address the establishment of a separate rate to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for separate-rate respondents which Commerce did not examine individually in an administrative review.

In these preliminary results, we calculated rates for ATC and Botao that are not zero, *de minimis*, or based entirely on facts available. Therefore, the rates of ATC and Botao are applicable to Chuzhou Kanghai and Gold Chemical, the companies not selected for individual examination but eligible for a separate rate. Accordingly, for the preliminary results, we are assigning to Chuzhou Kanghai and Gold Chemical an estimated weighted-average dumping margin based on the average of the two individually examined respondents' rates weighted by their publicly available ranged U.S. sales values.⁹

China-Wide Entity

Commerce's policy regarding the conditional review of the China-wide entity applies to this administrative review.¹⁰ Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity, the entity is not under review, and the

⁸ See Preliminary Decision Memorandum at the “Separate Rate Determinations” section for more details.

⁹ See Memorandum, “Preliminary Separate Rate for Respondents Not Selected for Individual Examination,” dated concurrently with this memorandum.

¹⁰ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

entity's assessment rate (*i.e.*, 241.02 percent) is not subject to change.¹¹

Six companies under review, as identified in Appendix II, failed to establish their eligibility for a separate rate because they did not file a Separate Rate Application or Certification. Accordingly, Commerce preliminarily determines that these companies are not eligible for a separate rate and are, thus, part of the China-wide entity and subject to the China-wide entity rate.¹²

Preliminary Results of Review

Commerce preliminarily determines the following estimated weighted-average dumping margins exist for the period March 1, 2024, through February 28, 2025:

Exporter	Weighted-average dumping margin (percent)
Anhui Trust Chem Co., Ltd.; Jiangsu Trust Chem Co., Ltd.; Nanjing Trust Chem Co., Ltd .. Nantong Botao Chemical Co., Ltd	61.51
Gold Chemical Limited	86.96
Kanghua Chemical Co., Ltd	73.75

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties for these preliminary results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(3) of the Act, Commerce intends to verify the information relied upon in making its final results.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this review. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹³ 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.¹⁴

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.¹⁵ Further, we request that interested parties limit their public, executive summary of each issue to no more than 450 words, not including citations. We intend to use the public 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 public, executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁶

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.¹⁷

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

If ATC and Botao's weighted-average dumping margin is not zero or *de minimis* (*i.e.*, less than 0.50 percent) in the final results of this review, Commerce intends to calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales to the total entered value of those sales. Where we do not have entered values for all U.S. sales to a particular importer, we will

calculate an importer-specific, per-unit assessment rate on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total quantity of those sales.¹⁸ To determine whether an importer-specific, per-unit assessment rate is *de minimis*, in accordance with 19 CFR 351.106(c)(2), we also will calculate an importer-specific *ad valorem* ratio based on estimated entered values. If ATC's and Botao's weighted-average dumping margin is zero or *de minimis* or where an importer-specific *ad valorem* assessment rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.¹⁹

For the respondents that were not selected for individual examination in this administrative review but qualified for a separate rate, the assessment rate will be equal to the weighted-average dumping margins calculated for the mandatory respondents consistent with section 735(c)(5)(A) of the Act.

For entries that were not reported in the U.S. sales database submitted by the mandatory respondents during this review, Commerce will instruct CBP to liquidate such entries at the China-wide rate.

For the final results, if we continue to treat the companies identified in Appendix II as part of the China-wide entity, we will instruct CBP to apply an *ad valorem* assessment rate of 241.02 percent to all entries of subject merchandise during the POR which were produced and/or exported by those companies.

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.

If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from China

¹¹ See Order.

¹² *Id.*

¹³ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (APO and Service Procedures).

¹⁴ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁵ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁶ See APO and Service Procedures.

¹⁷ See 19 CFR 351.310(d).

¹⁸ See 19 CFR 351.212(b)(1).

¹⁹ See 19 CFR 351.106(c)(2); see also *Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification*, 77 FR 8101, 8103 (February 14, 2012).

entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) for the companies listed above, which have a separate rate, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or de minimis, then zero cash deposit will be required); (2) for previously investigated or reviewed Chinese and non-Chinese exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the existing rate for the China-wide entity of 241.02 percent; and (4) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Notification to Interested Parties

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(1), 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: June 1, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Affiliation and Collapsing

V. Discussion of the Methodology
VI. Adjustment Under Section 777A(f) of the Act

VII. Currency Conversion

VIII. Recommendation

Appendix II

Companies Considered To Be Part of the China-Wide Entity

1. Relic Chemicals
2. Sagar Speciality Chemicals Pvt., Ltd.
3. Wuxi Connect Chemicals Co., Ltd.
4. Yasho Industries Pvt. Ltd.
5. Connect Chemicals China Co., Ltd.
6. Connect Chemicals GMBH

[FR Doc. 2026–11261 Filed 6–3–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–096]

Aluminum Wire and Cable From the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2023

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) is rescinding the administrative review of the countervailing duty (CVD) order on aluminum wire and cable from the People's Republic of China (China). The period of review (POR) is January 1, 2023, through December 31, 2023.

DATES: Applicable June 4, 2026.

FOR FURTHER INFORMATION CONTACT: Sarah Keith, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0264.

SUPPLEMENTARY INFORMATION:

Background

On December 23, 2019, Commerce published in the **Federal Register** the countervailing duty order on aluminum wire and cable from China.¹ On December 3, 2024, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the Order.² On January 27,

¹ See *Aluminum Wire and Cable from the People's Republic of China: Antidumping Duty and Countervailing Duty Orders*, 84 FR 70496 (December 23, 2019) (Order).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 89 FR 95737 (December 3, 2024).

2025, based on a timely request³ for an administrative review, Commerce initiated a CVD administrative review of the sole mandatory respondent, Tanghenam Electric Wire & Cable Co., Ltd. (Tanghenam).⁴

On December 18, 2025, Commerce released a memorandum indicating that there were no reviewable entries of subject merchandise during the POR based on a U.S. Customs and Border Protection (CBP) entry data query.⁵ On December 23, 2025, the petitioner submitted comments on the record requesting that Commerce rescind the administrative review.⁶ Further, on January 14, 2026, we notified interested parties of our intent to rescind this administrative review due to a lack of suspended entries.⁷ Interested parties submitted comments on Commerce's notice of intent to rescind this review.⁸

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁹ Additionally, due to workflow delays and outages experienced by Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by 21 days.¹⁰ On February 9, 2026, Commerce extended the deadline for issuing the preliminary results by 110 days.¹¹ Accordingly, the deadline for the preliminary results is now May 28, 2026.

For a complete description of the events that followed the initiation of this review, see the Issues and Decision

³ See Tanghenam's Letter, "Request for Administrative Review," dated December 31, 2024.

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 8187 (January 27, 2025) (Initiation Notice).

⁵ See Memorandum, "Customs Entries from October 19, 2023, through November 31, 2024," dated December 18, 2025 (CBP Data Release).

⁶ See Petitioner's Letter, "Comments on CBP Entry Data," dated December 23, 2025.

⁷ See Memorandum, "Notice of Intent to Rescind Administrative Review," dated January 14, 2026.

⁸ See Petitioner's Letter, "Comments on Notice of Intent to Rescind Administrative Review," dated January 21, 2026; see also Tanghenam's Letter, "Tanghenam's Comments on the Notice of Intent to Rescind," dated January 21, 2026; see also Petitioner's Letter, "Rebuttal Comments on Notice of Intent to Rescind Administrative Review," dated January 28, 2026.

⁹ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

¹⁰ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

¹¹ See Memorandum, "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated February 9, 2026.

Memorandum.¹² A list of the topics discussed in the Issues and Decision Memorandum is attached as an appendix to this notice. 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 Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Order

The product covered by the *Order* is aluminum wire and cable from China. For a full description of the scope of the *Order*, see the Issues and Decision Memorandum.

Analysis of Comments Received

Commerce addressed the issues raised in parties' comments on Commerce's notice of intent to rescind this review in the accompanying Issues and Decision Memorandum. The issues are identified in the appendix to this notice.

Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of a CVD order where it concludes there were no suspended entries of subject merchandise during the POR for an exporter or producer. Normally, upon completion of an administrative review, the suspended entries are liquidated at the CVD assessment rate(s) based on the final results for the review period. Therefore, for an administrative review to be conducted, there must be a suspended entry that Commerce can instruct U.S. Customs and Border Protection to liquidate at the calculated CVD assessment rate for the review period. As explained in detail in the Issues and Decision Memorandum, Tanghenam has no suspended entries of subject merchandise during the POR. Accordingly, in the absence of suspended entries of subject merchandise during the POR, we are rescinding this administrative review in accordance with 19 CFR 351.213(d)(3).

Cash Deposit Requirements

As Commerce is rescinding this administrative review, cash deposit rates will not change. Accordingly, the current cash deposit requirements shall remain in effect until further notice.

Assessment

Commerce will instruct CBP to assess countervailing duties on all appropriate entries of subject merchandise. Countervailing duties shall be assessed at rates equal to the cash deposit rate of estimated countervailable duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of this rescission notice in the *Federal Register*.

Notification Regarding Administrative Protective Order (APO)

This notice serves as a final reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of the APO materials, or conversion to judicial protective order is hereby requested. Failure to comply with regulations and terms of an APO is a violation, which is subject to sanction.

Notification to Interested Parties

This notice is published in accordance with section 751 of the Act and 19 CFR 351.213(d)(4).

Dated: May 28, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Issue and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. Discussion of the Issues
 - Comment 1: Rescission of the Administrative Review Because of No Suspended Entries
 - Comment 2: Rescission of the Administrative Review Under Section 751(a)(2)(C) of the Act
- V. Recommendation

[FR Doc. 2026–11259 Filed 6–3–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration [C–433–815]

Certain Oil Country Tubular Goods From Austria: Postponement of Preliminary Determination in the Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable June 4, 2026.

FOR FURTHER INFORMATION CONTACT: Ian Riggs, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3810.

SUPPLEMENTARY INFORMATION:

Background

On April 22, 2026, the U.S. Department of Commerce (Commerce) initiated a countervailing duty (CVD) investigation of imports of certain oil country tubular goods (OCTG) from Austria.¹ Currently, the preliminary determination is due no later than June 26, 2026.

Postponement of Preliminary Determination

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires that Commerce issue the preliminary determination in a CVD investigation within 65 days after the date on which Commerce initiated the investigation. However, section 703(c)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 130 days after the date on which Commerce initiated the investigation if: (A) the petitioner² makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless

¹ See *Certain Oil Country Tubular Goods from Austria: Initiation of Countervailing Duty Investigation*, 91 FR 22790 (April 28, 2026).

² The petitioners are the U.S. OCTG Manufacturers Association, United States Steel Corporation, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC.

¹² See Memorandum, “Issues and Decision Memorandum for the Rescission of the Administrative Review of the Countervailing Duty Order on Aluminum Wire and Cable from the People’s Republic of China; 2023,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

it finds compelling reasons to deny the request.

On May 18, 2026, the petitioners submitted a timely request that Commerce postpone the preliminary CVD determination.³ The petitioners stated that they request postponement because they “will not have an adequate opportunity to review the questionnaire responses of respondents and submit any necessary rebuttal factual information, and Commerce will not have adequate time to review the data provided in the questionnaire responses and issue supplemental questionnaires prior to its issuance of a preliminary determination.”⁴ The petitioners also note that Commerce has not yet received the respondent’s initial questionnaire response.

In accordance with 19 CFR 351.205(e), the petitioners have stated the reasons for requesting a postponement of the preliminary determination, and Commerce finds no compelling reason to deny the request. Therefore, in accordance with section 703(c)(1)(A) of the Act, Commerce is postponing the deadline for the preliminary determination to no later than 130 days after the date on which this investigation was initiated, *i.e.*, August 31, 2026.⁵ Pursuant to section 705(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination of this investigation will continue to be 75 days after the date of the preliminary determination.

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: June 1, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2026–11265 Filed 6–3–26; 8:45 am]

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³ See Petitioners’ Letter, “Request to Extend the Deadline for the Preliminary Determination,” dated May 18, 2026.

⁴ *Id.* at 2.

⁵ Postponing the preliminary determination to 130 days after initiation would place the deadline on Sunday, August 30, 2026. Commerce’s practice dictates that where a deadline falls on a weekend, the appropriate deadline is the next business day. See *Notice of Clarification: Application of “Next Business Day” Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF680]

South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of the Habitat and Ecosystem Advisory Panel (AP) on June 30 and July 1, 2026.

DATES: The Habitat and Ecosystem AP meeting will be held from 8:30 a.m. to 5 p.m. EDT on June 30, 2026, and from 8:30 a.m. to 5 p.m. EDT on July 1, 2026.

ADDRESSES: *Council address:* South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

Meeting Address: The meeting will be held at the Town and Country Inn and Suites, 2008 Savannah Hwy., Charleston, SC 29407; phone: (843) 571–1000. The meeting will also be available via webinar. Webinar registration, an online public comment form, and briefing book materials will be available 2 weeks prior to the meeting at: <https://safmc.net/advisory-panel-meetings/>. See **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT:

Kathleen Howington, Habitat and Ecosystem Scientist, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 571–4366 or toll-free (866) SAFMC–10; FAX (843) 769–4520; email: Kathleen.howington@safmc.net.

SUPPLEMENTARY INFORMATION: The Habitat and Ecosystem AP will discuss and recommend revisions to the Council’s “Alterations to Riverine, Estuarine and Nearshore Flows Policy” and discuss the integration plan for the prey and predator information from the “Fishery Ecosystem Plan II” into the “Food Webs and Connectivity Policy”. The AP will also discuss life history updates for four fishery management plans’ essential fish habitat designations. The AP will receive an update on the Council’s Resilient Fisheries Projects with a focus on the guidance developed during the Ecosystem Workshop and other resilient fisheries project recommendations. The AP will also receive an update on the Mid-Atlantic Fishery Management Council’s Inflation Reduction Act

projects that may have an impact on South Atlantic fisheries. The AP will discuss new data on the impacts on habitat from activities related to space exploration off the Florida coast. The AP will receive a summary of the Southeast Fisheries Science Center Gulf Region’s Integrated Ecosystem Assessment (IEA) and Mid-Atlantic Fishery Management Council’s IEA processes and discuss the South Atlantic Council’s potential goals and methods for an IEA in the region. The AP will receive an update from the Bureau of Ocean Energy Management on offshore developments, including but not limited to offshore wind, oil and gas exploration. The AP will receive a summary of Manomet Conservation Science’s beneficial use project site selection process and its associated habitat impacts. The AP will review the Habitat Program’s Outreach and Communication Plan including a frequently asked question document. Finally, the AP will review the Habitat and Ecosystem AP Work Plan, the upcoming appointment process for agency seats, and elect a chair and vice chair. The AP will provide recommendations to the Council on other topics as needed.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aid should be directed to the Council office (see **ADDRESSES**) 5 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: June 1, 2026.

Key Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026–11213 Filed 6–3–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF830]

Management Track Assessment for Atlantic Herring and Georges Bank Haddock; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: NMFS will convene the Management Track Assessment Peer

Review Meeting for the purpose of reviewing Atlantic herring and Georges Bank haddock stocks. The Management Track Assessment Peer Review is a formal scientific peer-review process for evaluating and presenting stock assessment results to managers for fish stocks in the offshore U.S. waters of the northwest Atlantic. Assessments are prepared by the lead stock assessment scientist and reviewed by an independent panel of stock assessment experts. The public is invited to attend the presentations and discussions between the review panel and the scientists who have participated in the stock assessment process.

DATES: The public portion of the Management Track Assessment Peer Review Meeting will be held from June

29, 2026–June 30, 2026. The public portion of the meeting will conclude on June 30, 2026 at 3 p.m. Eastern Standard Time. Please see **SUPPLEMENTARY INFORMATION** for the daily meeting agenda.

ADDRESSES: The meeting will be held in the S.H. Clark Conference Room in the Aquarium Building of the National Marine Fisheries Service, Northeast Fisheries Science Center (NEFSC), 166 Water Street, Woods Hole, MA 02543 and virtually using this Google Meet link: <https://meet.google.com/hix-cwqp-crp>.

FOR FURTHER INFORMATION CONTACT: Brian Hooper, 508–258–9580; brian.hooper@noaa.gov.

SUPPLEMENTARY INFORMATION: For further information, please visit the NEFSC website at <https://www.fisheries.noaa.gov/new-england-mid-atlantic/population-assessments/fishery-stock-assessments-new-england-and-mid-atlantic>. For additional information about management track assessment peer review, please visit the NEFSC webpage at <https://www.fisheries.noaa.gov/new-england-mid-atlantic/population-assessments/management-track-stock-assessments>.

Daily Meeting Agenda—Management Track Peer Review Meeting

The agenda is subject to change; all times are approximate and may be changed at the discretion of the Peer Review Chair.

Time	Stock	Subject	Presenter
Monday, June 29, 2026			
9 a.m. ....	.....	Welcome/Logistics Conduct of Meeting	Brian Hooper. Kristan Blackhart. Peer Review Chair.
9:15 a.m.	Georges Bank Haddock	Terms of Reference (TOR) Review & Panel Questions	Liz Brooks. Panel.
10:30 a.m. ....	.....	Break.	
10:45 a.m.	Georges Bank Haddock	TOR Review & Panel Questions, continued	Liz Brooks. Panel.
11:45 a.m.	Georges Bank Haddock	Public Comment	Panel.
12 p.m. ....	.....	Lunch.	
1 p.m.	Georges Bank Haddock	Panel Deliberations	Panel.
2:15 p.m.	Georges Bank Haddock	Panel Conclusions/Recommendations and Final Stock Wrap Up.	Panel.
3 p.m.	Georges Bank Haddock	Closed Panel Writing Session	Panel.
5 p.m. ....	.....	Adjourn.	
Tuesday, June 30, 2026			
9 a.m. ....	.....	Welcome/Logistics	Brian Hooper. Peer Review Chair.
9:05 a.m.	Atlantic Herring	TOR Review & Panel Questions	Jonathan Deroba. Panel.
10:30 a.m.	Atlantic Herring	Public Comment	Public.
10:45 a.m. ....	.....	Break.	
11 a.m.	Atlantic Herring	Panel Deliberations	Panel.
11:30 a.m.	Atlantic Herring	Panel Conclusions/Recommendations and Final Stock Wrap Up.	Panel.
12 p.m. ....	.....	Lunch.	
1 p.m.	All stocks	Final Meeting Wrap Up, if needed (else closed panel writing session).	Panel.
3 p.m. ....	.....	Closed Panel Writing Session	Panel.
5 p.m. ....	.....	Adjourn.	

The meeting is open to the public; however, during the “Closed Panel Writing Session” on Monday, June 29th, and Tuesday, June 30th, the public should not engage in discussion with the Peer Review Panel.

Special Accommodations

This meeting is physically accessible to people with disabilities. Special requests should be directed to Brian Hooper, via the email provided in the **ADDRESSES** section.

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

Dated: June 2, 2026.

Kelly Denit,

*Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.*

[FR Doc. 2026–11200 Filed 6–3–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF812]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) will

hold a 3-day meeting with online webinar participation options to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held Tuesday, June 23 through Thursday, June 25, 2026, beginning at 9 a.m. *EDT* each day.

ADDRESSES: The meeting will be held at the Mystic Hilton, 20 Coogan Boulevard, Mystic, CT 06355; telephone (860) 572-0731; online at <https://www.hilton.com/>. Webinar registration: Information on how to register and provide public comment via webinar will be posted on the Council's June 2026 meeting web page at: <https://www.nefmc.org/calendar/june-2026-council-meeting>.

Register for the webinar at <https://nefmc-org.zoom.us/j/9th0g6g>.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone (978) 465-0492; www.nefmc.org.

FOR FURTHER INFORMATION CONTACT: Cate O'Keefe, Executive Director, New England Fishery Management Council; telephone: (978) 465-0492, ext. 113.

SUPPLEMENTARY INFORMATION:

Agenda

Tuesday, June 23, 2026

The Council will begin the meeting with introductions and announcements from Council Chair Daniel Salerno, followed by opening remarks from NOAA Fisheries Assistant Administrator Eugenio Piñero-Soler. The Council will then receive reports on recent activities from the Council Chair and Executive Director; the Greater Atlantic Regional Fisheries Office (GARFO) Regional Administrator; NOAA Office of General Counsel; the Northeast Fisheries Science Center (NEFSC); the Mid-Atlantic Fishery Management Council (MAFMC); the Atlantic States Marine Fisheries Commission (ASMFC); the U.S. Coast Guard; NOAA Enforcement; and representatives associated with International Commission for the Conservation of Atlantic Tunas, Highly Migratory Species, and the Dolphin-Wahoo fishery.

Next, Council staff will provide an update on Executive Order 14276, including evaluation of vessel baseline restrictions across New England and Mid-Atlantic limited access fisheries and a NOAA request to consider rescinding the Atlantic herring Industry-Funded Monitoring (IFM) Program. The

Council also will receive an Enforcement Committee report on the function of the restructured committee and recent meeting activities.

Following a lunch break, the Council will receive a report from the NEFSC Fishery Monitoring and Research Division on division activities and initiatives. The Council will then receive a report from the Atlantic Herring Committee and may initiate an action to set Atlantic herring specifications for fishing years 2027–2031, river herring and shad management measures, and other measures if necessary. The Council also will receive a progress report on related work.

The Council will conclude the day with a report from the Monkfish and Skate Coordinated Committee, including an overview of input received during listening sessions focused on identifying fishery improvements. The Council will adjourn for the day at approximately 5 p.m., followed by a public outreach event celebrating the 50th Anniversary of the Magnuson-Stevens Fishery Conservation and Management Act to foster open communication among meeting attendees.

Wednesday, June 24, 2026

On the second day, the Council will receive a report from the Scallop Committee. The Council may initiate Framework Adjustment 42 to set Atlantic Sea scallop specifications for fishing years 2027 and 2028 (default), develop sub-management units in the Northern Gulf of Maine (NGOM), and consider regional allocations of Limited Access Days-at-Sea (DAS) with analysis of carryover provisions. The Council also will select research set-aside (RSA) priorities for 2027/2028 and receive updates on the Scallop Strategic Plan and projection methods.

Next, the Council will receive a Habitat Committee report that includes recommendations for Designated Habitat Research Areas (DHRAs), an update on the 2026 Essential Fish Habitat (EFH) Framework, and a review of objectives for the Great South Channel clam dredge exemption program evaluation. The Council then will receive an update on development of the implementation plan for the Council's Holistic Strategic Plan Initiative.

Following an open period for public comment on Council issues not listed on the agenda and a lunch break, the Council will receive a report from the Groundfish Committee. The Council may initiate Framework Adjustment 74 to set specifications for groundfish

stocks for fishing years 2027–2031, establish U.S./Canada Total Allowable Catch levels for fishing years 2027/2028, and consider other measures. The Council also will review the Amendment 23 Monitoring Program Review draft report and receive updates on Framework 68 to revise Acceptable Biological Catch (ABC) control rules.

The Council will then receive Part 1 of a report from the Risk Policy Working Group and may take final action on the Risk Policy Concept and provide instructions for Council factor weighting. The Council will adjourn for the day at approximately 4:30 p.m. Voting Council members will then meet in a closed session to complete global factor weighting for the Council's Risk Policy process.

Thursday, June 25, 2026

On the final day, the Council will receive Part 2 of the Risk Policy Working Group report, including Council approval of global factor weights for application to the Risk Policy and a demonstration of the Risk Policy Toolkit.

Next, the Council will receive a report from the Small-Mesh Multispecies (Whiting) Committee and may update or initiate an action to set specifications for small-mesh multispecies stocks for fishing years 2027–2031 and other related measures.

The Council also will receive a presentation funded through the Inflation Reduction Act (IRA) on Ecosystem Component Species Analysis, including a review of a framework for considering Ecosystem Component species and associated evaluation factors. The Council then will receive planning updates from the Executive Director on Council activities, including fishery management plans, Council priorities, IRA initiatives, and other ongoing efforts. The Council will address other business before adjourning the meeting at approximately 12:30 p.m.

Although non-emergency issues not contained on this agenda may come before the 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 Fishery Conservation and Management 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 Executive Director Cate O'Keefe (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: June 1, 2026.

Key Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026-11212 Filed 6-3-26; 8:45 am]

BILLING CODE 3510-22-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds product(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes service(s) from the Procurement List previously furnished by such agencies.

DATES: *Date added to and deleted from the Procurement List:* July 05, 2026.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 250 E Street SW, Suite 3100, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 489-1322, or email CMTEFedReg@AbilityOne.gov.

SUPPLEMENTARY INFORMATION:

Addition

On April 16, 2026, the Committee for Purchase From People Who Are Blind or Severely Disabled (operating as the U.S. AbilityOne Commission) published an initial notice of proposed additions to the Procurement List. (91 FR 20418) This final notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51-2.3. The Committee has determined that the product(s) listed below are suitable for procurement by the Federal Government and has added the product(s) to the Procurement List. In

accordance with 41 CFR 51-5.2, the Committee has authorized the qualified nonprofit agencies described with the product(s) as the mandatory source(s) of supply. Additionally, in accordance with 41 CFR 51-2.4, the Committee considered relevant information from the contracting activity that this product requirement is not applicable to other Federal entities and has granted the activity's requested preference for purchase or distribution. This product(s) is not available through the Commission's Commercial Distribution Program, and other Federal entities wishing to purchase this product must contact the contracting activity listed directly for information on purchase availability.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the product(s) and impact of the additions on the current or most recent contractors, the Committee has determined that the product(s) listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501-8506 and 41 CFR 51-2.4.

Regulatory Flexibility Act Certification End of Certification

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the product(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501-8506) in connection with the product(s) added to the Procurement List.

End of Certification

Accordingly, the following product(s) are added to the Procurement List:

Product(s)

NSN(s)—Product Name(s):

6510-00-201-1755—Bandage, Cravat, Triangular

Authorized Source of Supply: Alphapointe, Kansas City, MO

Mandatory For: Department of Defense
Contracting Activity: DEPT OF DEFENSE, DLA TROOP SUPPORT

Deletion

On April 30, 2026 (91 FR 23247), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List. This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51-2.3.

After consideration of the relevant matter presented, the Committee has

determined that the service(s) listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501-8506 and 41 CFR 51-2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

Regulatory Flexibility Act Certification

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501-8506) in connection with the service(s) deleted from the Procurement List.

End of Certification

Accordingly, the following service(s) are deleted from the Procurement List:

Product(s)

NSN(s)—Product Name(s)

Services(s)

Service Type: Custodial and Related Services.
Mandatory for: GSA PBS Region 9, US

Geological Survey Campus, Menlo Park, CA, 345 Middlefield Road, Menlo Park, CA

Authorized Source of Supply: Hope Services, San Jose, CA

Contracting Activity: GENERAL SERVICES ADMINISTRATION, PBS R9 AMD SERVICES CONTRACTING BRANCH

Service Type: Grounds Maintenance

Mandatory For: GSA PBS Region 9, US
Geological Survey Campus, Menlo Park, CA, 345 Middlefield Road, Menlo Park, CA

Authorized Source of Supply: North Bay Rehabilitation Services, Inc., Rohnert Park, CA

Contracting Activity: GENERAL SERVICES ADMINISTRATION, PBS R9 AMD SERVICES CONTRACTING BRANCH

Michael R. Jurkowski,

Director, Business Operations.

[FR Doc. 2026-11159 Filed 6-3-26; 8:45 am]

BILLING CODE 6353-01-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed deletions from the Procurement List.

SUMMARY: The Committee is proposing to delete service(s) from the Procurement List that were furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: Comments must be received on or before: July 4, 2026.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 250 E Street SW, Suite 3100, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 489-1322, or email CMTEFedReg@AbilityOne.gov.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

The following service(s) are proposed for deletion to the Procurement List:

Services(s)

Service Type: Custodial service

Mandatory For: Bureau of Land Management, Aguirre Spring Campground, Dripping Springs Natural Area and Organ Mountain Recreation Site, Organ, NM, 15000 Aguirre Springs Road, Organ, NM

Authorized Source of Supply: Tresco, Inc., Las Cruces, NM

Contracting Activity: DEPARTMENT OF THE INTERIOR, BLM ALBUQUERQUE DISTRICT OFFICE

Service Type: Courier Service

Mandatory For: Department of Homeland Security, Immigrations & Customs Enforcement, Office of Chief Counsel, El Paso, TX, 11541 Montana Avenue, Suite O, El Paso, TX

Authorized Source of Supply: Training, Rehabilitation, & Development Institute, Inc., San Antonio, TX

Contracting Activity: DEPARTMENT OF HOMELAND SECURITY, MISSION SUPPORT ORLANDO

Michael R. Jurkowski,

Director, Business Operations.

[FR Doc. 2026-11160 Filed 6-3-26; 8:45 am]

BILLING CODE 6353-01-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS-2026-0232; OMB Control Number 0704-0477]

Information Collection Requirement; Organizational Conflicts of Interest in Major Defense Acquisition Programs

AGENCY: Defense Acquisition Regulations System; Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; the accuracy of DoD's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection for use under Control Number 0704-0477 through September 30, 2026. DoD proposes that OMB approve an extension of the information collection requirement, to expire three years after the approval date.

DATES: DoD will consider all comments received by August 3, 2026.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704-0477, using either of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* osd.dfars@mail.mil. Include OMB Control Number 0704-0477 in the subject line of the message.

Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Jon Snyder, at 703-945-5341.

SUPPLEMENTARY INFORMATION: *Title and OMB Number:* Organizational Conflicts of Interest in Major Defense Acquisition

Programs; OMB Control Number 0704-0477.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On occasion.

Number of Respondents: 20.

Responses per Respondent: 3.

Annual Responses: 60.

Average Burden per Response: 40 hours.

Annual Burden Hours: 2,400.

Needs and Uses: The information collection under OMB Control Number 0704-0477 pertains to organizational conflicts of interest in major defense acquisition programs (MDAPs). This collection implements section 207 of the Weapon Systems Acquisition Reform Act of 2009, which requires DoD to tighten requirements for organizational conflicts of interest by contractors in major defense programs. This statutory requirement is implemented in the solicitation provision at DFARS 252.209-7008, Notice of Prohibition Relating to Organizational Conflict of Interest—Major Defense Acquisition Program, which requires offerors to submit a mitigation plan when there is an organizational conflict of interest that can be resolved through mitigation.

Kimberly R. Ziegler,

Editor/Publisher, Defense Acquisition Regulations System.

[FR Doc. 2026-11150 Filed 6-3-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2026-SCC-1951]

Agency Information Collection Activities; Comment Request; Veterans Upward Bound (VUB) Program Annual Performance Report

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before August 3, 2026.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-

2026–SCC–1951. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the [regulations.gov](http://www.regulations.gov) site is not available to the public for any reason, the Department will temporarily accept comments at ICDocketMgr@ed.gov. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to U.S. Department of Education, Office of Postsecondary Education, 400 Maryland Ave. SW, LBJ, Room 5B145, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Marie Julienne, (202) 987–1054.

SUPPLEMENTARY INFORMATION: The Department, 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 Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Veterans Upward Bound (VUB) Program Annual Performance Report.

OMB Control Number: 1840–0832.

Type of Review: Extension without change of a currently approved ICR.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 62.

Total Estimated Number of Annual Burden Hours: 1,054.

Abstract: Veterans Upward Bound (VUB), one of the U.S. Department of Education's Upward Bound programs, is designed to motivate and assist veterans in developing academic and other requisite skills necessary for acceptance and success in a program of postsecondary education. The program provides assessment and enhancement of basic skills through counseling, mentoring, tutoring and academic instruction in the core subject areas. The primary goal of the program is to increase the rate at which participants enroll in and complete postsecondary education programs.

All Veterans Upward Bound projects must provide instruction in mathematics through pre-calculus, laboratory science, foreign language, composition, and literature. Projects may also provide short-term remedial or refresher courses for veterans who are high school graduates but have delayed pursuing postsecondary education. Projects are also expected to assist veterans in securing support services from other locally available resources such as the U.S. Department of Veterans Affairs, veterans' associations, and other state and local agencies that serve veterans.

The Department's annual performance report (APR) for VUB collects each current grantee's data at the participant level on services and performance over the course of a year. The Department uses the information conveyed in the performance report to assess a grantee's progress in meeting its approved goals and objectives and to evaluate a grantee's prior experience in accordance with the program regulations in 34 CFR 645.32. Grantees' annual performance reports also provide information on the outcomes of projects' work and of the VUB program as a whole. In addition, APR data allows the Department to respond to the reporting requirements of the Government Performance and Results Act.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–11187 Filed 6–3–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–1981]

Agency Information Collection Activities; Comment Request; Ronald E. McNair Postbaccalaureate Achievement Program Annual Performance Report

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before August 3, 2026.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED–2026–SCC–1981. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the [regulations.gov](http://www.regulations.gov) site is not available to the public for any reason, the Department will temporarily accept comments at ICDocketMgr@ed.gov. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to U.S. Department of Education, Office of Postsecondary Education, 400 Maryland Ave. SW, LBJ, Room 5B145, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Marie Julienne, (202) 987–1054.

SUPPLEMENTARY INFORMATION: The Department, 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 Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the

Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Ronald E. McNair Postbaccalaureate Achievement Program Annual Performance Report.

OMB Control Number: 1840-0640.

Type of Review: Extension without change of a currently approved ICR.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 197.

Total Estimated Number of Annual Burden Hours: 2,197.

Abstract: Ronald E. McNair Postbaccalaureate Achievement (McNair) Program grantees must submit the Annual Performance Report each year. The reports are used to evaluate grantees' performance for substantial progress, respond to the Government Performance and Results Act (GPRA), and award prior experience points at the end of each project (budget) period. The Department also aggregates the data to provide descriptive information on the projects and to analyze the impact of the McNair Program on the academic progress of participating students.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026-11189 Filed 6-3-26; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2026-SCC-0827]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Vocational Rehabilitation Financial Report (RSA-17)

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before July 6, 2026.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link www.reginfo.gov/public/do/PRAMain to access the site. Find this information collection request (ICR) by selecting "Department of Education" under "Currently Under Review," then check the "Only Show ICR for Public Comment" checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the "View Information Collection (IC) List" link. Supporting statements and other supporting documentation may be found by clicking on the "View Supporting Statement and Other Documents" link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact David Steele, david.steele@ed.gov.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Vocational Rehabilitation Financial Report (RSA-17).

OMB Control Number: 1820-0017.

Type of Review: A revision of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 312.

Total Estimated Number of Annual Burden Hours: 10,193.

Abstract: The Vocational Rehabilitation Financial Report (RSA-17) collects data on the State Vocational Rehabilitation (VR) Services program activities for agencies funded under the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by title IV of the Workforce Innovation and Opportunity Act (WIOA). The Rehabilitation Services Administration (RSA) of the Office of Special Education and Rehabilitative Services (OSERS), U.S. Department of Education (Department) uses the data to evaluate and monitor the financial and programmatic performance of VR agencies. This report is used in lieu of the SF-425 Federal Financial Report because the SF-425 does not capture the required data elements necessary to ensure compliance with the financial requirements of the VR program. The data collected via the RSA-17 are necessary to ensure Federal requirements imposed by the Rehabilitation Act and its implementing Federal regulations are satisfied; including matching, maintenance of effort, carryover, and earmarking.

This is a request for revision of the RSA-17 form with extension of the revised form for three years. RSA identified a unique circumstance where a VR grantee may not receive credit for non-Federal expenditures for establishment or construction expenditures when the grantee's compliance with the maintenance of effort requirement is calculated. The current RSA-17 form does not collect the data element necessary to address this unique circumstance. The proposed revision to the form corrects this issue by providing the ability to track unliquidated obligations and liquidations for the Establishment and Construction of Facilities for Community Rehabilitation Program (CRP) purposes through revisions to lines 28, 32 and 33. In addition, the revisions remove reporting element, line 15(a), Required and Coordination Pre-employment Transition Service Activities and Other VR Services that Support Access to and Participation in

Pre-Employment Transition Services and include minor typographical edits.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–11194 Filed 6–3–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice Announcing Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities; Personnel Development To Improve Services and Results for Children With Disabilities; and the Educational Technology, Media, and Materials for Individuals With Disabilities Programs—National Technical Assistance Center for Postsecondary Education and Training for Individuals Who Are Deaf or Hard of Hearing Competition

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education

ACTION: Notice.

SUMMARY: The Department of Education (ED) announces the opportunity to apply for a competitive grant for the Fiscal Year (FY) 2026 Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities (TA&D); Personnel Development to Improve Services and Results for Children with Disabilities; and the Educational Technology, Media, and Materials for Individuals with Disabilities (ETechM2) Programs—National Technical Assistance Center for Postsecondary Education and Training for Individuals who are Deaf or Hard of Hearing competition, Assistance Listing Number 84.326D.

DATES: Complete proposals must be submitted electronically through the *Grants.gov* “APPLY” function by 11:59:59 p.m. Eastern time July 30, 2026. The deadline for Intergovernmental Review is September 28, 2026.

FOR FURTHER INFORMATION CONTACT: Eric Caruso. Telephone: (202) 987–0151. Email: *Eric.Caruso@ed.gov*.

SUPPLEMENTARY INFORMATION: The Department offers financial assistance to projects to establish and operate a National Technical Assistance Center for Postsecondary Education and Training for Individuals who are Deaf or Hard of Hearing. This center will focus on increasing the capacity of postsecondary institutions, State educational agencies, local educational

agencies, State vocational rehabilitation (VR) agencies, VR service providers, and other relevant organizations and public agencies to address the postsecondary, vocational, technical, continuing, and adult education needs of individuals who are deaf or hard of hearing. The FY 2026 competition includes an absolute priority, selection criteria, and requirements. The priority is: National Technical Assistance Center for Postsecondary Education and Training for Individuals who are Deaf or Hard of Hearing.

Maximum Award: We will not make an award exceeding \$4,000,000 for a single budget period of 12 months.¹

Eligible Applicants: State educational agencies; local educational agencies (LEAs), including public charter schools that are considered LEAs under State law; institutions of higher education, including community colleges; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations.

Program Authority: 20 U.S.C. 1462, 1463, 1474, 1481, and 1482.

To Apply: The complete funding opportunity announcement and all information needed to apply, including the priority and program requirements, are available on ED’s website at <https://www.ed.gov/grants-and-programs/grants-special-populations/grants-special-education-and-individuals-disabilities/technical-assistance-and-dissemination/84.326D> and on *Grants.gov* at <https://www.grants.gov/search-results-detail/362632>. The application notice and instructions on *Grants.gov* is the official document governing the grant competition.

Accessible Format: On request to the person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format.

Kelly Rogers,

Deputy Assistant Secretary and Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2026–11152 Filed 6–3–26; 8:45 am]

BILLING CODE 4000–01–P

¹ Note: In each budget period of 12 months, no more than \$1,300,000 may be budgeted under the TA&D program (consistent with section 663(c)(8)(C) of IDEA); no more than \$1,700,000 may be budgeted under the PD program (consistent with section 662(c)(2) of IDEA); and no more than \$1,000,000 may be budgeted under the ETechM2 program (consistent with section 674(b) of IDEA). Applicants must separately budget for funds under each program.

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–1949]

Agency Information Collection Activities; Comment Request; Student Support Services Annual Performance Report

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before August 3, 2026.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED–2026–SCC–1949. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, the Department will temporarily accept comments at *ICDocketMgr@ed.gov*. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to U.S. Department of Education, Office of Postsecondary Education, 400 Maryland Ave. SW, LBJ, Room 5B145, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Marie Julienne, (202) 987–1054.

SUPPLEMENTARY INFORMATION: The Department, 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 Department assess the impact of its information collection requirements and minimize the public’s reporting burden. It also helps the public understand the Department’s information collection requirements and provide the requested

data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Student Support Services Annual Performance Report.

OMB Control Number: 1840–0525.

Type of Review: Revision of a currently approved ICR.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 1,181.

Total Estimated Number of Annual Burden Hours: 18,129.

Abstract: Student Support Services (SSS) program grantees must submit the Annual Performance Report (APR) annually. The reports are used to evaluate grantees' performance for substantial progress, respond to Government Performance and Results Act requirements, and award prior experience points at the end of each project (budget) period. The Department also aggregates the data to provide descriptive information on the projects and to analyze the impact of the SSS program on the academic progress of participating students.

Total burden hours have been adjusted to reflect an increase in the size of the reporting universe. In addition, the collection has been updated to include the Competitive Preference Priorities used in the Fiscal Year 2025 competition for new awards. No change in burden is associated with this update.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–11186 Filed 6–3–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Docket No. 26–50–LNG]

Port Arthur LNG, LLC; Application for Blanket Authorization To Export Previously Imported Liquefied Natural Gas

AGENCY: Hydrocarbons and Geothermal Energy Office, Department of Energy.

ACTION: Notice of application.

SUMMARY: The Hydrocarbons and Geothermal Energy Office (HCEO) of the Department of Energy (DOE) gives notice (Notice) of receipt of an application (Application), filed on May 5, 2026, by Port Arthur LNG, LLC (Port Arthur LNG). Port Arthur LNG requests blanket authorization to export liquefied natural gas (LNG) previously imported into the United States by vessel from foreign sources in a volume equivalent to 20 billion cubic feet of natural gas on a cumulative basis over a two-year period. Port Arthur LNG filed the Application under the Natural Gas Act (NGA).

DATES: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed electronically as detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, July 6, 2026.

ADDRESSES:

Electronic Filing by email (Strongly encouraged): fergas@hq.doe.gov.

Postal Mail, Hand Delivery, or Private Delivery Services (e.g., FedEx, UPS, etc.):

U.S. Department of Energy (EX–31), Office of Global Energy Security, Hydrocarbons and Geothermal Energy Office, Forrestal Building, Room 3E–056, 1000 Independence Avenue SW, Washington, DC 20585.

Due to potential delays in DOE's receipt and processing of mail sent through the U.S. Postal Service, we encourage respondents to submit filings electronically to ensure timely receipt.

FOR FURTHER INFORMATION CONTACT:

Jennifer Wade or Peri Ulrey, U.S. Department of Energy (EX–31), Office of Strategic Resources, Hydrocarbons and Geothermal Energy Office, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–4749 or (202) 586–7893, jennifer.wade@hq.doe.gov or peri.ulrey@hq.doe.gov.

Cassandra Bernstein, U.S. Department of Energy (GC–76), Forrestal Building, Room 6D–033, 1000 Independence Avenue SW, Washington, DC 20585, (240) 780–1691, cassandra.bernstein@hq.doe.gov.

SUPPLEMENTARY INFORMATION: Port Arthur LNG requests a short-term blanket authorization to export LNG that has been previously imported into the United States from foreign sources for a two-year period commencing “as early as practicable, but no later than October 1, 2026.” Port Arthur LNG states that it will export the LNG from the Port Arthur LNG terminal in Jefferson County, Texas (Port Arthur LNG Terminal), to any country with the capacity to import LNG via ocean-going carrier and with which trade is not prohibited by U.S. law or policy. This includes both countries with which the United States has entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries) and all other countries (non-FTA countries). This Notice applies only to the portion of the Application requesting authority to export the LNG to non-FTA countries pursuant to section 3(a) of the NGA, 15 U.S.C. 717b(a).

Port Arthur LNG states that it already holds long-term authorizations to export domestically produced LNG from the Port Arthur LNG Terminal, in Docket Nos. 15–53–LNG, 18–162–LNG, and 15–96–LNG. Port Arthur LNG states that, prior to commencing commercial operations under these authorizations, it “intends to use cooldown cargoes with imported, foreign-sourced LNG to pre-cool its liquefaction facilities during start-up.” Port Arthur LNG notes that, “[a]fter the imported LNG completes the cooling process, Port Arthur LNG will ‘re-export’ the LNG,” and thus it “seeks authorization from DOE/HCEO to export the previously imported, foreign-sourced LNG used in its cooldown cargoes.” Port Arthur LNG further states that it does not seek authorization to export domestically produced natural gas or LNG.

Port Arthur LNG requests this authorization on its own behalf and as agent for other entities that hold title to the LNG at the time of export. Additional details can be found in Port Arthur LNG's Application, posted on the DOE website at <https://www.energy.gov/sites/default/files/2026-05/Port%20Arthur%20Application%20for%20Blanket%20Authorization%20to%20Export%20Previously%20Imported%20LNG.pdf>.

DOE Evaluation

In reviewing Port Arthur LNG's Application, DOE will consider any issues required by law or policy under NGA section 3(a), DOE's regulations, and any other documents deemed appropriate. Parties that may oppose the

Application should address these issues and documents in their comments and/or protests, as well as other issues deemed relevant to the Application.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable, addressing the Application. Interested parties will be provided 30 days from the date of publication of this Notice in the **Federal Register** in which to submit comments, protests, motions to intervene, or notices of intervention.

Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention.¹ The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to this proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by DOE's regulations in 10 CFR part 590, including the service requirements.

Filings may be submitted using one of the following methods:

(1) Submitting the filing electronically at fergas@hq.doe.gov;

(2) Mailing the filing to the Office of Global Energy Security at the address listed in the **ADDRESSES** section; or

(3) Hand delivering the filing to the Office of Global Energy Security at the address listed in the **ADDRESSES** section.

For administrative efficiency, DOE prefers filings to be filed electronically. All filings must include a reference to "Docket No. 26–50–LNG" or "Port Arthur LNG, LLC Application" in the title line. Filings must be submitted in English to be considered.²

For electronic submissions: Please include all related documents and attachments (*e.g.*, exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the

documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner.

The Application, and any filed protests, motions to intervene, notices of intervention, and comments will be available electronically on the DOE website at www.energy.gov/hgeo/regulation.

A decisional record on the Application will be developed through responses to this Notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this Notice, in accordance with 10 CFR 590.316.

Signed in Washington, DC, on June 2, 2026.

Amy Sweeney,

*Director, Office of Global Energy Security,
Office of Strategic Resources.*

[FR Doc. 2026–11228 Filed 6–3–26; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP26–529–000]

Equitrans, L.P.; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on May 22, 2026, Equitrans, L.P. (Equitrans), 2200 Energy Drive, Canonsburg, Pennsylvania 15317, filed in the above referenced docket, a prior notice request pursuant to sections 157.205 and 157.216(b) of the Commission's regulations under the Natural Gas Act (NGA), and Equitrans' blanket certificate issued in Docket No. CP96–532–000, for authorization to plug and abandon the Pratt 3664 injection/withdrawal well (Pratt 3664) in Equitrans' Pratt Storage Field located in Greene County, Pennsylvania. Equitrans asserts Pratt 3664 is not required for injection and withdrawal operations. Furthermore, Equitrans states abandonment of Pratt 3664 will increase the operational integrity of the storage field, all as more fully set forth in the request which is on file with the

Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

Any questions concerning this request should be directed to Jennifer Brough, Sheppard, Mullin, Richter & Hampton LLP, Four Embarcadero Center, 17th Floor, San Francisco, CA 94111–4109, by phone at (415) 434–9100, or by email at jbrough@sheppard.com.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on July 31, 2026. How to file protests, motions to intervene, and comments is explained below.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation (OPP) at (202) 502–6595 or OPP@ferc.gov.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,¹ any person² or the Commission's staff may file a protest to the request. If

¹ 10 CFR 590.303.

² Executive Order 14224 of March 1, 2025, *Designating English as the Official Language of the United States*, 90 FR 11363 (Mar. 6, 2025).

¹ 18 CFR 157.205.

² Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,³ and must be submitted by the protest deadline, which is 5:00 p.m. Eastern Time on July 31, 2026. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure⁴ and the regulations under the NGA⁵ by the intervention deadline for the project, which is 5:00 p.m. Eastern Time on July 31, 2026. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at <https://www.ferc.gov/resources/guides/how-to/intervene.asp>.

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A

person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before 5:00 p.m. Eastern Time on July 31, 2026. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP26–529–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (www.ferc.gov) under the link to Documents and Filings. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Protest", "Intervention", or "Comment on a Filing"; or⁶

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP26–529–000.

To file via USPS: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other method: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or FercOnlineSupport@ferc.gov.

Protests and motions to intervene must be served on the applicant either

by mail at: Jennifer Brough, Sheppard, Mullin, Richter & Hampton LLP, Four Embarcadero Center, 17th Floor, San Francisco, CA 94111–4109, or by email (with a link to the document) at jbrough@sheppard.com. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from OPP at (202) 502–6595 or on the FERC website at www.ferc.gov using the "eLibrary" link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to www.ferc.gov/docs-filing/esubscription.asp.

(Authority: 18 CFR 2.1)

Dated: June 1, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026–11250 Filed 6–3–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ26–8–000]

Oncor Electric Delivery Company LLC; Notice of Filing

Take notice that on May 15, 2026, Oncor Electric Delivery Company LLC submits tariff filing per 35.28(e): Oncor's Transmission Service To, From and Over Certain Interconnections Tariff Rate Changes, effective June 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

³ 18 CFR 157.205(e).

⁴ 18 CFR 385.214.

⁵ 18 CFR 157.10.

⁶ Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at www.ferc.gov under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

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.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at 202-502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

The Commission strongly encourages electronic filings of comments, 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 15, 2026.

Dated: June 1, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026-11225 Filed 6-3-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: PR26-60-000.
Applicants: Columbia Gas of Ohio, Inc.
Description: § 284.123 Rate Filing: Application to Revise SOC eff 4-29-2026 to be effective 4/29/2026.
Filed Date: 5/29/26.
Accession Number: 20260529-5345.
Comment Date: 5 p.m. ET 6/22/26.
Docket Numbers: RP26-877-000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreements Update (Eco-Energy July-Sept 2026) to be effective 7/1/2026.
Filed Date: 5/28/26.
Accession Number: 20260528-5231.
Comment Date: 5 p.m. ET 6/9/26.
Docket Numbers: RP26-878-000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreements Filing (Fuerza MRC) to be effective 7/1/2026.
Filed Date: 5/28/26.
Accession Number: 20260528-5251.
Comment Date: 5 p.m. ET 6/9/26.
Docket Numbers: RP26-879-000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreements Update (Semptra June-July 2026) to be effective 6/1/2026.
Filed Date: 5/28/26.
Accession Number: 20260528-5258.
Comment Date: 5 p.m. ET 6/9/26.
Docket Numbers: RP26-880-000.
Applicants: Gillis Hub Pipeline, LLC.
Description: § 4(d) Rate Filing: Filing of Negotiated Rate, Conforming IW Agreements 5.28.26 to be effective 5/29/2026.
Filed Date: 5/28/26.
Accession Number: 20260528-5270.
Comment Date: 5 p.m. ET 6/9/26.
Docket Numbers: RP26-881-000.
Applicants: Sea Robin Pipeline Company, LLC.
Description: Compliance filing: 5-29-2026 Fuel Tracker Filing to be effective N/A.
Filed Date: 5/29/26.
Accession Number: 20260529-5011.
Comment Date: 5 p.m. ET 6/10/26.

Docket Numbers: RP26-882-000.
Applicants: Mountain Valley Pipeline, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement—6/1/2026 to be effective 6/1/2026.
Filed Date: 5/29/26.
Accession Number: 20260529-5013.
Comment Date: 5 p.m. ET 6/10/26.
Docket Numbers: RP26-883-000.
Applicants: MarkWest Pioneer, L.L.C.
Description: § 4(d) Rate Filing: Quarterly Fuel Adjustment Filing to be effective 7/1/2026.
Filed Date: 5/29/26.
Accession Number: 20260529-5033.
Comment Date: 5 p.m. ET 6/10/26.
Docket Numbers: RP26-884-000.
Applicants: WBI Energy Transmission, Inc.
Description: § 4(d) Rate Filing: 2026 Section 4 Rate Case to be effective 7/1/2026.
Filed Date: 5/29/26.
Accession Number: 20260529-5090.
Comment Date: 5 p.m. ET 6/10/26.
Docket Numbers: RP26-885-000.
Applicants: Kern River Gas Transmission Company.
Description: § 4(d) Rate Filing: 2026 May Negotiated Rate TSA Filing to be effective 6/1/2026.
Filed Date: 5/29/26.
Accession Number: 20260529-5096.
Comment Date: 5 p.m. ET 6/10/26.
Docket Numbers: RP26-886-000.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: § 4(d) Rate Filing: PCB Adjustment Period Extension through 2028 to be effective 7/1/2026.
Filed Date: 5/29/26.
Accession Number: 20260529-5133.
Comment Date: 5 p.m. ET 6/10/26.
Docket Numbers: RP26-887-000.
Applicants: Colorado Interstate Gas Company, L.L.C.
Description: § 4(d) Rate Filing: CIG Quarterly LUF True-up Filing May 2026 to be effective 7/1/2026.
Filed Date: 5/29/26.
Accession Number: 20260529-5179.
Comment Date: 5 p.m. ET 6/10/26.
Docket Numbers: RP26-888-000.
Applicants: Colorado Interstate Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (CNG) & Housekeeping to be effective 7/1/2026.
Filed Date: 5/29/26.
Accession Number: 20260529-5241.
Comment Date: 5 p.m. ET 6/10/26.
Docket Numbers: RP26-889-000.
Applicants: TransColorado Gas Transmission Company LLC.
Description: § 4(d) Rate Filing: TC Quarterly FL&U Update May 2026 to be effective 7/1/2026.

Filed Date: 5/29/26.
Accession Number: 20260529–5245.
Comment Date: 5 p.m. ET 6/10/26.
Docket Numbers: RP26–890–000.
Applicants: Rockies Express Pipeline LLC.
Description: § 4(d) Rate Filing: REX 2026–05–29 Negotiated Rate Agreement Amendment to be effective 6/1/2026.
Filed Date: 5/29/26.
Accession Number: 20260529–5249.
Comment Date: 5 p.m. ET 6/10/26.
Docket Numbers: RP26–891–000.
Applicants: Northern Natural Gas Company.
Description: § 4(d) Rate Filing: 20260529 Negotiated Rate Filing to be effective 6/1/2026.
Filed Date: 5/29/26.
Accession Number: 20260529–5251.
Comment Date: 5 p.m. ET 6/10/26..
Docket Numbers: RP26–892–000.
Applicants: Gillis Hub Pipeline, LLC.
Description: § 4(d) Rate Filing: Gillis Hub Pipeline Tariff Revisions to be effective 7/1/2026.
Filed Date: 5/29/26.
Accession Number: 20260529–5273.
Comment Date: 5 p.m. ET 6/10/26.
Docket Numbers: RP26–893–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Filing (Exxon) to be effective 7/1/2026.
Filed Date: 5/29/26.
Accession Number: 20260529–5303.
Comment Date: 5 p.m. ET 6/10/26.
Docket Numbers: RP26–894–000.
Applicants: Natural Gas Pipeline Company of America LLC.
Description: § 4(d) Rate Filing: Negotiated Rate Agreements Filing-Non-Conforming Agreements (TX–LA Exp. Project) to be effective 7/1/2026.
Filed Date: 5/29/26.
Accession Number: 20260529–5312.
Comment Date: 5 p.m. ET 6/10/26.
Docket Numbers: RP26–895–000.
Applicants: BBT Trans-Union Interstate Pipeline, L.P.
Description: § 4(d) Rate Filing: BBT Trans-Union NRA Filing to be effective 5/1/2026.
Filed Date: 5/29/26.
Accession Number: 20260529–5315.
Comment Date: 5 p.m. ET 6/10/26.
Docket Numbers: RP26–896–000.
Applicants: Colorado Interstate Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (Tenaska) to be effective 6/1/2026.
Filed Date: 5/29/26.
Accession Number: 20260529–5317.
Comment Date: 5 p.m. ET 6/10/26.
Docket Numbers: RP26–897–000.

Applicants: Kinder Morgan Louisiana Pipeline LLC.
Description: § 4(d) Rate Filing: Periodic Rate Adjustment—Fuel and L&U Retention Percentages July 2026 to be effective 7/1/2026.
Filed Date: 5/29/26.
Accession Number: 20260529–5341.
Comment Date: 5 p.m. ET 6/10/26.
Docket Numbers: RP26–898–000.
Applicants: Sabine Pipe Line LLC.
Description: § 4(d) Rate Filing: Annual Fuel and Line Loss Reimbursement—2026 Filing to be effective 7/1/2026.
Filed Date: 5/29/26.
Accession Number: 20260529–5364.
Comment Date: 5 p.m. ET 6/10/26.
Docket Numbers: RP26–899–000.
Applicants: Mountain Valley Pipeline, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate Capacity Release Agreements—6/1/2026 to be effective 6/1/2026.
Filed Date: 6/1/26.
Accession Number: 20260601–5006.
Comment Date: 5 p.m. ET 6/15/26.
Docket Numbers: RP26–900–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Negotiated Rate Capacity Release Agreements—6/1/2026 to be effective 6/1/2026.
Filed Date: 6/1/26.
Accession Number: 20260601–5020.
Comment Date: 5 p.m. ET 6/15/26.
Docket Numbers: RP26–901–000.
Applicants: Enable Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate Filing—Assignment of Oviniv Mktg to MidCon Energy Mktg to be effective 6/1/2026.
Filed Date: 6/1/26.
Accession Number: 20260601–5043.
Comment Date: 5 p.m. ET 6/15/26.
Docket Numbers: RP26–902–000.
Applicants: NEXUS Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—Various Releases eff 6–1–2026 to be effective 6/1/2026.
Filed Date: 6/1/26.
Accession Number: 20260601–5080.
Comment Date: 5 p.m. ET 6/15/26.
Docket Numbers: RP26–903–000.
Applicants: Rover Pipeline LLC.
Description: § 4(d) Rate Filing: Summary of Negotiated Rate Capacity Release Agreements 6–1–2026 to be effective 6/1/2026.
Filed Date: 6/1/26.
Accession Number: 20260601–5095.
Comment Date: 5 p.m. ET 6/15/26.
Docket Numbers: RP26–904–000.
Applicants: Maritimes & Northeast Pipeline, L.L.C.

Description: § 4(d) Rate Filing: Negotiated Rates—Northern to NRG 3452 eff 6–1–26 to be effective 6/1/2026.

Filed Date: 6/1/26.

Accession Number: 20260601–5106.

Comment Date: 5 p.m. ET 6/15/26.

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.

Filings in Existing Proceedings

Docket Numbers: RP01–382–036.

Applicants: Northern Natural Gas Company.

Description: Northern Natural Gas Company submits Carlton Reimbursement Report.

Filed Date: 6/1/26.

Accession Number: 20260601–5147.

Comment Date: 5 p.m. ET 6/15/26.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

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: June 1, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–11224 Filed 6–3–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

[Project No. 619–190]

**Pacific Gas & Electric Company and
the City of Santa Clara; Notice of
Application for Modification of Water
Quality Certification Condition 1
Accepted for Filing, Soliciting
Comments, Motions To Intervene, and
Protests**

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

- a. *Application Type*: Non-Capacity Amendment.
- b. *Project No*: P–619.
- c. *Date Filed*: December 22, 2025.
- d. *Applicant*: Pacific Gas & Electric Company and the City of Santa Clara.
- e. *Name of Project*: Bucks Creek Hydroelectric Project.
- f. *Location*: The project is located on the Bucks, Grizzly, and Milk Ranch creeks, tributaries of the North Fork Feather River, in Plumas County, California. It occupies federal lands within the Plumas National Forest, administered by U.S. Department of Agriculture, Forest Service.
- g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791a–825r.
- h. *Applicant Contact*: Jamie Visinoni, PO Box 28209, Oakland, CA 94604, jnvs@pge.com, (530) 215–6676.
- i. *FERC Contact*: Katherine Schmidt, (415) 369–3348, katherine.schmidt@ferc.gov.
- j. *Cooperating agencies*: With this notice, the Commission is inviting federal, state, local, and Tribal agencies with jurisdiction and/or special expertise with respect to environmental issues affected by the proposal, that wish to cooperate in the preparation of any environmental document, if applicable, to follow the instructions for filing such requests described in item k below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of any environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).
- k. *Deadline for filing comments, motions to intervene, and protests*: July 1, 2026, 5:00 p.m. Eastern Time.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the

eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. The first page of any filing should include the docket number P–619–190. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

1. *Description of Request*: Current Water Quality Certification (WQC) condition 1, of the Bucks Creek Hydroelectric Project, permits temporary modifications to minimum instream flows at Bucks Creek below Bucks Lake, Milk Ranch Creek below Three Lakes, Milk Ranch Creek at Milk Ranch Conduit Diversion No. 1, and South Fork Grouse Hollow Creek at Milk Ranch Conduit Diversion No. 3, but does not permit planned temporary deviations at the Bucks Creek below Lower Bucks Lake and Grizzly Creek below Grizzly Forebay. The licensees request that amended WQC condition 1 be incorporated into the project license, replacing existing WQC condition 1. This will allow the licensees to temporarily modify the minimum instream flows for planned and/or non-emergency facility construction, modification or maintenance activities for short periods of up to three weeks, after mutual agreement among the licensees, the California State Water Resources Control Board, Forest Service, California Department of Fish and Wildlife, and U.S. Fish and Wildlife Service, at all regulated release locations noted above.

m. *Locations of the Application*: This filing may be viewed on the

Commission's website at <http://www.ferc.gov> using the “eLibrary” link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email FERCOnlineSupport@ferc.gov, for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

n. *Individuals desiring to be included on the Commission's mailing list* should so indicate by writing to the Secretary of the Commission.

o. *Comments, Protests, or Motions to Intervene*: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

p. *Filing and Service of Documents*: Any filing must (1) bear in all capital letters the title “COMMENTS”, “PROTEST”, or “MOTION TO INTERVENE” as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; and (3) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

q. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or OPP@ferc.gov.

(Authority: 18 CFR 2.1)

Dated: June 1, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026–11253 Filed 6–3–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

[Project No. 2422–066]

**Great Lakes Hydro America, LLC;
Notice of Application for Temporary
Variance Accepted for Filing and
Soliciting Comments, Motions To
Intervene, and Protests**

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

- a. *Application Type*: Temporary Variance from Reservoir Elevation.
- b. *Project No.*: 2422–066.
- c. *Date Filed*: May 28, 2026.
- d. *Applicant*: Great Lakes Hydro America, LLC.
- e. *Name of Project*: Sawmill Hydroelectric Project.
- f. *Location*: The Sawmill Hydroelectric Project is located on the Androscoggin River, in Coos County, New Hampshire.
- g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)–825(r).
- h. *Applicant Contact*: Kyle Murphy, Senior Compliance Specialist, 460 Civic Center Drive, Augusta, ME 04330, (207) 458–5861.
- i. *FERC Contact*: Zeena Aljibury, (202) 502–6065, zeena.aljibury@ferc.gov.
- j. *Cooperating agencies*: With this notice, the Commission is inviting federal, state, local, and Tribal agencies with jurisdiction and/or special expertise with respect to environmental issues affected by the proposal, that wish to cooperate in the preparation of any environmental document, if applicable, to follow the instructions for filing such requests described in item k below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of any environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. *Deadline for filing comments, motions to intervene, and protests*: June 29, 2026, 5:00 p.m. Eastern Time.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/doc-sfiling/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at

FERCOnlineSupport@ferc.gov, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. The first page of any filing should include the docket number P–2422–066. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Description of Request*: The applicant requests Commission approval for a temporary variance from the reservoir elevation requirements at the Sawmill Project to replace Waste Gate Number 2 and Number 3 at the DC Dam. The applicant proposes to lower the reservoir elevation of 1,094.5 feet to 1,093.5 feet (1.0 foot below normal operating level) to allow sufficient evacuation time for workers in the event of a station trip during the planned replacement of the waste gates. The applicant would maintain run-of-river operations during the variance and would provide the minimum bypass flow via releases through one or more of the remaining waste gates. All remaining flow would be passed through the available units at the station. The applicant anticipates that the work would be completed in approximately eight weeks and requests a variance from August 1 to October 1, 2026. The applicant would draw down the reservoir at a rate of no more than six inches per 24-hour period. Once the gate repairs are completed, the applicant would refill the reservoir by releasing 90 percent of the inflow downstream to the Androscoggin River and use the remaining 10 percent of inflow to refill the reservoir as required under its Water Quality Certification.

m. *Locations of the Application*: This filing may be viewed on the Commission's website at <http://www.ferc.gov> using the “eLibrary” link.

Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email FERCOnlineSupport@ferc.gov, for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. *Comments, Motions to Intervene, or Protests*: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

p. *Filing and Service of Responsive Documents*: Any filing must (1) bear in all capital letters the title “COMMENTS”, “PROTEST”, or “MOTION TO INTERVENE” as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

q. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or OPP@ferc.gov.

(Authority: 18 CFR 2.1)

Dated: June 1, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-11252 Filed 6-3-26; 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: EC26-104-000.

Applicants: SE Global Holdings, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act of SE Global Holdings, LLC.

Filed Date: 5/27/26.

Accession Number: 20260527-5322.

Comment Date: 5 p.m. ET 6/17/26.

Docket Numbers: EC26-105-000.

Applicants: Saavi Energy Solutions, LLC, Baja California Power, Inc, GM Infrastructure Corporation.

Description: Application for Authorization Under Section 203 of the Federal Power Act of Saavi Energy Solutions, LLC, et al.

Filed Date: 5/27/26.

Accession Number: 20260527-5325.

Comment Date: 5 p.m. ET 6/17/26.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG26-251-000.

Applicants: Sun Chief Solar Farm, LLC.

Description: Sun Chief Solar Farm, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 6/1/26.

Accession Number: 20260601-5224.

Comment Date: 5 p.m. ET 6/22/26.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10-2214-011.

Applicants: Zion Energy LLC.

Description: Compliance filing: Compliance Filing Regarding Effective Date to be effective N/A.

Filed Date: 6/1/26.

Accession Number: 20260601-5269.

Comment Date: 5 p.m. ET 6/22/26.

Docket Numbers: ER12-954-011.

Applicants: Calpine Mid Merit, LLC.

Description: Compliance filing: Compliance Filing Regarding Effective Date to be effective N/A.

Filed Date: 6/1/26.

Accession Number: 20260601-5261.

Comment Date: 5 p.m. ET 6/22/26.

Docket Numbers: ER14-873-011.

Applicants: Calpine New Jersey Generation, LLC.

Description: Compliance filing: Compliance Filing Regarding Effective Date to be effective 1/30/2024.

Filed Date: 6/1/26.

Accession Number: 20260601-5296.

Comment Date: 5 p.m. ET 6/22/26.

Docket Numbers: ER14-873-012.

Applicants: Calpine New Jersey Generation, LLC.

Description: Compliance filing: Compliance Filing Regarding Effective Date to be effective 12/1/2024.

Filed Date: 6/1/26.

Accession Number: 20260601-5297.

Comment Date: 5 p.m. ET 6/22/26.

Docket Numbers: ER14-874-009.

Applicants: Calpine Bethlehem, LLC.

Description: Compliance filing: Compliance Filing Regarding Effective Date to be effective N/A.

Filed Date: 6/1/26.

Accession Number: 20260601-5257.

Comment Date: 5 p.m. ET 6/22/26.

Docket Numbers: ER14-875-009.

Applicants: Calpine Mid-Atlantic Generation, LLC.

Description: Compliance filing: Compliance Filing Regarding Effective Date to be effective N/A.

Filed Date: 6/1/26.

Accession Number: 20260601-5266.

Comment Date: 5 p.m. ET 6/22/26.

Docket Numbers: ER15-2495-010.

Applicants: Calpine New Jersey Generation, LLC.

Description: Compliance filing: Compliance Filing Regarding Effective Date to be effective 1/30/2024.

Filed Date: 6/1/26.

Accession Number: 20260601-5304.

Comment Date: 5 p.m. ET 6/22/26.

Docket Numbers: ER15-2495-011.

Applicants: Calpine New Jersey Generation, LLC.

Description: Compliance filing: Compliance Filing Regarding Effective Date to be effective 12/1/2024.

Filed Date: 6/1/26.

Accession Number: 20260601-5308.

Comment Date: 5 p.m. ET 6/22/26.

Docket Numbers: ER17-2566-009.

Applicants: Calpine Mid-Atlantic Generation, LLC.

Description: Compliance filing: Compliance Filing Regarding Effective Date to be effective 1/30/2024.

Filed Date: 6/1/26.

Accession Number: 20260601-5276.

Comment Date: 5 p.m. ET 6/22/26.

Docket Numbers: ER17-2566-010.

Applicants: Calpine Mid-Atlantic Generation, LLC.

Description: Compliance filing: Compliance Filing Regarding Effective Date to be effective 12/1/2024.

Filed Date: 6/1/26.

Accession Number: 20260601-5287.

Comment Date: 5 p.m. ET 6/22/26.

Docket Numbers: ER19-2916-008.

Applicants: Calpine Mid-Merit II, LLC.

Description: Compliance filing: Compliance Filing Regarding Effective Date to be effective 1/30/2024.

Filed Date: 6/1/26.

Accession Number: 20260601-5293.

Comment Date: 5 p.m. ET 6/22/26.

Docket Numbers: ER19-2916-009.

Applicants: Calpine Mid-Merit II, LLC.

Description: Compliance filing: Compliance Filing Regarding Effective Date to be effective 12/1/2024.

Filed Date: 6/1/26.

Accession Number: 20260601-5295.

Comment Date: 5 p.m. ET 6/22/26.

Docket Numbers: ER24-1815-001.

Applicants: Calpine New Jersey Generation, LLC.

Description: Compliance filing: Compliance Filing Regarding Effective Date to be effective 6/1/2024.

Filed Date: 6/1/26.

Accession Number: 20260601-5306.

Comment Date: 5 p.m. ET 6/22/26.

Docket Numbers: ER26-1883-000.

Applicants: Renewable Roots America Corp.

Description: Response to 05/12/2026 Deficiency Letter of Renewable Roots America Corp.

Filed Date: 5/27/26.

Accession Number: 20260527-5321.

Comment Date: 5 p.m. ET 6/17/26.

Docket Numbers: ER26-2699-000.

Applicants: Sun Chief Solar Farm, LLC.

Description: Initial Rate Filing: Market-Based Rate Tariff to be effective 7/13/2026.

Filed Date: 5/29/26.

Accession Number: 20260529-5348.

Comment Date: 5 p.m. ET 6/22/26.

Docket Numbers: ER26-2700-000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to GIA, SA No. 7547; Project Identifier No. AC1-188/AF2-048 to be effective 7/29/2026.

Filed Date: 5/29/26.

Accession Number: 20260529-5379.

Comment Date: 5 p.m. ET 6/22/26.

Docket Numbers: ER26-2701-000.

Applicants: RWE Americas QSE, LLC.

Description: § 205(d) Rate Filing: Notice of Succession to Market Based Rate Tariff to be effective 12/31/9998.

Filed Date: 5/29/26.

Accession Number: 20260529-5386.

Comment Date: 5 p.m. ET 6/22/26.

Docket Numbers: ER26-2702-000.

Applicants: American Transmission Systems, Incorporated.

Description: § 205(d) Rate Filing: ATSI submits an amended IA—SA No. 2853 to be effective 8/1/2026.

Filed Date: 6/1/26.

Accession Number: 20260601–5015.

Comment Date: 5 p.m. ET 6/22/26.

Docket Numbers: ER26–2703–000.

Applicants: Southwest Power Pool, Inc.

Description: Compliance filing: Central Nebraska Pre-Filing Stipulation and Offer of Settlement to be effective N/A.

Filed Date: 6/1/26.

Accession Number: 20260601–5097.

Comment Date: 5 p.m. ET 6/22/26.

Docket Numbers: ER26–2704–000.

Applicants: Leaning Juniper 2B, LLC.

Description: § 205(d) Rate Filing: Update to Market-Based Rate Tariff to be effective 6/2/2026.

Filed Date: 6/1/26.

Accession Number: 20260601–5115.

Comment Date: 5 p.m. ET 6/22/26.

Docket Numbers: ER26–2705–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2026–06–01 Updates to Up Ramp Capability Demand Curve to be effective 8/4/2026.

Filed Date: 6/1/26.

Accession Number: 20260601–5127.

Comment Date: 5 p.m. ET 6/22/26.

Docket Numbers: ER26–2706–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2026–06–01 LOLE capacity adjustment methodology to be effective 8/1/2026.

Filed Date: 6/1/26.

Accession Number: 20260601–5152.

Comment Date: 5 p.m. ET 6/22/26.

Docket Numbers: ER26–2707–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Notice of Cancellation SA No. 7419; Project Identifier No. AF2–032 to be effective 8/1/2026.

Filed Date: 6/1/26.

Accession Number: 20260601–5170.

Comment Date: 5 p.m. ET 6/22/26.

Docket Numbers: ER26–2708–000.

Applicants: Northern States Power Company, a Minnesota corporation.

Description: § 205(d) Rate Filing: 2026–06–01 Lake Crystal—FSA—789—0.0.0 to be effective 6/2/2026.

Filed Date: 6/1/26.

Accession Number: 20260601–5195.

Comment Date: 5 p.m. ET 6/22/26.

Docket Numbers: ER26–2709–000.

Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: 4803 Every Kansas Central Meter Agent Agr Cancellation to be effective 8/1/2026.

Filed Date: 6/1/26.

Accession Number: 20260601–5220.

Comment Date: 5 p.m. ET 6/22/26.

Docket Numbers: ER26–2710–000.

Applicants: Southern Electric Generating Company.

Description: § 205(d) Rate Filing: SEGCO 2026 Updated Depreciation Rates Filing to be effective 1/1/2027.

Filed Date: 6/1/26.

Accession Number: 20260601–5289.

Comment Date: 5 p.m. ET 6/22/26.

Docket Numbers: ER26–2711–000.

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) Attachment S (SEGCO) 2026 Updated Depreciation Rates Filing to be effective 1/1/2027.

Filed Date: 6/1/26.

Accession Number: 20260601–5291.

Comment Date: 5 p.m. ET 6/22/26.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES26–51–000.

Applicants: LS Power Grid California, LLC.

Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of LS Power Grid California, LLC.

Filed Date: 5/27/26.

Accession Number: 20260527–5324.

Comment Date: 5 p.m. ET 6/17/26.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercensearch.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: June 1, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–11223 Filed 6–3–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP26–528–000]

Southern Star Central Gas Pipeline, Inc.; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on May 21, 2026, Southern Star Central Gas Pipeline, Inc. (Southern Star), 4700 State Route 56, Owensboro, Kentucky 42301, filed in the above referenced docket, a prior notice request pursuant to sections 157.205 and 157.216 of the Commission's regulations under the Natural Gas Act (NGA), and Southern Star's blanket certificate issued in Docket No. CP82–479–000, for authorization to abandon two wells in Southern Star's South Welda Storage Field in Anderson County, Kansas and one well in its Piqua Storage Field in Woodson County, Kansas (South Welda and Piqua Storage Wells Abandonment Project). The project will allow Southern Star to comply with the Pipeline and Hazardous Materials Safety Administration regulations and Southern Star's Storage Integrity Plan, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Southern Star previously filed a prior notice request to complete this remediation work under Docket No. CP23–515–000. However, the remediation work to remove the wellhead assembly and cut and cap the casing at each well was not timely commenced. The well sites will be remediated by removing the wellhead assembly and cutting and capping the casing. The proposed abandonment of the three wells will not result in elimination or reduction in service to customers, nor will the project have any impact on either the South Welda Storage Field's or Piqua Storage Field's certificated parameters, including total gas storage inventory, reservoir pressure, reservoir or buffer boundaries, or certificated capacity.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all

interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

Any questions concerning this request should be directed to Jennifer Matthews, Manager, Regulatory, Southern Star Central Gas Pipeline, Inc., 4700 State Route 56, Owensboro, Kentucky 42301, by phone at (270) 316-2972 or by email at Jennifer.Matthews@southernstar.com.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on July 31, 2026. How to file protests, motions to intervene, and comments is explained below.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation (OPP) at (202) 502-6595 or OPP@ferc.gov.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,¹ any person² or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be

authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,³ and must be submitted by the protest deadline, which is 5:00 p.m. Eastern Time on July 31, 2026. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure⁴ and the regulations under the NGA⁵ by the intervention deadline for the project, which is 5:00 p.m. Eastern Time on July 31, 2026. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at <https://www.ferc.gov/resources/guides/how-to/intervene.asp>.

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic)

of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before 5:00 p.m. Eastern Time on July 31, 2026. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP26-528-000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (www.ferc.gov) under the link to Documents and Filings. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Protest", "Intervention", or "Comment on a Filing"; or⁶

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP26-528-000.

To file via USPS: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other courier: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502-8258 or FercOnlineSupport@ferc.gov.

Protests and motions to intervene must be served on the applicant either by mail at: Jennifer Matthews, Manager, Regulatory, Southern Star Central Gas Pipeline, Inc., 4700 State Route 56, Owensboro, Kentucky 42301, or by

⁶ Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at www.ferc.gov under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

¹ 18 CFR 157.205.

² Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

³ 18 CFR 157.205(e).

⁴ 18 CFR 385.214.

⁵ 18 CFR 157.10.

email (with a link to the document) to Jennifer.Matthews@southernstar.com. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from OPP at (202) 502-6595 or on the FERC website at www.ferc.gov using the "eLibrary" link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to www.ferc.gov/docs-filing/esubscription.asp.

(Authority: 18 CFR 2.1)

Dated: June 1, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-11251 Filed 6-3-26; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-R10-OAR-2026-2906; FRL-13332-01-R10]

Agency Information Collection Activities; Proposed Information Collection Request; Comment Request; Federal Implementation Plans Under the Clean Air Act for Indian Reservations in Idaho, Oregon and Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), Proposed Information Collection Request; Comment Request; Federal Implementation Plans under the Clean Air Act for Indian Reservations in Idaho, Oregon and Washington (EPA ICR Number 2020.09, OMB Control Number 2060-0558) to the Office of

Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, the EPA is soliciting public comments on specific aspects of the proposed information collection as described in this document. This is a proposed extension of the current ICR, which is currently approved through November 30, 2026. This document allows 60 days for public comments.

DATES: Comments must be submitted on or before August 3, 2026.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA-R10-OAR-2026-2906, to the EPA online using <https://www.regulations.gov>, or email to jentgen.matthew@epa.gov. Follow the online instructions for submitting comments. The EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Matthew Jentgen, EPA Region 10, Air and Radiation Division, 1200 6th Avenue, Seattle, WA 98101; telephone number: (206) 553-0340; email address: jentgen.matthew@epa.gov.

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through November 30, 2026. 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.

This document allows 60 days for public comments. Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at <https://www.regulations.gov> or in person at EPA Region 10, 1200 Sixth Avenue, Suite 155, Seattle, WA 98101. The main telephone number for EPA Region 10 is (206) 553-1200. For additional information about the EPA's public docket, visit <https://www.epa.gov/dockets>.

Pursuant to section 3506(c)(2)(A) of the Paperwork Reduction Act, the EPA is soliciting comments and information to enable it to: (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the

burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate forms of information technology. The EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, the EPA will issue another **Federal Register** document to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: The EPA promulgated Federal Implementation Plans (FIPs) under the Clean Air Act for Indian reservations located in Idaho, Oregon, and Washington in 40 CFR part 49 (70 FR 18074, April 8, 2005). The FIPs in the final rule, also referred to as the Federal Air Rules for Indian Reservations in Idaho, Oregon, and Washington (FARR), include information collection requirements associated with the partial delegation of administrative authority to a Tribe in 40 CFR 49.122; the rule for limiting visible emissions in 40 CFR 49.124; fugitive particulate matter rule in 40 CFR 49.126; the rule for limiting sulfur in fuels in 40 CFR 49.130; the rule for open burning in 40 CFR 49.131; the rules for general open burning permits, agricultural burning permits, and forestry and silvicultural burning permits in 40 CFR 49.132, 49.133, and 49.134; the rule for emissions detrimental to human health and welfare in 40 CFR 49.135; the registration rule in 40 CFR 49.138; and the rule for non-title V operating permits in 40 CFR 49.139. The EPA uses this information to manage the activities and sources of air pollution on the Indian reservations in Idaho, Oregon, and Washington. The EPA believes these information collection requirements are appropriate because they will enable the EPA to develop and maintain accurate records of air pollution sources and their emissions, allow the EPA to issue permits or approvals, and ensure appropriate records are available to verify compliance with these FIPs. The information collection requirements listed in this document are all mandatory. Regulated entities can assert claims of business confidentiality and the EPA will address these claims in accordance with the provisions of 40 CFR part 2, subpart B.

Form Numbers: The forms associated with this ICR are:

- EPA Form 7630–1 Nez Perce
Reservation Air Quality Permit:
Agricultural Burn
- EPA Form 7630–2 Nez Perce
Reservation Air Quality Permit:
Forestry Burn
- EPA Form 7630–3 Nez Perce
Reservation Air Quality Permit:
Large Open Burn
- EPA Form 7630–4 Initial or Annual
Source Registration
- EPA Form 7630–5 Report of Change of
Ownership
- EPA Form 7630–6 Report of Closure
- EPA Form 7630–7 Report of
Relocation
- EPA Form 7630–8 Small Burn Air
Quality Permit Application
- EPA Form 7630–9 Non-Title V
Operating Permit Application Form
- EPA Form 7630–10 Umatilla Indian
Reservation: Agricultural Burn
Permit Application
- EPA Form 7630–11 Umatilla Indian
Reservation: Forestry Burn Permit
Application
- EPA Form 7630–12 Umatilla Indian
Reservation: Large Open Burn
Permit Application

The forms listed above are available for review in the EPA docket.

Respondents/affected entities: Respondents or entities potentially affected by this action include owners and operators of air emission sources in all industry groups and tribal governments, located in the identified Indian reservations.

Respondents' obligation to respond: Respondents' obligation to respond is mandatory. See 40 CFR 49.122, 49.124, 49.126, 49.130 through 135, 49.138, and 49.139.

Estimated number of respondents: 1,502 (total).

Frequency of response: Annual or occasional.

Total estimated burden: 4,034 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: \$395,412 (per year), includes \$0 annualized capital or operation & maintenance costs.

Changes in Estimates: There is an increase of 433 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is based on input from source consultations and information we have learned about the source universe through implementing the rules since the ICR was updated in 2024.

Dated: May 21, 2026.

Angeles Herrera,

Director, Air and Radiation Division, Region 10.

[FR Doc. 2026–11198 Filed 6–3–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OGC–2026–2971; FRL–13337–01–OGC]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with the Clean Air Act, as amended (CAA or the Act), notice is given of a proposed consent decree in *Committee for a Better Arvin, et al. v. U.S. EPA, et al.*, No. 3:26–cv–00659–TLT. On January 1, 2026, Plaintiffs Committee for a Better Arvin, Medical Advocates for Healthy Air and Sierra Club filed a complaint in the United States District Court for the Northern District of California, alleging that the Environmental Protection Agency (EPA) failed to perform certain non-discretionary duties in accordance with the Act to take final action on certain state implementation plan (SIP) revisions submitted by the State of California pertaining to the penalty fee program and contingency measure requirements for purposes of the 2008 and 2015 ozone national ambient air quality standards (NAAQS) in the San Joaquin Valley area. The EPA is providing notice of this proposed consent decree, which would resolve all claims in the case by establishing deadlines for the EPA to take final actions as specified in the decree.

DATES: Written comments on the proposed consent decree must be received by July 6, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2026–2971, online at <https://www.regulations.gov> (EPA's preferred method). Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID number for this action. Comments received may be posted without change to <https://www.regulations.gov>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the “Additional Information about

Commenting on the Proposed Consent Decree” heading under the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jeff Wehling, Region IX, Office of Regional Counsel, U.S. Environmental Protection Agency; telephone (415) 972–3901; email address wehling.jefferson@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining a Copy of the Proposed Consent Decree

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2026–2971) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744 and the telephone number for the OEI Docket is (202) 566–1752.

The electronic version of the public docket for this action contains a copy of the proposed consent decree and is available through <https://www.regulations.gov>. You may use <https://www.regulations.gov> to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select “search.”

II. Additional Information About the Proposed Consent Decree

The proposed consent decree would establish deadlines for the EPA to take action pursuant to CAA section 110(k) on a SIP revision that includes the San Joaquin Valley Unified Air Pollution Control District's (“District's”) Rules 3172 (“Federally Mandated Ozone Nonattainment Fee—2008 8-Hour Standard”) and 3173 (“Federally Mandated Ozone Nonattainment Fee—2015 8-Hour Standard”), submitted by the State of California on March 13, 2024. District Rules 3172 and 3173 address the penalty fee program requirements for the San Joaquin Valley area for the 2008 and 2015 ozone NAAQS, respectively.

The proposed consent decree would also establish a deadline for the EPA to take action pursuant to CAA section

110(k) on a SIP revision titled “Ozone Contingency Measure State Implementation Plan Revision for the 2008 and 2015 8-Hour Ozone Standards” (“Ozone Contingency Measure Plan”), submitted by the State of California on April 29, 2024. The Ozone Contingency Measure Plan addresses the contingency measure requirements for the San Joaquin Valley area for the 2008 and 2015 ozone NAAQS.

The proposed consent decree would require the EPA to sign final rules taking action on the submissions of District Rules 3172 and 3173 and the Ozone Contingency Measure Plan by September 30, 2026. In all instances, the proposed consent decree would require the EPA, within 15 business days of signature, to send the required final rules to the Office of the Federal Register for review and publication in the **Federal Register**.

In accordance with section 113(g) of the CAA, for a period of thirty (30) days following the date of publication of this document, the Agency will accept written comments relating to the proposed consent decree. The EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

III. Additional Information About Commenting on the Proposed Consent Decree

Submit your comments, identified by Docket ID No. EPA-HQ-OGC-2026-2971, via <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from this docket. The EPA may publish any comment received to its public docket. Do not submit to the EPA’s docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit

<https://www.epa.gov/dockets/commenting-epa-dockets>. For additional information about submitting information identified as CBI, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document. Note that written comments containing CBI and submitted by mail may be delayed and deliveries or couriers will be received by scheduled appointment only.

If you submit an electronic comment, the EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the comment and allows the EPA to contact you in case the EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA’s electronic public docket. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment.

Use of the <https://www.regulations.gov> website to submit comments to the EPA electronically is the EPA’s preferred method for receiving comments. The electronic public docket system is an “anonymous access” system, which means the EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment.

Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked “late.” The EPA is not required to consider these late comments.

Gautam Srinivasan,
Associate General Counsel.

[FR Doc. 2026-11199 Filed 6-3-26; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-13408-01-OLEM]

Alternative Electronic Submission of PCB Annual Reports

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or the Agency), Office of Resource Conservation and Recovery (ORCR), Polychlorinated Biphenyl’s (PCBs) Program is announcing that PCB Annual Reports can be submitted via EPA’s Resource Conservation and Recovery Act (RCRA) Info System (“RCRAInfo”). The Agency is moving towards all-electronic reporting to improve simplicity, cost-effectiveness, and efficiency.

DATES: This alternative electronic submission of PCB Annual Reports is effective immediately for reports due on and after July 15, 2026.

FOR FURTHER INFORMATION CONTACT: For further information about today’s notice contact Nadja Solis Marciano; Waste, Chemical and Implementation Division; Office of Resource Conservation and Recovery; telephone number: (202) 566-0356; email address: solismarcano.nadja@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this notice apply to me?

This notice affects the owners or operators of PCB commercial storage facilities and owners or operators of PCB disposal facilities (including an owner or operator who disposes of their own waste and does not receive or generate manifests) that are subject to the PCB annual reports requirements under 40 CFR 761.180(b)(3) and hold (or obtain) a RCRA-issued EPA ID. EPA encourages these regulated parties to submit PCB annual reports by filling out the online form to RCRAInfo in lieu of postal mail or email submissions. RCRAInfo does not currently support submissions by PCB facilities that hold a Toxic Substances Control Act (TSCA) issued EPA ID. However, EPA intends to update RCRAInfo so that it can support submissions by PCB facilities that hold a TSCA-issued EPA ID in the future.

Any owner or operator of PCB commercial storage facilities or PCB disposal facilities (including any owner or operator who disposes of their own waste and does not receive or generate manifests) who holds a RCRA-issued EPA ID can register as an industry user in RCRAInfo to electronically prepare and submit PCB Annual Reports. RCRAInfo does not currently support submissions by PCB facilities that hold a TSCA-issued EPA ID. If such facilities do not wish to obtain a RCRA-issued EPA ID, those facilities can continue to submit the PCB Annual Report via postal mail and email while EPA is integrating TSCA-issued EPA IDs into RCRAInfo.

If you have further questions regarding the applicability of this action

to a particular party, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. If you need assistance to submit electronically, please contact the EPA PCB Program at ORCRPCBs@epa.gov.

II. What action is the Agency taking?

This notice clarifies that the PCB annual reports due July 15, 2026 (and in subsequent reporting cycles) can be submitted electronically via RCRAInfo. PCB annual reports submitted to EPA for the 2025 reporting year may also be resubmitted to EPA through RCRAInfo, provided that the resubmission occurs after the promulgation of this notice.

Historically, EPA has only accepted the annual reports required by 40 CFR 761.180(b)(3) by postal mail and email, consistent with EPA Form No. 6200–025. However, most PCB waste handler facilities subject to 40 CFR 761.180(b)(3) already have registered for the RCRAInfo Industry Application.

RCRAInfo is EPA's comprehensive information system providing access to data supporting the Resource Conservation and Recovery Act (RCRA) of 1976, the Hazardous and Solid Waste Amendments (HSWA) of 1984, the Hazardous Waste Electronic Manifest Establishment Act of 2012, and the Polychlorinated Biphenyls (PCBs) regulations under the Toxic Substances Control Act (TSCA) of 1978. The system is used to track information provided by the regulated community concerning the generation, shipment, treatment, and disposal of hazardous wastes, as well as significant milestones of State/EPA activity.

RCRAInfo is compliant with EPA's Cross-Media Electronic Reporting Regulation (CROMERR) at 40 CFR part 3, published in the **Federal Register** on October 13, 2005 (70 FR 59848). CROMERR requires any regulated entity that submits electronic documents directly to EPA to submit those documents to an approved compliant system, such as RCRAInfo. EPA does not charge the regulated party to set up a RCRAInfo Industry Application account.

RCRAInfo allows parties to:

- Submit data through one centralized and secure point of access;
- Receive confirmation from EPA when submissions are received;
- Identify and download a copy of record of what was submitted; and
- Reduce costs associated with submitting and processing data submissions.

Allowing PCB annual reports to be submitted through RCRAInfo allows EPA to process reports received through RCRAInfo more quickly and efficiently

than mailed or emailed reports and reduces the amount of paper and physical media that EPA must use, review, store, and eventually archive (and the costs associated therewith).

Allowing reporters to use RCRAInfo also enhances the availability and integrity of information stored in our compliance database. PCB reports are generally not publicly available, but the data must be made available to the PCB program and enforcement personnel. Information submitted to RCRAInfo is entered directly into EPA's compliance database and is available for use much more quickly. As such, EPA encourages submission of PCB annual reports via RCRAInfo.

Any party requiring a new RCRAInfo Industry Application account may set up an account by registering as an industry user in RCRAInfo. Users without an existing account must create their own RCRAInfo industry account in their name and follow these steps to gain access to their facility ID(s):

1. Click the "Register" link on the RCRAInfo login page (<https://rcrainfo.epa.gov>), select "Industry" account type and follow the on-screen instructions.
2. Request either PCB permissions or Site Manager permissions for your facility ID.

Once approved, complete the electronic signature agreement if you requested Site Management or Certifier to be able to electronically sign the submission.

III. Electronic Reporting Procedures

PCB Annual Reports submitted in accordance with 40 CFR 761.180(b)(3) can be submitted electronically via RCRAInfo for the annual reports due on July 15, 2026, and thereafter.

IV. Useful References

The following web pages provide information about the PCB annual reports, and RCRAInfo instructions to assist parties in submitting reports to EPA:

- *PCB Annual Report Instructions:* <https://www.epa.gov/pCBS/pcb-annual-report-form>.
- *RCRAInfo:* <https://rcrainfo.epa.gov>.
- *Industry User Registration Tutorial:* <https://rcrainfo.epa.gov/rcrainfo-help/videos/CreateRIAAccount/Create%20RIA%20Account.html>.

Andrew Baca,

Director, Office of Resource Conservation and Recovery.

[FR Doc. 2026–11202 Filed 6–3–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2017–0647; FRL–13414–01–OMS]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; PCBs, Consolidated Reporting and Recordkeeping Requirements (Revision)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), PCBs, Consolidated Reporting and Recordkeeping Requirements (EPA ICR Number 2668.03, OMB Control Number 2050–0230) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed revision and extension of the ICR, which is currently approved through February 28, 2027. Public comments were previously requested via the **Federal Register** on December 4, 2025 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Comments may be submitted on or before July 6, 2026.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OPPT–2017–0647, to EPA online using www.regulations.gov (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection 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: Carolyn Siu, Office of Mission Critical Operations (Mail Code 7602M), Office of

Chemical Safety and Pollution Prevention, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 566-1205; email address: siu.carolyn@epa.gov.

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through February 28, 2027. 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.

Public comments were previously requested via the **Federal Register** on December 4, 2025 during a 60-day comment period (90 FR 55866). This notice allows for an additional 30 days for public comments. Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Abstract: The Toxic Substances Control Act (TSCA) section 6(e), 15 U.S.C. 2605(e), directs the EPA to regulate the marking and disposal of polychlorinated biphenyls (PCBs). TSCA Section 6(e)(2) bans the manufacturing, processing, distribution in commerce, and use of PCBs in other than a totally enclosed manner. TSCA Section 6(e)(3) establishes a process for obtaining an exemption from the prohibitions on the manufacture, processing, and distribution in commerce of PCBs. This provision requires that EPA must make a finding by rule that such activities will not present an unreasonable risk of injury to health or the environment. In addition, good faith efforts must have been made by the petitioner to develop a chemical substance that does not present an unreasonable risk to replace the PCBs. Exemptions may be granted for a period not to exceed one year. Implementing regulations have been codified in 40 CFR 761.

This ICR consolidates the ICR for PCBs, Consolidated Reporting and Recordkeeping Requirements currently

approved by OMB under OMB Control Number 2070-0112, with the currently approved ICR covering the Alternate PCB Extraction Methods and Amendments to PCB Cleanup and Disposal Regulations under OMB Control Number 2050-0230. Upon OMB approval of this ICR, EPA intends to discontinue OMB Control Number 2070-0112.

Form Numbers: 6200-025, 7720-12 and 7710-53.

Respondents/affected entities: Entities potentially affected by this ICR include those who currently possess PCB items, PCB-contaminated equipment, or other PCB waste. North American Industrial Classification System (NAICS) codes are identified in question 12 of the supporting statement.

Respondent's obligation to respond: Mandatory. 40 CFR 761 and TSCA section 6(e).

Estimated number of respondents: 97,901 (total).

Frequency of response: On occasion.

Total estimated burden: 634,681 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: \$38,169,084 (per year), which includes \$5,901 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an increase of 626,405 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This vast majority of this increase is a result of program change associated with merging the existing OMB Control Number 2070-0112, (approved by OMB on July 5, 2023) into this OMB Control Number. Minor adjustments net out to a roughly 1% reduction of burden.

Courtney Kerwin,

Deputy Director, Data and Enterprise Programs Division.

[FR Doc. 2026-11204 Filed 6-3-26; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL DEPOSIT INSURANCE CORPORATION

[OMB No. 3064-0057; -0125; -0175]

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its obligations under the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to take this opportunity to comment on the renewal of the existing information collections described below (OMB Control No. 3064-0057; -0125 and -0175).

DATES: Comments must be submitted on or before August 3, 2026.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- **Agency Website:** <https://www.fdic.gov/resources/regulations/federal-register-publications/>.
- **Email:** comments@fdic.gov. Include the name and number of the collection in the subject line of the message.
- **Mail:** Robert Meiers, Regulatory Counsel, MB-3013, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- **Hand Delivery:** Comments may be hand-delivered to the guard station at the rear of the 17th Street NW building (located on F Street NW), on business days between 7 a.m. and 5 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Robert Meiers, Regulatory Attorney, Romeiers@fdic.gov, MB-3013, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently approved collection of information:

1. **Title:** Certified Statement for Quarterly Deposit Insurance Assessment.

OMB Number: 3064-0057.

Form Number: N/A

Affected Public: FDIC-insured depository institutions.

Burden Estimate:

SUMMARY OF ESTIMATED ANNUAL BURDEN
[OMB No. 3064–0057]

Information Collection (IC) (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Average time per response (HH:MM)	Annual burden (hours)
1. Quarterly Certified Statement Invoice for Deposit Insurance Assessment, 12 CFR Part 327 (Mandatory).	Reporting (Quarterly)	4,345	4	00:20	5,793
Total Annual Burden (Hours) .....	.....	.....	.....	.....	5,793

Source: FDIC.

General Description of Collection: The FDIC collects deposit insurance assessments on a quarterly basis. Each quarterly assessment is based on an insured depository institution's quarterly report of condition for the prior calendar quarter. The FDIC collects the quarterly assessment associated with certifying the review by officials of the insured institutions to

confirm that the assessment data are accurate and, in cases of inaccuracy, submission of corrected data. There is no change in the substance or methodology of this information collection. The estimated annual burden had decreased by 547 hours, from 6,340 hours in 2024 to 5,793 hours currently, due solely to a decrease in the number of respondents.

2. *Title:* Foreign Banking and Investment by Insured State Nonmember Banks.

OMB Number: 3064–0125.

Form Number: None.

Affected Public: Insured state nonmember banks and state savings associations.

Burden Estimate:

SUMMARY OF ESTIMATED ANNUAL BURDEN
[OMB No. 3064–0125]

Information Collection (IC) (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Average time per response (HH:MM)	Annual burden (hours)
1. Notices or applications to establish, move, or close a foreign branch, 12 CFR 303.182 (Mandatory).	Reporting (On Occasion).	P 1	1	02:00	2
2. Filings for authorization for foreign branch to engage in activities other than those permitted under 12 CFR 347.115, 12 CFR 303 (Mandatory).	Reporting (On Occasion).	P 1	1	40:00	40
3. Filings to invest in foreign organizations, or to engage in certain activities through foreign organizations, 12 CFR 303.183(b) and 303.121, (Mandatory).	Reporting (On Occasion).	1	1	60:00	60
4. Merger transactions involving foreign organizations, 12 CFR 303.185(b) and 12 CFR 303.62 (Mandatory).	Reporting (On Occasion).	P 1	1	06:00	6
5. Filings by insured state nonmember banks to invest in, or divest its interest in, a foreign organization, 12 CFR 303.183 (Mandatory).	Reporting (On Occasion).	P 1	1	02:00	2
6. Notice of foreign divestiture of foreign organization, 12 CFR 303.183(d) (Mandatory).	Reporting (On Occasion).	P 1	1	01:00	1
7. Document policies and procedures for supervision of foreign activities, 12 CFR 347.116 (Mandatory).	Recordkeeping (Annual)	4	1	400:00	1,600
Total Annual Burden (Hours) .....	.....	.....	.....	.....	1,711

Source: FDIC.

^P Placeholder value—the FDIC expects zero respondents.

General Description of Collection: The Federal Deposit Insurance (FDI) Act requires state nonmember banks to obtain FDIC consent to establish or operate a foreign branch, or to acquire and hold, directly or indirectly, stock or other evidence of ownership in any foreign bank or other entity. The FDI Act also authorizes the FDIC to impose conditions for such consent and to issue

regulations related thereto. This collection is a direct consequence of those statutory requirements. There is no change in the substance or methodology of this information collection. The estimated annual burden has decreased by 33 percent, from 2,577 hours in 2023 to 1,711 hours currently, driven by a reduction in the estimated

number of respondents to IC 3 and IC 7.

3. *Title:* Interagency Guidance on Sound Incentive Compensation Policies.

OMB Number: 3064–0175.

Form Number: N/A.

Affected Public: Insured state nonmember banks and state savings associations.

Burden Estimate:

SUMMARY OF ESTIMATED ANNUAL BURDEN
[OMB No. 3064-0175]

Information Collection (IC) (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Average time per response (HH:MM)	Annual burden (hours)
1. Initial implementation: Interagency Guidance on Sound Incentive Compensation Practices, 75 FR 36395 (June 25, 2010) (Voluntary).	Recordkeeping (Annual)	1	1	40:00	40
2. Ongoing maintenance and revision: Interagency Guidance on Sound Incentive Compensation Practices, 75 FR 36395 (June 25, 2010) (Voluntary).	Recordkeeping (Annual)	1,776	1	02:00	3,552
Total Annual Burden (Hours) .....	.....	.....	.....	.....	3,592

Source: FDIC.

General Description of Collection:

Incentive compensation practices in the financial services industry contributed to the financial crisis that began in 2007. Bank employees too often were rewarded for increasing short-term revenue or profit without adequate regard to the risks taken to achieve those results. These practices exacerbated the risks and losses at a number of banking organizations and resulted in the misalignment of the interests of employees with the long-term safety and soundness of their organizations. The Federal banking agencies, including the FDIC, have concluded that it is appropriate and urgent that incentive compensation practices be brought under control through issuance of this guidance. Under this Guidance, banks are encouraged to: (i) Have policies and procedures that identify and describe the role(s) of the personnel and units authorized to be involved in incentive compensation arrangements, identify the source of significant risk-related inputs, establish appropriate controls governing these inputs to help ensure their integrity, and identify the individual(s) and unit(s) whose approval is necessary for the establishment or modification of incentive compensation arrangements; (ii) create and maintain sufficient documentation to permit an audit of the organization's processes for incentive compensation arrangements; (iii) have any material exceptions or adjustments to the incentive compensation arrangements established for senior executives approved and documented by its board of directors; and (iv) have its board of directors receive and review, on an annual or more frequent basis, an assessment by management of the effectiveness of the design and operation of the organization's incentive compensation system in providing risk taking incentives that are consistent with the organization's safety and

soundness. There is no change in the substance or methodology of this information collection. The estimated annual burden has decreased by 418 hours from 4,010 hours in 2023 to 3,592 hours currently, due to a decrease in the number of respondents.

Request for Comment

Comments are invited on: (a) whether the collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collections, including the validity of the methodology 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 collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on June 2, 2026.

Jennifer M. Jones,

Deputy Executive Secretary.

[FR Doc. 2026-11177 Filed 6-3-26; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or

bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843), and interested persons may express their views in writing on the standards enumerated in section 4. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Benjamin W. McDonough, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551-0001, not later than July 6, 2026.

A. Federal Reserve Bank of Boston (Prabal Chakrabarti, Executive Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02210–2204. Comments can also be sent electronically to BOS.SRC.Applications.Comments@bos.frb.org:

1. *Mascoma Mutual Financial Services Corporation*, (“Mascoma”), Lebanon, New Hampshire; to merge with Androscoggin Bancorp, MHC, and thereby indirectly acquire Androscoggin Savings Bank, both of Lewiston, Maine. In addition, *Mascoma*, through the acquisition of Portland Trust Company, LLC, Portland, Maine, would engage in providing trust company functions pursuant to section 225.28(b)(5) of the Board’s Regulation Y.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2026–11203 Filed 6–3–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection

Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: Autism CARES Initiative Evaluation, OMB No. 0915–0335—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than August 3, 2026.

ADDRESSES: Submit your comments to paperwork@hrsa.gov or mail the HRSA Information Collection Clearance Officer, Room 13N82, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft

instruments, email paperwork@hrsa.gov or call Samantha Miller, the HRSA Information Collection Clearance Officer, at (301) 443–3983.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the ICR title for reference.

Information Collection Request Title: Autism CARES Initiative Evaluation, OMB No. 0915–0335—Revision.

Abstract: HRSA provides funds to support several programs related to autism, as authorized by 42 U.S.C. 280i–1 (section 399BB of the Public Health Service Act), as amended by the Autism Collaboration, Accountability, Research, Education, and Support (CARES) Act of 2024 (Pub. L. 118–180). Through the Autism CARES Initiative, HRSA strengthens systems of care for autistic individuals and those with other developmental disabilities and their families. The Autism CARES Initiative advances several goals, including: increasing awareness of autism/developmental disabilities and developmental milestones; improving access to coordinated, high-quality services across clinical and community settings; addressing workforce shortages through interdisciplinary training; reducing barriers to timely screening and diagnosis; identifying and disseminating evidence-based practices; supporting healthy transition to adulthood; and building a broader evidence base through research. Engagement with families and individuals with personal experience in autism and other developmental disabilities is a key component of all programs to ensure community needs are prioritized and met. To inform ongoing program monitoring and continuous improvement, HRSA is conducting a multi-year evaluation that (1) measures outputs and outcomes across program components (*e.g.*, training, research, transition to adulthood, and resource/technical assistance centers); (2) identifies promising practices and implementation facilitators; (3) assesses how investments function as a system to advance shared outcomes; and (4) provides annual, decision-ready findings for HRSA leadership and project officers. The evaluation builds on prior Autism CARES assessments by updating the tools to continue collecting certain data and adjusting to collect data to gain deeper understanding of the programs. It also leverages existing administrative reporting (*e.g.*, Discretionary Grants Information System, approved under 0915–0298; as

well as grantee progress and final reports).

This ICR is a revision to the currently approved Autism CARES Evaluation information collection and reflects updates to the evaluation design and data collection approach for the current evaluation period. The revised collection retains a mixed-methods framework but introduces targeted changes to instruments, respondent engagement, and burden estimates. Specifically, the revised data collection eliminates one-time, grantee-specific, semi-structured interviews and the research quantitative data collection form included in the prior clearance, replacing them with semi-structured, time-limited virtual focus groups designed to elicit cross-program and systems-level insights. The annual grantee survey is retained as the primary standardized data collection instrument and refined to support longitudinal monitoring across all Autism CARES awardees through a single consolidated response per award. These revisions reduce redundancy across instruments, streamline data collection protocols, and shift qualitative data collection toward lower-burden group-based discussions. As a result of these changes, the estimated burden hours differ substantially from the previously approved package and reflect a reduced annualized burden estimate.

Need and Proposed Use of the Information: To complement existing administrative, grantee-reported data and to minimize duplication, the evaluation proposes two targeted, low-burden collections that will support performance monitoring, learning, and quality improvement across the Autism CARES portfolio:

- **Web-Based Grantee Survey**—A brief, program-level web survey administered annually to the full universe of Autism CARES awardees (one consolidated response per award from the Project Director/Principal Investigator). The instrument includes a stable set of core items by program family (training, research, transition to adulthood, and resource/technical assistance centers) to track year-over-year patterns in outputs, activities, successes, challenges, and perceived impacts. Selected open-ended prompts also capture concise examples. No personally identifiable information or protected health information will be collected; responses reflect award-level activities only. Administration is planned via a secure REDCap configuration with tokenized links and save-and-return functionality.

- **Virtual Focus Groups**—A limited number of virtual focus group

discussions conducted each year to elicit qualitative insights that help explain quantitative patterns and illuminate system functioning across the portfolio. Topics will rotate across the evaluation period to address priority themes (e.g., awareness and dissemination; expanding and advancing the workforce; translating research to practice improving outcomes; improving youth transition to adulthood; and cross-cutting systems effects). Participant selection will purposefully include input from across grantee program components (grantee leadership/staff, trainees, researchers) and key stakeholders (family members/self-advocates, partner organizations) to capture a range of perspectives and surface actionable implementation lessons and promising practices. Sessions will follow standardized

discussion guides, be recorded on secure platforms, securely transcribed, and analyzed alongside administrative and survey data to support annual products and recommendations for improvement.

To reduce burden, the evaluation will use data collected through existing HRSA grant reporting. These sources include Discretionary Grants Information System (currently approved under 0915–0298), as well as grantee progress and final reports.

Likely Respondents: The respondents to the Grantee Survey will be the 99 Project Directors or Principal Investigators of each award within the universe of Autism CARES awardees. The focus groups will engage with grantee leadership, staff, trainees, and researchers as well as other key stakeholders, including family

members/self-advocates, and partner organizations.

Burden Statement: Burden in this context means the time expended by people to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Grantee Survey	^a 99.0	1	99.0	0.5	49.5
Grantee Focus Groups	^b 40.0	1	40.0	1.5	60.0
Stakeholder Focus Groups	^c 12.5	1	12.5	1.5	18.8
Total	^d 151.5	.....	151.5	.....	128.3

General: The table reports integer values for the annual number of respondents and responses. In cases when underlying assumptions about totals over the 4-year period covered by PRA clearance resulted in a fractional count of respondents per year, that count was rounded upward to the nearest integer. When the estimated average burden hours are less than one, the table reports the value as the fraction of 60 minutes.

^a Assumes all 99 grantees will respond to the survey in each year.

^b Assumes 16 focus group meetings with 10 grantee participants over the course of 4 years. Number of respondents is the average number of participants per year.

^c Assumes 5 focus group meetings with 10 stakeholder participants over the course of 4 years. Stakeholders include self-advocates, family members of individuals with autism, and grantee partner organizations. Number of respondents is the average number of participants per year.

^d The total annual number of respondents is a sum of the rows in the table above and does not adjust for potential overlap between respondent groups across rows.

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,
Director, Executive Secretariat.
[FR Doc. 2026–11167 Filed 6–3–26; 8:45 am]
BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Office of the Secretary
Notice of Interest Rate on Overdue Debts

Section 30.18 of the Department of Health and Human Services' claims collection regulations (45 CFR part 30) provides that the Secretary shall charge an annual rate of interest, which is determined and fixed by the Secretary of the Treasury after considering private consumer rates of interest on the date that the Department of Health and

Human Services becomes entitled to recovery. The rate cannot be lower than the Department of Treasury's current value of funds rate or the applicable rate determined from the "Schedule of Certified Interest Rates with Range of Maturities" unless the Secretary waives interest in whole or part, or a different rate is prescribed by statute, contract, or repayment agreement. The Secretary of the Treasury may revise this rate quarterly. The Department of Health and Human Services publishes this rate in the **Federal Register**.

The current rate of 11¹/₈%, as fixed by the Secretary of the Treasury, is certified for the quarter ended September 30, 2025; 11⁵/₈% for the quarter ended December 31, 2025; and 11³/₈% for the quarter ended March 31, 2026. This rate is based on the Interest Rates for Specific Legislation, "National Health

Services Corps Scholarship Program (42 U.S.C. 254o(b)(1)(A))" and "National Research Service Award Program (42 U.S.C. 288(c)(4)(B))." This interest rate will be applied to overdue debt until the Department of Health and Human Services publishes a revision.

Yianting Lee,
Acting Director, Office of Financial Policy and Reporting.
[FR Doc. 2026–11171 Filed 6–3–26; 8:45 am]
BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel Exploratory Research in Cancer Immunology and Therapy.

Date: June 30, 2026.

Time: 10:00 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: Jun Fang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 276-5460, jfang@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topics in Bioengineering and Instrumentation.

Date: July 2, 2026.

Time: 10:00 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: Mirela Milescu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, mirela.milescu@nih.gov.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function C Study Section.

Date: July 6-7, 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: Guillermo Andres Bermejo, Ph.D., Scientific Review Officer,

Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827-5742, bermejog@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Cancer Immunology and Immunotherapy.

Date: July 7, 2026.

Time: 8:00 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: Ola Mae Zack Howard, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7806, Bethesda, MD 20892, 301-451-4467, howardz@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Maximizing Investigators' Research Award Review.

Date: July 7-8, 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: Anita Szajek, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 900M, Bethesda, MD 20892, (301) 867-5309, anita.szajek@nih.gov.

Name of Committee: Digestive, Kidney and Urological Systems; Integrated Review Group; Environmental Determinants of Disease Study Section.

Date: July 7-8, 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: Stacey Nicole Williams, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 867-5309, stacey.williams@nih.gov.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Pregnancy and Neonatology Study Section.

Date: July 7, 2026.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Anthony Wing Sang Chan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 809K, Bethesda, MD 20892, (301) 496-9392, chana3@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Cell Biology, Developmental Biology, and Bioengineering.

Date: July 7-8, 2026.

Time: 9:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Alexander Gubin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4196, MSC 7812, Bethesda, MD 20892, 301-435-2902, gubina@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Community-Partnered Nursing Research Centers Panel A.

Date: July 7, 2026.

Time: 10:00 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: Janetta Lun, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827-4588, janetta.lun@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Medical Imaging Investigations.

Date: July 7, 2026.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health Rockledge II 6701 Rockledge Drive Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Carlos J Perez-Torres, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480-0451, carlos.perez-torres@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: June 1, 2026.

Sterlyn H. Gibson,
Program Specialist, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-11254 Filed 6-3-26; 8:45 am]

BILLING CODE 4167-05-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Pathophysiology of

Obesity and Metabolic Disease Study Section, June 29, 2026, 10:00 a.m. to June 29, 2026, 11:00 p.m., National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on June 01, 2026, 91 FR 32404 FR Doc No. 2026–10931.

The meeting is being amended to change the end time from 11 p.m. to 6 p.m. The meeting is closed to the public.

Dated: June 2, 2026.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–11255 Filed 6–3–26; 8:45 am]

BILLING CODE 4167–05–P

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Notice of Performance Review Board

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of Performance Review Board.

SUMMARY: Appointment of individuals to serve as members of the Performance Review Board.

DATES: These appointments were effective on June 1, 2026.

FOR FURTHER INFORMATION CONTACT:

Kelly Fanizzo, General Counsel, Advisory Council on Historic Preservation, kfanizzo@achp.gov; 202–517–0193.

SUPPLEMENTARY INFORMATION: The Vice Chairman of the Advisory Council on Historic Preservation (ACHP) has appointed the following individuals to serve on the ACHP's Performance Review Board (PRB):

Chairperson of the PRB: Richard Gonzalez

Member—Jessica L. Kaplan

Member—Joy Beasley

Authority: 5 U.S.C. 4314(c)(4).

Dated: June 1, 2026.

Kelly Y. Fanizzo,

General Counsel.

[FR Doc. 2026–11148 Filed 6–3–26; 8:45 am]

BILLING CODE 4310–K6–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7094–N–09; OMB Control No. 2506–0165]

60-Day Notice of Proposed Information Collection: Disaster Recovery Grant Reporting System (DRGR) for Community Development Disaster

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* August 3, 2026.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal.

Written comments and recommendations for the proposed information collection can be sent within 60 days of publication of this notice to www.regulations.gov. Interested persons are also invited to submit comments regarding this proposal and comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Urnell Johnson, PRA Supervisor Correspondence Unit, Department of Housing and Urban Development, 451 7th Street SW, Room 7232, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT:

Gerilee Bennett, Acting Director, Office of Disaster Recovery, email Gerilee.W.Bennett@HUD.gov, telephone (202) 664–9481 or B. Cory Schwartz, Acting Director, Office of Block Grant Assistance, email Benjamin.C.Schwartz@HUD.gov, telephone (202) 402–4105, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

Copies of available documents submitted to OMB may be obtained from Ms. Bennett.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Disaster Recovery Grant Reporting System (DRGR).

OMB Approval Number: 2506–0165.

Type of Request: Renewal.

Form Number: SF–424 Application for Federal Assistance.

Description of the need for the information and proposed use: The Disaster Recovery Grant Reporting System (DRGR) is a grants management system used by the Office of Community Planning and Development to monitor special appropriation grants under the Community Development Block Grant program. This collection pertains to Community Development Block Grant Disaster Recovery (CDBG–DR), Community Development Block Grant Mitigation (CDBG–MIT), Community Development Block Grant National Disaster Resilience Competition (CDBG–NDR), Neighborhood Stabilization Program (NSP), Rural Capacity Building (RCB), Section 4 Capacity Building for Community Development and Affordable Housing Program (Section 4), Recovery Housing Program (RHP), Pathways to Removing Obstacles to Housing (PRO Housing), and Preservation and Reinvestment Initiative for Community Enhancement (PRICE) grant funds.

The CDBG program is authorized under Title I of the Housing and Community Development Act of 1974, as amended. Following major disasters, Congress may appropriate supplemental CDBG funds for disaster recovery. According to Section 104(e)(1) of the Housing and Community Development Act of 1974, HUD is responsible for reviewing grantees' compliance with applicable requirements and their continuing capacity to carry out their programs. Grant funds are made available to states and units of general local government, Indian tribes, and insular areas, unless provided otherwise by supplemental appropriations statute, based on their unmet disaster recovery needs.

The Neighborhood Stabilization Program (NSP) was established for the purpose of stabilizing communities that have suffered from foreclosures and property abandonment. Authorized under Section 1497 of the Wall Street Reform and Consumer Protection Act of 2010 (Pub. L. 111–203, approved July 21, 2010) (“NSP3”), NSP3 Technical Assistance (TA) provides \$20 million to

organizations that are experienced and successful in providing program, technical, planning, financial, and organizational capacity building assistance, or consulting in such areas as community development, affordable housing, organizational management, financing and underwriting, construction and rehabilitation management, land banking, project management and strategic planning.

Through the funding of national organizations with expertise in rural housing and community development, the Rural Capacity Building (RCB) and Section 4 programs enhance the capacity and ability of local governments, Indian tribes, housing development organizations, rural Community Development Corporations (CDCs), and rural Community Housing Development Organizations (CHDOs), to carry out community development and affordable housing activities that benefit low-and moderate-income families and persons in rural areas.

The Recovery Housing Program (RHP) was authorized under section 8071 of the SUPPORT for Patients and Communities (SUPPORT) Act. HUD published its formula in the **Federal Register** on April 17, 2019 (84 FR 16027), identifying the 25 eligible grantees for the FY2020 allocation and allocation percentages. For each subsequent appropriation that makes funds available for RHP, HUD determines the number of eligible grantees and allocation percentages based on the published formula. Section 8071 of the SUPPORT Act required funds appropriated or made available for the RHP be treated as CDBG funds under title I of the Housing and Community Act of 1974, unless otherwise provided in the Act or modified by waivers and alternative requirements.

Pathways to Removing Obstacles to Housing (PRO Housing) is a competitive grant program for the identification and removal of barriers to affordable housing production and preservation. PRO Housing was authorized by the Full-Year Continuing Appropriations and Extensions Act, 2025 (Public Law 119–4, approved March 15, 2025), Consolidated Appropriations Act, 2024 (Public Law 118–42, approved March 9, 2024), and the Consolidated Appropriations Act, 2023 (Public Law 117–328, approved December 29, 2022). HUD makes these competitive funds available through the Notice of Funding Opportunity (NOFO) process. The competition invites States, local governments, metropolitan planning organizations, and multijurisdictional entities to apply for funds for eligible

activities that develop, evaluate, and implement housing policy plans, improve housing strategies, and facilitate affordable housing production and preservation.

The “Preservation and Reinvestment Initiative for Community Enhancement” (PRICE) program was authorized by the Full-Year Continuing Appropriations and Extensions Act, 2025 (Pub. L. 119–4, approved March 15, 2025), Consolidated Appropriations Act, 2024 (Pub. L. 118–42, approved March 9, 2024), and the Consolidated Appropriations Act, 2023 (Public Law 117–328, approved December 29, 2022). HUD makes these competitive funds available through the NOFO process. The competition invites eligible applicants, including State, Tribal, and Local governments, as well as non-profit entities, cooperatives, and Community Development Finance Institutions, to apply for funds for eligible activities that facilitate manufactured housing preservation and revitalization.

Estimated Number of Respondents: 2,354.

Estimated Number of Responses: 42,890.

Frequency of Response: Varies.

Average Hours per Response: Varies.

Total Estimated Burdens: 57,171 hours and cost of \$2,002,983.38.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency’s estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 2 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

Ronald J. Kurtz,

Assistant Secretary for Community Planning and Development.

[FR Doc. 2026–11206 Filed 6–3–26; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A2407–014–004–065516; O2509–014–004–125222; LLES961000]

Notice of Filing of Plat of Survey; Michigan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plat of survey of the following described lands is scheduled to be officially filed in the Bureau of Land Management (BLM), Eastern States State Office, Falls Church, Virginia, 30 calendar days from the date of this publication. The survey, executed at the request of the U.S. Fish and Wildlife Service, Horicon National Wildlife Refuge, is required for the management of these lands.

DATES: Unless there are protests of this action, the filing of the plat described in this notice will happen on July 6, 2026.

ADDRESSES: Written notices protesting the survey must be sent to the State Director, BLM Eastern States, 5275 Leesburg Pike, Suite 102–A, Falls Church, VA 22041.

FOR FURTHER INFORMATION CONTACT:

Frank D. Radford, Chief Cadastral Surveyor for Eastern States; (703) 558–7756; email: fradford@blm.gov; or U.S. Postal Service: BLM–ES, 5275 Leesburg Pike, Suite 102–A, Falls Church, VA 22041. Attn: Cadastral Survey.

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: The plat incorporating the field notes of the retracement of a portion of the subdivisional lines and adjusted record meander lines of section 9, and the survey of lots 7 and 8 in section 9, Township 36 North, Range 19 West,

Michigan Meridian, Michigan, was accepted on September 18, 2025.

A person or party who wishes to protest a survey must file a written notice of protest within 30 calendar days from the date of this publication at the address listed in the **ADDRESSES** section of this notice. A notice of protest is considered filed on the date it is received by the State Director for Eastern States during regular business hours; if received after regular business hours, a notice of protest will be considered filed the next business day. Any notice of protest filed after the scheduled date of official filing will be untimely and will not be considered. A statement of reasons for the protest may be filed with the notice of protest and must be filed within 30 calendar days after the protest is filed. If a notice of protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the next business day after all protests have been dismissed or otherwise resolved.

Before including your address, phone number, email address, or other personal identifiable information in your notice of protest or statement of reasons, please be aware that your entire protest, including your personal identifiable information may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifiable information from public review, we cannot guarantee that we will be able to do so.

A copy of the described plat will be placed in the open files, and available to the public, as a matter of information.

Authority: 43 U.S.C. Chap. 3.

Frank D. Radford,

Chief Cadastral Surveyor for Eastern States.

[FR Doc. 2026–11188 Filed 6–3–26; 8:45 am]

BILLING CODE 4331–18–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A2407–014–004–065516; O2509–014–004–125999; LLES961000]

Notice of Filing of Plat of Survey; Iowa

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plat of survey of the following described lands is scheduled to be officially filed in the Bureau of land Management (BLM), Eastern States State Office, Falls Church, Virginia, 30

calendar days from the date of this publication. The survey, executed at the request of the United States Army Corps of Engineers (USACE), Rock Island District, is required for the management of these lands.

DATES: Unless there are protests of this action, the filing of the plat described in this notice will happen on July 6, 2026.

ADDRESSES: Written notices protesting the survey must be sent to the State Director, BLM Eastern States, 5275 Leesburg Pike, Suite 102–A, Falls Church, VA 22041.

FOR FURTHER INFORMATION CONTACT:

Frank D. Radford, Chief Cadastral Surveyor for Eastern States; (703) 558–7759; email: fradford@blm.gov; or U.S. Postal Service: BLM–ES, 5275 Leesburg Pike, Suite 102–A, Falls Church, VA 22041. Attn: Cadastral Survey.

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: The dependent resurvey of a portion of the north boundary, a portion of the subdivisional lines, the survey of the subdivision of section 5, and the survey of the metes and bounds boundary of USACE lands in section 5, Township 77 North, Range 23 West, of the Fifth Principal Meridian, Iowa.

A person or party who wishes to protest a survey must file a written notice of protest within 30 calendar days from the date of this publication at the address listed in the **ADDRESSES** section of this notice. A notice of protest is considered filed on the date it is received by the State Director for Eastern States during regular business hours; if received after regular business hours, a notice of protest will be considered filed the next business day. Any notice of protest filed after the scheduled date of official filing will be untimely and will not be considered. A statement of reasons for the protest may be filed with the notice of protest and must be filed within 30 calendar days after the protest is filed. If a notice of protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the next business day after all protests have been dismissed or otherwise resolved.

Before including your address, phone number, email address, or other

personal identifiable information in your notice of protest or statement of reasons, please be aware that your entire protest, including your personal identifiable information may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifiable information from public review, we cannot guarantee that we will be able to do so.

A copy of the described plat will be placed in the open files, and available to the public, as a matter of information.

(Authority: 43 U.S.C. Chap. 3.)

Frank D. Radford,

Chief Cadastral Surveyor for Eastern States.

[FR Doc. 2026–11190 Filed 6–3–26; 8:45 am]

BILLING CODE 4331–18–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A2407–014–004–065516; O2509–014–004–125222; LLES961000]

Notice of Filing of Plats of Survey; Maine

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of land Management (BLM), Eastern States State Office, Falls Church, Virginia, 30 calendar days from the date of this publication. The surveys, executed at the request of the Bureau of Indian Affairs, Eastern Region, are required for the management of these lands.

DATES: Unless there are protests of this action, the filing of the plats described in this notice will happen on July 6, 2026.

ADDRESSES: Written notices protesting any of these surveys must be sent to the State Director, BLM Eastern States, 5275 Leesburg Pike, Suite 102–A, Falls Church, VA, 22041.

FOR FURTHER INFORMATION CONTACT:

Frank D. Radford, Chief Cadastral Surveyor for Eastern States; (703) 558–7759; email: fradford@blm.gov; or U.S. Postal Service: BLM–ES, 5275 Leesburg Pike, Falls Church, VA, 22041. Attn: Cadastral Survey. 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: The plat incorporating the field notes of the dependent resurvey and survey of the boundaries of lands held in trust for the Houlton Band of Maliseet Indians, known as the Eva Karkas parcel or alternatively as the Big Brook parcel in Littleton, Aroostook County, in the State of Maine, was accepted on September 30, 2020.

The plat incorporating the field notes of the dependent resurvey of lands held in trust for the Houlton Band of Maliseet Indians, portions of Lots 141 and 142, in Monticello, Aroostook County, in the State of Maine, was accepted September 30, 2021.

A person or party who wishes to protest a survey must file a written notice of protest within 30 calendar days from the date of this publication at the address listed in the **ADDRESSES** section of this notice. A notice of protest is considered filed on the date it is received by the State Director for Eastern States during regular business hours; if received after regular business hours, a notice of protest will be considered filed the next business day. Any notice of protest filed after the scheduled date of official filing will be untimely and will not be considered. A statement of reasons for the protest may be filed with the notice of protest and must be filed within 30 calendar days after the protest is filed. If a notice of protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the next business day after all protests have been dismissed or otherwise resolved.

Before including your address, phone number, email address, or other personal identifiable information in your notice of protest of statement of reasons, please be aware that your entire protest, including your personal identifiable information may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifiable information from public review, we cannot guarantee that we will be able to do so.

A copy of the described plats will be placed in the open files, and available to the public as a matter of information.

Authority: 43 U.S.C. Chap. 3.

Frank D. Radford,

Chief Cadastral Surveyor for Eastern States.

[FR Doc. 2026–11193 Filed 6–3–26; 8:45 am]

BILLING CODE 4331–18–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A2407–014–004–065516; #O2509–014–004–125222; LLHQ/Wyoming]

Termination of the Resource Management Plan Amendment for the Buffalo Field Office, Wyoming, and an Associated Environmental Assessment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of termination.

SUMMARY: The Bureau of Land Management (BLM) is announcing the termination of the land use planning process described in the notice of intent (NOI) published in the **Federal Register** on July 8, 2025, for the Environmental Assessment (EA) to amend the Buffalo Resource Management Plan.

DATES: The land use planning process described in the NOI is discontinued as of the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Thomas Bills, Planning and Environmental Coordinator, Buffalo Field Office, telephone: (307) 684–1133; email: tbills@blm.gov; address: 1425 Fort Street, Buffalo, WY. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Mr. Bills. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: In accordance with the National Environmental Policy Act of 1969 (NEPA), as well as 43 CFR 1610.2(c), the BLM on July 8, 2025, published an NOI in the **Federal Register** announcing that it planned to prepare an EA, and have a concurrent public-scoping period, on the proposed analysis (90 FR 30093). To preserve agency resources, and in consideration of subsequent legislative and Secretarial actions, the BLM is now discontinuing this planning and NEPA process.

On December 11, 2025, in accordance with the Congressional Review Act (CRA), 5 U.S.C. 801–808, the President signed a joint resolution into law disapproving the 2024 Buffalo Field Office Resource Management Plan Amendment. Public Law 119–51. A rule nullified under the CRA must be treated as though it never took effect. As such, the 2024 RMP Amendment, including

the coal-allocation decision the BLM announced as a preliminary alternative in the NOI, should be treated as though it never took effect and the 2015 Buffalo Field Office Resource Management Plan, as amended in November 2019 and as otherwise amended, except as by the disapproved amendment, is now in effect for the Buffalo Planning Area.

The BLM has also maintained the 2015 Buffalo Field Office Resource Management Plan, as amended in 2019, to reflect the Secretary of the Interior's action pursuant to section 50203 of the One Big Beautiful Bill Act (OBBA) (Pub. L. 119–21 (2025)). See 90 FR 47813 (Oct. 2, 2025). The Secretary of the Interior implemented section 50203 of the OBBA by, in part, making 2,338,995 BLM-administered coal acres available for further consideration for coal leasing in the Buffalo Field Office. The acreage made available in the 2019 Buffalo Record of Decision/Approved RMP Amendment was maintained with the acres made available pursuant to section 50203 of the OBBA, resulting in an allocation of 2,614,310 BLM-administered coal acres available for further consideration for leasing.

While the BLM does not intend to issue a Proposed Plan Amendment/Final EA or a Decision Record for this planning process, it will continue to work with cooperating agencies and stakeholders in the implementation of the existing land use plan.

(Authority: 43 CFR 1610.2)

Tanya M. Thrift,

Acting Wyoming State Director.

[FR Doc. 2026–11151 Filed 6–3–26; 8:45 am]

BILLING CODE 4331–26–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A2407–014–004–065516; #O2509–014–004–125222; LLHQ/Montana]

Termination of the Resource Management Plan Amendment for the Miles City Field Office, Montana, and an Associated Environmental Assessment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of termination.

SUMMARY: The Bureau of Land Management (BLM) is announcing the termination of the land use planning process described in the notice of intent (NOI) published in the **Federal Register** on July 8, 2025, for the Environmental Assessment (EA) for the Miles City Resource Management Plan.

DATES: The land use planning process described in the NOI is discontinued as of the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Irma Nansel, Planning and Environmental Coordinator, Miles City Field Office, telephone: (406) 233-3653; email: inansel@blm.gov; address: 111 Garryowen Road, Miles City, MT 59301. Individuals in the United States who are deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Ms. Nansel. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: In accordance with the National Environmental Policy Act of 1969 (NEPA), as well as 43 CFR 1610.2(c), the BLM on July 8, 2025, published an NOI in the **Federal Register** announcing that it planned to prepare an EA, and have a concurrent public-scoping period, on the proposed analysis (90 FR 30092). To preserve agency resources, and in consideration of subsequent legislative and Secretarial actions, the BLM is now discontinuing this planning and NEPA process.

On December 11, 2025, in accordance with the Congressional Review Act (CRA), 5 U.S.C. 801-808, the President signed a joint resolution into law disapproving the November 2024 Miles City Field Office Resource Management Plan Amendment. Public Law 119-48. A rule nullified under the CRA must be treated as though it never took effect. As such, the 2024 RMP Amendment, including the coal-allocation decision the BLM announced as a preliminary alternative in the NOI, should be treated as though it never took effect and the 2015 Miles City Field Office Resource Management Plan, as amended in January 2021 and as otherwise amended, except as by the disapproved amendment, is now in effect for the Miles City Planning Area.

The BLM has also maintained the 2015 Miles City Field Office Resource Management Plan, as amended in January 2021, to reflect the Secretary of the Interior's action pursuant to section 50203 of the One Big Beautiful Bill Act (OBBA) (Pub. L. 119-21 (2025)). See 90 FR 47813 (Oct. 2, 2025). The Secretary of the Interior implemented section 50203 of the OBBA by, in part, making 6,859,330 BLM-administered coal acres available for further consideration for coal leasing in the Miles City Field

Office. The acreage made available in the 2021 Record of Decision/Approved RMP Amendment was maintained with the acres made available pursuant to section 50203 of the OBBA, resulting in an allocation of 6,989,390 BLM-administered coal acres available for further consideration for leasing.

While the BLM does not intend to issue a Proposed Plan Amendment/Final EA or a Decision Record for this planning process, it will continue to work with cooperating agencies and stakeholders in the implementation of the existing land use plans.

(Authority: 43 CFR 1610.2)

Gerald T. Davis,

Acting State Director.

[FR Doc. 2026-11149 Filed 6-3-26; 8:45 am]

BILLING CODE 4331-20-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7193; NPS-WASO-NAGPRA-NPS0042926; PPWOCRADNO-PCU00RP14.R50000]

Notice of Intended Repatriation: Hood Museum of Art, Dartmouth College, Hanover, NH

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Hood Museum of Art, Dartmouth intends to repatriate certain cultural items that meet the definition of unassociated funerary objects and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after July 6, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Jami C. Powell, Associate Director of Curatorial Affairs & Curator of Indigenous Art, Hood Museum of Art, 6 East Wheelock Street Hanover, NH 03755, email hood.NAGPRA@dartmouth.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Hood Museum of Art, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related

records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 45 cultural items have been requested for repatriation. The 45 unassociated funerary objects are ceramic pots, bowls, and jars.

The Alabama Museum of Natural History, University of Alabama, removed ancestral remains and cultural objects from Mississippi County, AR in 1932 and 1933 through archaeological excavations at Nodena and Pecan Point sites under Director Walter B. Jones. Additional objects from the region entered the Alabama Museum of Natural History collection throughout the 1930s, as ceramics were sold to the museum by collectors Luther E. Jones and Harry Payne. In 1935, Lena Garth purchased 44 Mississippi County, AR ceramics from this collection at the Alabama Museum of Natural History. Garth immediately donated the objects to Dartmouth College Museum in the name of her grandson, a Dartmouth student.

A total of one object, from Mississippi County, AR, was purchased by Frank Proctor from an unknown source in 1900. Proctor gave the vessel to his nephew, Alexis Chapman Proctor, who donated it to Dartmouth's collection in 1967.

Determinations

The Hood Museum of Art has determined that:

- The 45 unassociated funerary objects described in this notice are reasonably believed to have been placed intentionally with or near human remains, and are connected, either at the time of death or later as part of the death rite or ceremony of a Native American culture according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization. The unassociated funerary objects have been identified by a preponderance of the evidence as related to human remains, specific individuals, or families, or removed from a specific burial site or burial area of an individual or individuals with cultural affiliation to an Indian Tribe or Native Hawaiian organization.

- There is a connection between the cultural items described in this notice and the Quapaw Nation.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for

repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after July 6, 2026. If competing requests for repatriation are received, the Hood Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The Hood Museum of Art is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: May 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-11233 Filed 6-3-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7199; NPS-WASO-NAGPRA-
NPS0042931; PPWOCRADN0-
PCU00RP14.R50000]

Notice of Inventory Completion: University of Michigan, Ann Arbor, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Michigan has completed an inventory of human remains (hereinafter referred to as "Ancestral remains" or "Ancestor") and has determined that there is a cultural affiliation between the Ancestral remains and Indian Tribes or Native Hawaiian organizations in this notice. **DATES:** Repatriation of the Ancestral remains in this notice may occur on or after July 6, 2026.

ADDRESSES: Send written requests for repatriation of the Ancestral remains in this notice to Dr. Ben Secunda, NAGPRA Office Managing Director, University of Michigan, Office of Research, Suite G269, Lane Hall, Ann Arbor, MI 48109-1274, email bsecunda@umich.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of Michigan, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Ancestral remains representing, at least, one individual have been identified. No associated funerary objects are present. In 1930, the Ancestor was removed from the W. Side of Flat River site (20KT43) from Kent County, Michigan, and donated to the University of Michigan Museum of Anthropological Archaeology by an amateur collector. Dating for the site is to the Historic period based on burial treatment.

The University of Michigan has no record of, nor do its officials have any knowledge of, any treatment of the Ancestral remains with pesticides, preservatives, or other substances that represent a potential hazard to the collection or to persons handling the collection.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the Ancestor described in this notice.

Determinations

The University of Michigan has determined that:

- The Ancestral remains described in this notice represent the physical remains of one individual of Native American ancestry.
- There is a connection between the Ancestral remains described in this notice and the Bay Mills Indian Community, Michigan; Forest County Potawatomi Community, Wisconsin; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-E-Be-Nash-She-Wish Band of Pottawatomi (previously listed as Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians of Michigan);

Nottawaseppi Huron Band of the Potawatomi, Michigan; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Saginaw Chippewa Indian Tribe of Michigan; and the Sault Ste. Marie Tribe of Chippewa Indians, Michigan.

Requests for Repatriation

Written requests for repatriation of the Ancestral remains in this notice must be sent to the authorized representative identified in this notice under

ADDRESSES. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice and, if joined to a request from one or more of the Indian Tribes, the Burt Lake Band of Ottawa and Chippewa Indians or Grand River Bands of Ottawa Indians, as non-federally recognized Indian groups.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the Ancestral remains described in this notice to a requestor may occur on or after July 6, 2026. If competing requests for repatriation are received, the University of Michigan must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the Ancestral remains are considered a single request and not competing requests. The University of Michigan is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: May 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-11238 Filed 6-3-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR**National Park Service**

[N7209; NPS-WASO-NAGPRA-NPS0042941; PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office, Santa Fe, NM, and U.S. Department of the Interior, Bureau of Reclamation, Upper Colorado Basin Region, Salt Lake City, UT

AGENCY: National Park Service, Interior
ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office, (BLM), and U.S. Department of the Interior, Bureau of Reclamation, Upper Colorado Basin Region (Reclamation) have completed an inventory of human remains and associated funerary objects and have determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after July 6, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Sean Daugherty, U.S. Department of the Interior, Bureau of Land Management, Albuquerque District Office, 100 Sun Ave. NE, Pan American Building, Suite 230, Albuquerque, NM 87109, email sdaugher@blm.gov and Zachary Nelson, U.S. Department of the Interior, Bureau of Reclamation, Upper Colorado Basin Region, 125 South State Street, Room 8100, Salt Lake City, UT 84138, email znelson@usbr.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the BLM and Reclamation, and additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

The human remains and associated funerary objects were removed from the

Navajo Reservoir area of San Juan Counties, New Mexico, and Archuleta County, Colorado, and are in the custody of the Museum of New Mexico, Museum of Indian Arts and Culture, Santa Fe, New Mexico, and Arizona State University, School of Human Evolution and Social Change, Tempe, Arizona. BLM and Reclamation acknowledge the deep and abiding connection Indian Tribes have and their affiliation with the Ancestors from the Navajo Reservoir area. The human remains and associated funerary objects were removed from archeological sites in the Navajo Reservoir District in San Juan County, NM; and Archuleta County, CO from 1956 to 1963 by archeologists from the Museum of New Mexico and School for Advanced Research (then known as the School of American Research) under contract with the National Park Service. Additional excavations were potentially conducted at one of the sites in Archuleta County, CO, during 1987 by Complete Archaeological Service Associates under contract with Reclamation. This notice includes cultural items dating from the Los Pinos Phase (A.D. 1–400), Sambrito Phase (A.D. 400–700), Rosa Phase (A.D. 750–850), Piedra Phase (A.D. 800–1000), and/or Arboles Phase (A.D. 950–1050).

Human remains representing, at least, one individual have been identified from site 5AA.1276/LA 4092 in Archuleta County, CO. No associated funerary objects are present. The excavation occurred during investigations in or around Navajo Reservoir paid for by Reclamation on land managed by BLM.

Human remains representing, at least, one individual have been identified from site LA 4216 in San Juan County, NM. No associated funerary objects are present. The excavation occurred during investigations in or around Navajo Reservoir paid for by Reclamation on land managed by BLM.

Human remains representing, at least, one individual have been identified from site LA 4257 in San Juan County, NM. No associated funerary objects are present. The excavation occurred during investigations in or around Navajo Reservoir paid for by Reclamation on land managed by BLM.

Human remains representing, at least, one individual and a dental cast have been identified from site LA 4289 in San Juan County, NM. The one lot of associated funerary objects include one lot of faunal remains from a dog burial. The excavation occurred during investigations in or around Navajo Reservoir paid for by Reclamation on land managed by BLM.

Human remains representing, at least, one individual have been identified from site LA 4298 in San Juan County, NM. The one lot of associated funerary objects include one lot of botanical remains. The excavation occurred during investigations in or around Navajo Reservoir paid for by Reclamation on land managed by BLM.

Human remains representing, at least, one individual have been identified from an unknown site/boneyard site located near Navajo Reservoir. The two lots of associated funerary objects include one lot of ceramics and one lot of lithics. The excavation occurred during investigations in or around Navajo Reservoir paid for by Reclamation on land managed by BLM.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains and associated funerary objects described in this notice.

Determinations

The BLM and Reclamation have determined that:

- The human remains described in this notice represent the physical remains of at least six individuals of Native American ancestry.
- The four lots of objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Navajo Nation, Arizona, New Mexico, & Utah; Ohkay Owingeh, New Mexico; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Santo Domingo Pueblo; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Ute Tribe; Ysleta del Sur Pueblo; and the Zuni Tribe of the Zuni Reservation, New Mexico.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representatives identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after July 6, 2026. If competing requests for repatriation are received, the BLM and Reclamation must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The BLM and Reclamation are responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: May 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-11248 Filed 6-3-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR**National Park Service**

[N7195; NPS-WASO-NAGPRA-NPS0042928; PPWOCRADN0-PCU00RP14.R50000]

**Notice of Inventory Completion:
California State University, Chico,
Chico, CA**

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), California State University, Chico (Chico State) has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after July 6, 2026.

ADDRESSES: Send written requests for repatriation of the human remains in this notice to Michelle Hansen, Chico State, 400 West First Street, Chico, CA 95929, email mcampbell19@csuchico.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Chico State, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available**Accession 253**

Human remains representing at least 22 individuals, have been identified. No associated funerary objects are present.

The human remains are from accession 253. The collection history of Chico State has largely been from the county where the campus resides, Butte County, and the surrounding counties that are part of the campus' service region. While the exact provenience of these human remains is unknown, it is reasonable to conclude, based on the collection history of the campus, that these human remains are from within the boundaries of Butte County and Chico State's service region. Due to non-existence of records, accession 253 essentially became Chico State's general accession for Native American human remains that have been disassociated from any site information.

The University is unaware of the human remains listed above being treated with pesticides, preservatives, or other substances that may pose a hazard to the remains or to those handling them.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the acquisition history of the human remains described in this notice.

Determinations

Chico State has determined that:

- The human remains described in this notice represent the physical remains of at least 22 individuals of Native American ancestry.
- There is a connection between the human remains described in this notice and the Mechoopda Indian Tribe of

Chico Rancheria, California, and the Mooretown Rancheria of Maidu Indians of California.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under

ADDRESSES. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains described in this notice to a requestor may occur on or after July 6, 2026. If competing requests for repatriation are received, Chico State must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. Chico State is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: May 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-11235 Filed 6-3-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR**National Park Service**

[N7202; NPS-WASO-NAGPRA-NPS0042934; PPWOCRADN0-PCU00RP14.R50000]

**Notice of Inventory Completion:
Sonoma State University, Rohnert
Park, CA**

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Sonoma State University has completed an inventory of associated funerary objects and has determined that there is a cultural affiliation between the associated funerary objects and Indian

Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the associated funerary objects in this notice may occur on or after July 6, 2026.

ADDRESSES: Send written requests for repatriation of the associated funerary objects in this notice to Kirsten Twork, Sonoma State University, 1801 E Cotati Avenue, Rohnert Park, CA 94928, email tworkk@sonoma.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Sonoma State University, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Based on the information available a total of 35 associated funerary objects were identified.

A total of 28 associated funerary objects were removed from CA-LAK-270/H located west of Chalk Mountain near Spring Valley in Lake County, California. Paperwork documenting why the material was removed from the site was not located. The associated funerary objects are modified shell, abalone, modified obsidian, groundstone tools, faunal bone, modified glass scrapers, and a historic button. The cultural material has been at the university since 1976.

A total of two associated funerary objects were removed from CA-LAK-301 located west of the Benmore Canyon, south of Spring Valley in Lake County, California. Paperwork documenting why the material was removed from the site was not located. The associated funerary objects are modified obsidian. The material has been at the university since 1976.

A total of two associated funerary objects were removed from CA-LAK-303 located west of Chalk Mountain near Spring Valley in Lake County, California. Paperwork documenting why the material was removed from the site was not located. The associated funerary objects are modified obsidian. The material has been at the university since 1976.

A total of three associated funerary objects were removed from CA-LAK-731 located west of the Benmore Canyon, south of Spring Valley in Lake County, California. Paperwork documenting why the material was

removed from the site was not located. The associated funerary objects are modified obsidian. The material has been at the university since 1976.

In the case of missing cultural items, any additional items when located will also be repatriated from the collections discussed above. Based on records concerning the associated funerary objects and the institution in which they are housed, there is no evidence of the ancestors or items being treated with hazardous substances.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the associated funerary objects described in this notice.

Determinations

Sonoma State University has determined that:

- The 35 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the associated funerary objects described in this notice and the Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria, California; Kletsel Dehe Wintun Nation of the Cortina Rancheria (previously listed as Kletsel Dehe Band of Wintun Indians); and the Yocha Dehe Wintun Nation, California.

Requests for Repatriation

Written requests for repatriation of the associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the associated funerary objects described in this notice to a requestor may occur on or after July 6, 2026. If competing requests for repatriation are received, Sonoma State University must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the associated funerary objects are considered a single request

and not competing requests. Sonoma State University is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: May 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-11241 Filed 6-3-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NRNHL-DTS#-42916;
PPWOCRADIO, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before May 23, 2026, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by June 22, 2026.

ADDRESSES: Comments are encouraged to be submitted electronically to National_Register_Submissions@nps.gov with the subject line "Public Comment on <property or proposed district name, (County) State>." If you have no access to email, you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 2013, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sherry A. Frear, Chief, National Register of Historic Places/National Historic Landmarks Program, 1849 C Street NW, MS 2013, Washington, DC 20240, sherry_frear@nps.gov, 202-913-3763.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before May 23, 2026. Pursuant to 36 CFR 60.13, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers
Key: State, County, Property Name, Multiple Name(if applicable), Address/ Boundary, City, Vicinity, Reference Number.

OHIO

Miami County

Troy Country Club, 1830 Peters Rd. Troy, SG100013172

RHODE ISLAND

Providence County

Grant's Mill, 36 Grants Mill Road, Cumberland, SG100013177

TENNESSEE

Shelby County

Watkins, J.R., Products Building, 62–70 W. Crump Boulevard, Memphis, SG100013171

TEXAS

Bailey County

Bailey County Courthouse, 300 S 1st Street, Muleshoe, SG100013170

Dallas County

Dallas Downtown Historic District (Boundary Increase), 400 N St. Paul St., Dallas, BC100013180

WASHINGTON

King County

Eng, Suen King and Sue Fong, House, 611 8th Avenue South, Seattle, SG100013175

Kitsap County

Hall Brothers Marine Railway & Shipbuilding Co. House, 761 Winslow Way East, Bainbridge Island, SG100013174

In the interest of preservation, a *shortened* comment period has been requested for the following resource(s):

WISCONSIN

Milwaukee County

Mitchell Park Horticultural Conservatory, 524 South Layton Boulevard, Milwaukee, SG100013178, Comment period: 3 days

A request for removal has been made for the following resource(s):

GEORGIA

Chattooga County

Riegel Hospital, 194 Allgood St., Trion, OT02000079

Nomination(s) submitted by Federal Preservation Officers: The State Historic

Preservation Officer reviewed the following nomination(s) and responded to the Federal Preservation Officer within 45 days of receipt of the nomination(s) and supports listing the properties in the National Register of Historic Places.

CALIFORNIA

San Bernardino County

71L Spring, (Historic Ranching Resources within Mojave National Preserve MPS), Mojave National Preserve (MOJA), north of Hole-in-the-Wall Essex vicinity, MP100013169

Authority: 36 CFR 60.13.

Sherry A. Frear,

Chief, National Register of Historic Places/
National Historic Landmarks Program.

[FR Doc. 2026–11163 Filed 6–3–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7205; NPS–WASO–NAGPRA–
NPS0042937; PPWOCRADNO–
PCU00RP14.R50000]

Notice of Inventory Completion: Natural History Museum of Utah, University of Utah, Salt Lake City, UT

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Natural History Museum of Utah, University of Utah has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after July 6, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Katie Saunders, Natural History Museum of Utah, University of Utah, 301 Wakara Way, Salt Lake City, UT 84108, email ksaunders@nhmu.utah.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Natural History Museum of Utah, University of Utah, and additional information on the

determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing at least five individuals have been identified. The three lots of associated funerary objects consist of one lot of approximately 38 ceramic vessels, one lot of more than 200 ceramic sherds and one gourd bowl. Of this number, one ceramic vessel and one gourd bowl could not currently be located in the museum. The Natural History Museum of Utah continues to search for these funerary objects. The five individuals and the associated funerary objects included in this notice were removed from an Ancestral Puebloan site known as 05MT5, Yellow Jacket Ruin, Yellow Jacket Pueblo, Square Mug House, and the Great Tower Complex located in Montezuma County, Colorado. The five individuals and the associated funerary objects were excavated in 1930 by C. A. Thomas and V.F. Lotrich for Western State College Museum (now known as the CT Hurst Museum at Western Colorado University). They were transferred to the University of Utah in 1957. No known potentially hazardous substances were used to treat the individuals from 05MT5. However, records at the Natural History Museum of Utah indicate that some of the associated funerary objects were treated with a potentially hazardous substance. Records note that some objects were fumigated but do not mention the substance used.

Human Remains representing at least one individual were removed from an unknown location in Southwestern Colorado. The individual was presented to the University of Utah in 1908 by a Mr. Jorgenson of Monticello, Utah. No associated funerary objects are present. No known potentially hazardous substances were used to treat this individual.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The Natural History Museum of Utah, University of Utah has determined that:

- The human remains described in this notice represent the physical

remains of six individuals of Native American ancestry.

- The three lots of objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.

- There is a connection between the human remains and associated funerary objects described in this notice and the Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Navajo Nation, Arizona, New Mexico, & Utah; Ohkay Owingeh, New Mexico; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Santo Domingo Pueblo; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Ute Tribe; Ysleta del Sur Pueblo and the Zuni Tribe of the Zuni Reservation, New Mexico.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after July 6, 2026. If competing requests for repatriation are received, the Natural History Museum of Utah, University of Utah must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Natural History Museum of Utah is responsible for sending a copy of this notice to the

Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: May 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–11244 Filed 6–3–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7189; NPS–WASO–NAGPRA–NPS0042922; PPWOCRADNO–PCU00RP14.R50000]

Notice of Intended Repatriation: Kansas State University, Manhattan, KS

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Kansas State University (K-State) intends to repatriate certain cultural items that meet the definition of unassociated funerary objects and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after July 6, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Lauren W. Ritterbush, NAGPRA Coordinator, Department of Sociology, Anthropology, and Social Work, Kansas State University, 204 Waters Hall, 1603 Old Claflin Place, Manhattan, KS 66505, email lrutterb@ksu.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of K-State, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of two cultural items has been requested for repatriation. The two unassociated funerary objects are reconstructed pots. They are included in

the Ralph Bell Collection, which was donated to K-State by Bell's heirs in 1989. Amateur archaeologist Bell likely collected these from a Central Plains tradition (Smoky Hill phase, circa 1100–1350 CE) site in Saline County, KS. A note in the collection appraisals suggests these were once associated with human remains. The presence of potentially hazardous substances is unknown.

Determinations

K-State has determined that:

- The two unassociated funerary objects described in this notice are reasonably believed to have been placed intentionally with or near human remains, and are connected, either at the time of death or later as part of the death rite or ceremony of a Native American culture according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization. The unassociated funerary objects have been identified by a preponderance of the evidence as related to human remains, specific individuals, or families, or removed from a specific burial site or burial area of an individual or individuals with cultural affiliation to an Indian Tribe or Native Hawaiian organization.

- There is a connection between the cultural items described in this notice and the Pawnee Nation of Oklahoma (with the consent of the Wichita and Affiliated Tribes).

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after July 6, 2026. If competing requests for repatriation are received, K-State must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. K-State is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: May 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–11229 Filed 6–3–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7190; NPS–WASO–NAGPRA–
NPS0042923; PPWOCRADN0–
PCU00RP14.R50000]

Notice of Intended Repatriation: University of California, Berkeley, Berkeley, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of California, Berkeley intends to repatriate certain cultural items that meet the definition of objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after July 6, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Alexandra Lucas, Government and Community Relations, Office of the Chancellor, University of California, Berkeley, 200 California Hall, Berkeley, CA 94720, email nagpra-ucb@berkeley.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of California, Berkeley, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of five cultural items have been requested for repatriation. The five objects of cultural patrimony are three jars, one vessel, and one 'Pueblo stone image'.

In 1903, George H. Pepper was in Santa Fe, New Mexico, conducting

archaeological and ethnological fieldwork for multiple sponsors, including Phoebe Hearst and Professor F.W. Putnam. An accompanying ledger in the accession file lists the specific cultural items acquired, including three jars and a vessel that originated from the Pueblo of Pojoaque.

On May 7, 1908, the University of California Museum of Anthropology acquired a 'Pueblo stone image' via an exchange with the Peabody Museum at Harvard University. The cultural item had originally been collected by F.W. Putnam, and was noted in the Museum's original ledgers to have come from Pojoaque Pueblo.

Collections and collection spaces at the Phoebe A Hearst Museum of Anthropology were treated with substances for preservation and pest control, some potentially hazardous. No records have been found to date at the Museum to indicate whether or not chemicals or natural substances were used prior to 1960.

Determinations

The University of California, Berkeley has determined that:

- The five objects of cultural patrimony described in this notice have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.
- There is a reasonable connection between the cultural items described in this notice and the Pueblo of Pojoaque, New Mexico.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after July 6, 2026. If competing requests for repatriation are received, the University of California, Berkeley must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request

and not competing requests. The University of California, Berkeley is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: May 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–11230 Filed 6–3–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7203; NPS–WASO–NAGPRA–
NPS0042935; PPWOCRADN0–
PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of Agriculture, Forest Service, Lincoln National Forest, Alamogordo, NM

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of Agriculture, Forest Service, Lincoln National Forest has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after July 6, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Jason Freeman, Forest Supervisor, Lincoln National Forest, 3463 Las Palomas Road, Alamogordo, NM 88310, email Jason.Freeman2@usda.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Lincoln National Forest, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The

National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, 10 individuals have been identified. The approximately 102 associated funerary objects include faunal remains, pottery sherds, sticks, sandals, sandal fragments, nets, strings, cordage, scrapers, knives, comingled soil, mats, lithics, fragments of an unspecified material, ropes, burial wrappings, pieces of charred woven baskets, wooden tools, rabbit fur robe fragments, and miscellaneous items (one or more each of the following: tassel, prayer stick or Paho fragment, gourd fragment, awl, loop Yucca, stone, bowl, bead ornament, sotol stalk, rabbit skin blanket fragment, small bundle containing reed, fur, feathers, and cordage).

These ancestors and funerary objects were removed from Site LA538, Last Chance Canyon Burial Cave, in Eddy County, New Mexico. They were excavated between 1929 and 1932 by Dr. E.B. Howard with the University of Pennsylvania and Harry P. Mera with the New Mexico Laboratory of Anthropology. They were then curated at the Museum of New Mexico (subsequently divided between the Museum of Indian Arts and Culture, Santa Fe and the Maxwell Museum, University of New Mexico), the Carlsbad Museum and Art Center, and the University of Pennsylvania Museum. It is not known whether potentially hazardous substances were used to treat the ancestors and funerary items.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The Lincoln National Forest has determined that:

- The human remains described in this notice represent the physical remains of 10 individuals of Native American ancestry.
- The approximately 102 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Mescalero Apache Tribe of the

Mescalero Reservation, New Mexico and the Ysleta del Sur Pueblo.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after July 6, 2026. If competing requests for repatriation are received, the Lincoln National Forest must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Lincoln National Forest is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: May 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–11242 Filed 6–3–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7201; NPS–WASO–NAGPRA–NPS0042933; PPWOCRADNO–PCU00RP14.R50000]

Notice of Intended Repatriation: Los Angeles County Museum of Natural History, Los Angeles, CA

AGENCY: National Park Service, Interior.
ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Los Angeles County Museum of Natural History (LACMNH) intends to repatriate certain cultural items that meet the definition of unassociated funerary

objects, sacred objects, and/or objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after July 6, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Amy E. Gusick, NAGPRA Officer, Los Angeles County Museum of Natural History, 900 Exposition Boulevard, Los Angeles, CA 90007, email agusick@nhm.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the LACMNH, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 23 cultural items have been requested for repatriation, including one unassociated funerary object and 22 objects of cultural patrimony.

The one unassociated funerary object is an urn removed from the Cajon Pass area of San Bernardino County in 1955 by Ike Stoddard, who described it as, "Plainware olla, formerly held a skeleton". The urn was donated to LACMNH by Ted Stoddard in 1956.

A total of 12 objects of cultural patrimony include lots of worked steatite, asphaltum, shell, faunal remains, floral remains, worked lithics, one tarring pebble, one incised tablet, one striated stone, one stone weight and two perforated stones. These items were removed from the Nestor Young Ranch at Barrel Springs, located near Palmdale in Los Angeles County. Nestor Young owned the ranch from 1913 to 1921 and conducted excavations in the vicinity. Sometime between 1947 and 1948, Young sold his collection to the Hancock Foundation Anthropology Lab, a now disbanded museum once part of the University of Southern California. In 1966, the Hancock Foundation Anthropology Lab collection was loaned to LACMNH and then in 1983 the collection was transferred as a gift to LACMNH.

A total of five objects of cultural patrimony are pestles, projectile points, and other. These items were removed from Lovejoy Springs and Anaverde in the Antelope Valley region of Los Angeles County by Carl D. Hegner. They

were donated to LACMNH by the Native Daughters of the Golden West, Tijera Parlor Chapter in 1971.

A total of four objects of cultural patrimony are a wooden tool fragment, twined bag fragment, twined basket fragments, and a large incomplete coiled basket broken into pieces. They were removed in 1920 by Frank Mitchell from a cave at Vasquez Rocks, Los Angeles County, and donated to LACMNH by John Dewar in 1973.

A total of one object of cultural patrimony is a mortar removed from Lytle Creek Wash, San Bernardino County, in 1938 by Charles A. Smith and donated to LACMNH in 1972.

Determinations

The LACMNH has determined that:

- The one unassociated funerary object described in this notice is reasonably believed to have been placed intentionally with or near human remains, and are connected, either at the time of death or later as part of the death rite or ceremony of a Native American culture according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization. The unassociated funerary object has been identified by a preponderance of the evidence as related to human remains, specific individuals, or families, or removed from a specific burial site or burial area of an individual or individuals with cultural affiliation to an Indian Tribe or Native Hawaiian organization.

- The 22 objects of cultural patrimony described in this notice have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.

- There is a connection between the cultural items described in this notice and the Yuhaaviatam of San Manuel Nation (previously listed as San Manuel Band of Mission Indians, California).

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or

a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after July 6, 2026. If competing requests for repatriation are received, the LACMNH must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The LACMNH is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: May 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-11240 Filed 6-3-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7198; NPS-WASO-NAGPRA-
NPS0042930; PPWOCRADNO-
PCU00RP14.R50000]

Notice of Intended Repatriation: California Department of Forestry and Fire Protection, Sacramento, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the California Department of Forestry and Fire Protection intends to repatriate certain cultural items that meet the definition of sacred objects and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after July 6, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Helen Lopez, CAL FIRE, 715 P Street, Sacramento, CA 95814, email helen.lopez@fire.ca.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the California Department of Forestry and Fire Protection, and additional information

on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 63 cultural items have been requested for repatriation. The 63 sacred objects are biface fragments, projectile points, debitage, scrapers, pestles, groundstone, and metates.

Based on information available, sacred objects from nine sites have been identified. The 63 lots of sacred objects include biface fragments, projectile points, debitage, scrapers, pestles, groundstone, and metates. These cultural items were collected by the California Department of Forestry and Fire Protection during archaeological surveys and site investigations for projects during the 1980s and 1990s.

The 63 cultural items originate from the following nine sites and areas in Humboldt, Mendocino, and Trinity Counties, California: CA-MEN-2443, CA-TRI-865, CA-TRI-1314, CA-TRI-1317, CA-HUM-820, CA-HUM-840, CA-HUM-852, CA-HUM-856, CA-HUM-876. The cultural items from the following sites have been accessioned at Sonoma State University: CA-MEN-2443, CA-TRI-1314, CA-TRI-1317, CA-HUM-852, CA-HUM-856, and a portion of CA-HUM-876. The cultural items from the following sites have been accessioned at the California Department of Forestry and Fire Protection Sacramento Headquarters: CA-TRI-865, CA-HUM-820, CA-HUM-840, and a portion of CA-HUM-876. Collections were treated with substances for labeling and identification and are unlikely to be potentially hazardous.

Determinations

The California Department of Forestry and Fire Protection has determined that:

- The 63 sacred objects described in this notice are specific ceremonial objects needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization.

- There is a connection between the cultural items described in this notice and the Bear River Band of the Rohnerville Rancheria, California.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this

notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after July 6, 2026. If competing requests for repatriation are received, the California Department of Forestry and Fire Protection must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The California Department of Forestry and Fire Protection is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: May 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-11237 Filed 6-3-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7194; NPS-WASO-NAGPRA-NPS0042927; PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: Case Western Reserve University, Cleveland, OH

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Case Western Reserve University has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after July 6, 2026.

ADDRESSES: Send written requests for repatriation of the human remains in

this notice to Jennifer Kangas Berendt, Case Western Reserve University, 10900 Euclid Avenue, Cleveland, OH 44106, email cwru-nagpra@case.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Case Western Reserve University, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing at least two individuals have been identified. There are no associated funerary objects. The individuals were located in a storage area in the Anthropology Department at Case Western Reserve University. Noninvasive, osteological analysis determined that the remains are likely prehistoric, archeological, and Native American. There is no known presence of potentially hazardous materials.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location of the human remains described in this notice.

Determinations

The Case Western Reserve University has determined that:

- The human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- There is a connection between the human remains described in this notice and the Miami Tribe of Oklahoma; Ottawa Tribe of Oklahoma; Seneca Nation of Indians; Shawnee Tribe; and the Wyandotte Nation.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or

an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains described in this notice to a requestor may occur on or after July 6, 2026. If competing requests for repatriation are received, Case Western Reserve University must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The Case Western Reserve University is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: May 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-11234 Filed 6-3-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7208; NPS-WASO-NAGPRA-NPS0042940; PPWOCRADNO-PCU00RP14.R50000]

Notice of Intended Repatriation: U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office, Santa Fe, NM, and U.S. Department of the Interior, Bureau of Reclamation, Upper Colorado Basin Region, Salt Lake City, UT

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office, (BLM), and U.S. Department of the Interior, Bureau of Reclamation, Upper Colorado Basin Region (Reclamation) intends to repatriate certain cultural items that meet the definition of unassociated funerary objects and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after July 6, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Sean Daugherty,

U.S. Department of the Interior, Bureau of Land Management, Albuquerque District Office, 100 Sun Ave. NE, Pan American Building, Suite 230, Albuquerque, NM 87109, email sdaugher@blm.gov and Zachary Nelson, U.S. Department of the Interior, Bureau of Reclamation, Upper Colorado Basin Region, 125 South State Street, Room 8100, Salt Lake City, UT 84138, email znelson@usbr.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the BLM and Reclamation, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

The Upper Colorado River Storage Act of 1956 authorized construction of the Navajo Dam and the creation of Navajo Reservoir on the San Juan River in northwest New Mexico and Southwestern Colorado. As a part of this act, the National Park Service, acting for the Bureau of Reclamation, contracted the School of American Research and the Museum of New Mexico to carry out salvage archaeology in the areas that would be affected by the creation of the reservoir. Beginning in 1956, field work began in 1956 on the Navajo Reservoir Project (Project #48.01a) and continued through 1963.

A total of 11 cultural items have been requested for repatriation. The 11 unassociated funerary objects are three lots of coprolites (sites LA 3023, LA 4055, and LA 4411 in San Juan County, NM), seven lots of botanical remains (sites LA 3398, LA 4411, and LA 114367 in Rio Arriba County, NM, and LA 3432, LA 3491, LA 4055, LA 4065 from San Juan County, NM) and one lot of ceramics (site LA 52255 in San Juan County, NM) discovered along the reservoir in 1985. The cultural items were removed from the Navajo Reservoir area of Rio Arriba and San Juan counties, New Mexico, and are in the custody of the Museum of New Mexico, Museum of Indian Arts and Culture, Santa Fe, New Mexico, and Arizona State University, School of Human Evolution and Social Change, Tempe, Arizona. BLM and Reclamation acknowledge the deep and abiding connection Indian Tribes have and their affiliation with the Ancestors from the Navajo Reservoir area. This notice

includes cultural items dating from the Los Pinos Phase (A.D. 1–400), Sambrito Phase (A.D. 400–700), Rosa Phase (A.D. 750–850), Piedra Phase (A.D. 800–1000), and/or Arboles Phase (A.D. 950–1050).

Determinations

The BLM and Reclamation have determined that:

- The 11 unassociated funerary objects described in this notice are reasonably believed to have been placed intentionally with or near human remains, and are connected, either at the time of death or later as part of the death rite or ceremony of a Native American culture according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization. The unassociated funerary objects have been identified by a preponderance of the evidence as related to human remains, specific individuals, or families, or removed from a specific burial site or burial area of an individual or individuals with cultural affiliation to an Indian Tribe or Native Hawaiian organization.

- There is a connection between the cultural items described in this notice and the Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Navajo Nation, Arizona, New Mexico, & Utah; Ohkay Owingeh, New Mexico; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Santo Domingo Pueblo; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Ute Tribe; Ysleta del Sur Pueblo; and the Zuni Tribe of the Zuni Reservation, New Mexico.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or

a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after July 6, 2026. If competing requests for repatriation are received, the BLM and Reclamation must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The BLM and Reclamation are responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: May 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–11247 Filed 6–3–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7204; NPS–WASO–NAGPRA–NPS0042936; PPWOCRADNO–PCU00RP14.R50000]

Notice of Intended Repatriation: Hudson Museum, University of Maine, Orono, ME

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Hudson Museum intends to repatriate certain cultural items that meet the definition of sacred objects and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after July 6, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to A. Sky Heller, Hudson Museum, University of Maine, 5746 Collins Center for the Arts, Orono, ME 04469–5746, email amber.sky.heller@maine.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Hudson Museum, and additional information on

the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 41 cultural items have been requested for repatriation. The 41 sacred objects are eight *'ulu maika* (bowling stones), seven *ko'i* (adzes), five *pōhaku lūhe'e* (octopus lure sinkers), five *mea pōhaku* (stone objects), four *pōhaku ku'i* *'ai* (poi pounders), four *mea ku'i* (stone pestles), three *poho pōhaku* (stone bowls), three *'ala o ka ma'a* (sling stones), and two *pōhaku* (stones).

HM7057, an *'ulu maika* (bowling stone), was donated by Miss Abby A. Steele of Portland, Maine to the Portland Society of Natural History in 1889. HM7057 was formally transferred to the Hudson Museum by the Maine Audubon Society, the successor organization to the Portland Society of Natural History, in 1995.

The remaining 40 objects—seven *'ulu maika* (bowling stones), seven *ko'i* (adzes), five *pōhaku lūhe'e* (octopus lure sinkers), five *mea pōhaku* (stone objects), four *pōhaku ku'i* *'ai* (poi pounders), four *mea ku'i* (stone pestles), three *poho pōhaku* (stone bowls), three *'ala o ka ma'a* (sling stones), and two *pōhaku* (stones)—were collected by William S. Barnes on the island of Kauai in 1954–1955 while participating in archaeological fieldwork in cooperation with Mrs. Thelma Hadley and members of the Bernice Pauahi Bishop Museum. Barnes was permitted to take archaeological materials with him for his personal collection. Documentation from the Bernice Pauahi Bishop Museum confirms that Barnes was allowed to keep some of the archaeological material he excavated. In 1982, his widow, Ruth Barnes, donated the 40 objects listed above to the Anthropology Museum at the University of Maine, the predecessor of the Hudson Museum.

Determinations

The Hudson Museum has determined that:

- The 41 sacred objects described in this notice are specific ceremonial objects needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization.

- There is a connection between the cultural items described in this notice and the Hui Iwi Kuamo'o.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after July 6, 2026. If competing requests for repatriation are received, the Hudson Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The Hudson Museum is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: May 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–11243 Filed 6–3–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7200; NPS–WASO–NAGPRA–NPS0042932; PPWOCRADNO–PCU00RP14.R50000]

Notice of Inventory Completion: Kansas State Historical Society, Topeka, KS

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Kansas State Historical Society (KSHS) has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after July 6, 2026.

ADDRESSES: Send written requests for repatriation of the human remains in this notice to Dr. Nicole Klarmann, Kansas State Historical Society, 6425 SW 6th Avenue, Topeka, KS 66615–1099, email kshs.nagpra@ks.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the KSHS, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual have been identified from southern Ohio (UBS 1995–24). No associated funerary objects are present. A student at the University of Toledo left partial human remains with an individual at the University around 1975. The individual gave the remains to their nephew who sent them to KSHS in 1995. A tag was found adhered loosely to the remains that read, 'Neolithic Mound Builder of Southern Ohio.' There are catalog numbers written on the remains, however, to our knowledge no hazardous substances were used to treat the human remains.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains described in this notice.

Determinations

The KSHS has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- There is a connection between the human remains described in this notice and the Shawnee Tribe and the Wyandotte Nation.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under

ADDRESSES. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains described in this notice to a requestor may occur on or after July 6, 2026. If competing requests for repatriation are received, the KSHS must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The KSHS is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: May 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–11239 Filed 6–3–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7196; NPS–WASO–NAGPRA–NPS0042929; PPWOCRADNO–PCU00RP14.R50000]

Notice of Intended Repatriation: University of California, Riverside, Riverside, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of California, Riverside intends to repatriate certain cultural items that meet the definition of objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after July 6, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Katelynn Michaelson, University of California, Riverside, 900 University Avenue, Riverside, CA 92517–5900, email katelynn.michaelson@ucr.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of California, Riverside, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of one cultural items have been requested for repatriation. The one lot of objects of cultural patrimony are one lot of ceramic sherds. In July of 2025, a piece of modern artwork was donated to the UCR Boyd Deep Canyon Desert Research Center from the family of a former Boyd director. The Boyd Center is one of UCR's Natural Reserves, which are outdoor field stations administered by the UC to protect natural environments from development and urbanization. It appears to be a mosaic of a Thunderbird made from pieces of archaeological ceramic, likely collected from the desert surface of Deep Canyon. The current director of the Boyd center spoke with the donor's granddaughter who remembered the artwork from a cabin that the family used to own and surmised that the pottery was collected by her grandmother when she lived with her husband, the former Boyd director, at the natural reserve.

Determinations

The University of California, Riverside has determined that:

- The one object of cultural patrimony described in this notice have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.

- There is a reasonable connection between the cultural item described in this notice and the Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or

Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after July 6, 2026. If competing requests for repatriation are received, the University of California, Riverside must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The University of California, Riverside is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: May 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–11236 Filed 6–3–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7191; NPS–WASO–NAGPRA–NPS0042924; PPWOCRADNO–PCU00RP14.R50000]

Notice of Intended Repatriation: University of California, Berkeley, Berkeley, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of California, Berkeley intends to repatriate certain cultural items that meet the definition of objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after July 6, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Alexandra Lucas, Government and Community Relations, Office of the Chancellor, University of California, Berkeley, 200 California Hall, Berkeley, CA 94720, email nagpra-ucb@berkeley.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of California, Berkeley, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 24 cultural items have been requested for repatriation. The 24 objects of cultural patrimony are beans, corn and corn cobs, peas, and seeds.

Between 1940 to 1941, George F. Carter collected 24 lots of seeds via 'field research with Native American agriculturalists' across the Southwestern United States, including Pueblo of Isleta in New Mexico.

Collections and collection spaces at the Phoebe A Hearst Museum of Anthropology were treated with substances for preservation and pest control, some potentially hazardous. No records have been found to date at the Museum to indicate whether or not chemicals or natural substances were used prior to 1960.

Determinations

The University of California, Berkeley has determined that:

- The 24 objects of cultural patrimony described in this notice have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.

- There is a reasonable connection between the cultural items described in this notice and the Pueblo of Isleta, New Mexico.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after July 6, 2026. If competing requests for repatriation are received, the University of California, Berkeley must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The University of California, Berkeley is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: May 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-11231 Filed 6-3-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7206; NPS-WASO-NAGPRA-NPS0042938; PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: Indiana University, Bloomington, IN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Indiana University has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after July 6, 2026.

ADDRESSES: Send written requests for repatriation of the human remains in this notice to Dr. Jayne-Leigh Thomas, Executive Director, Office of the Native American Graves Protection and Repatriation Act, Indiana University, Student Building 318, 701 E Kirkwood Avenue, Bloomington, IN 47405, email thomajay@iu.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Indiana University and additional information on the

determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual has been identified. No associated funerary objects are present. This individual is labeled as being 'Choctaw' and is possibly from the 1950s University of Chicago collection.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains described in this notice.

Determinations

Indiana University has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- There is a connection between the human remains described in this notice and the Jena Band of Choctaw Indians; Mississippi Band of Choctaw Indians; and The Choctaw Nation of Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under

ADDRESSES. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains described in this notice to a requestor may occur on or after July 6, 2026. If competing requests for repatriation are received, Indiana University must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. Indiana University is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25

U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: May 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–11246 Filed 6–3–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7207; NPS–WASO–NAGPRA–
NPS0042939; PPWOCRADNO–
PCU00RP14.R50000]

Notice of Intended Disposition: U.S. Department of the Interior, Bureau of Reclamation, Upper Colorado Basin Region, Salt Lake City, UT

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, Bureau of Reclamation, Upper Colorado Basin Region (Reclamation) intends to carry out the disposition of human remains and associated funerary objects removed from Federal or Tribal lands to the lineal descendants, Indian Tribe, or Native Hawaiian organization with priority for disposition in this notice.

DATES: Disposition of the human remains and associated funerary objects in this notice may occur on or after July 6, 2026. If no claim for disposition is received by June 4, 2027, the human remains and associated funerary objects in this notice will become unclaimed human remains and associated funerary objects.

ADDRESSES: Send written claims for disposition of the human remains and associated funerary objects in this notice to Zachary Nelson, U.S. Department of the Interior, Bureau of Reclamation, Upper Colorado Basin Region, 125 South State Street, Room 8100, Salt Lake City, UT 84138, email znelson@usbr.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Reclamation, and additional information on the human remains and associated funerary objects in this notice, including the results of consultation, can be found in the related records. The National Park Service is not responsible for the identifications in this notice.

Abstract of Information Available

Based on the information available, human remains representing, at least, seven individuals have been reasonably identified. The 11 associated funerary objects are four lots of ceramics, four lots of lithics, two lots of faunal, and one lot of shell. The human remains and associated funerary objects were recovered as inadvertent finds near Navajo Reservoir in Colorado and New Mexico. Site 5AA.1270 with a 2022 discovery in Archuleta County, CO is represented by at least one individual and one lot of ceramics; the 2025 discovery is represented by at least one individual, one lot of ceramics, one lot of faunal, one lot of shell, and one lot of lithics. Site 5AA.1776 with a 2011 discovery in Archuleta County, CO is represented by at least one individual with one lot of lithics; the 2016 discovery is represented by at least one individual with one lot of ceramics, one lot of lithics, and one lot of faunal; the 2017 discovery is represented by at least one individual and no associated funerary objects. Site LA 4214 with a 2002 discovery in San Juan County, NM is represented by at least one individual and no associated funerary objects. Site LA 4250 with a 2020 discovery in Rio Arriba County, NM is represented by at least one individual with one lot of ceramics and one lot of lithics.

Determinations

Reclamation has determined that:

- The human remains described in this notice represent the physical remains of seven individuals of Native American ancestry.
- The 11 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- The Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Navajo Nation, Arizona, New Mexico, & Utah; Ohkay Owingeh, New Mexico; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Santo Domingo Pueblo; Southern Ute Indian Tribe of the Southern Ute

Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Ute Tribe; Ysleta del Sur Pueblo; and the Zuni Tribe of the Zuni Reservation, New Mexico, have priority for disposition of the human remains and associated funerary objects described in this notice.

Claims for Disposition

Written claims for disposition of the human remains and associated funerary objects in this notice must be sent to the appropriate official identified in this notice under **ADDRESSES**. If no claim for disposition is received by June 4, 2027, the human remains and associated funerary objects in this notice will become unclaimed human remains and associated funerary objects. Claims for disposition may be submitted by:

1. Any lineal descendant, Indian Tribe, or Native Hawaiian organization identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows that they have priority for disposition.

Disposition of the human remains and associated funerary objects in this notice may occur on or after July 6, 2026. If competing claims for disposition are received, Reclamation must determine the most appropriate claimant prior to disposition. Claims for joint disposition of the human remains and associated funerary objects are considered a single claim and not competing claims. Reclamation is responsible for sending a copy of this notice to the lineal descendants, Indian Tribes, and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3002, and the implementing regulations, 43 CFR 10.7.

Dated: May 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–11245 Filed 6–3–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7192; NPS–WASO–NAGPRA–
NPS0042925; PPWOCRADNO–
PCU00RP14.R50000]

Notice of Intended Repatriation: University of California, Berkeley, Berkeley, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of California, Berkeley intends to repatriate certain cultural items that meet the definition of unassociated funerary objects or objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after July 6, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Alexandra Lucas, Government and Community Relations, Office of the Chancellor, University of California, Berkeley, 200 California Hall, Berkeley, CA 94720, email nagpra-ucb@berkeley.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of California, Berkeley, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of four cultural items have been requested for repatriation, including two objects of cultural patrimony (baskets), and two unassociated funerary objects (charmstones).

Samuel Barrett's 1907 to 1917 catalogue indicated someone "bought [the baskets] fr. Dogwood people last year when he was over in Sierra E of Chico. Jeff says the basket is of Maple & looks like reg. Maidu basket". Margin annotations within these fieldnotes identify the baskets among other listed items as Concow. There is no reference in the Catalogue to the name of the purchaser before Samuel A. Barrett, or the person they purchased the baskets from. Based on the geographic and ethnographic data provided, the "Dogwood people" mentioned in the catalogue are identified as the Konkow Valley Band of Maidu Indians.

In 1931, two unassociated funerary objects, charmstones, were removed from Oroville, Pulga, in Butte County California by N.H. Reynolds and donated to the University of California, Berkeley's Museum of Anthropology.

Collections and collection spaces at the Phoebe A. Hearst Museum of

Anthropology were treated with substances for preservation and pest control, some potentially hazardous. No records have been found to date at the Museum to indicate whether or not chemicals or natural substances were used prior to 1960.

Determinations

The University of California, Berkeley has determined that:

- The two objects of cultural patrimony described in this notice have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.

- The two unassociated funerary objects described in this notice are reasonably believed to have been placed intentionally with or near human remains, and are connected, either at the time of death or later as part of the death rite or ceremony of a Native American culture according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization. The unassociated funerary objects have been identified by a preponderance of the evidence as related to human remains, specific individuals, or families, or removed from a specific burial site or burial area of an individual or individuals with cultural affiliation to an Indian Tribe or Native Hawaiian organization.

- There is a reasonable connection between the cultural items described in this notice and the Mooretown Rancheria of Maidu Indians of California.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after July 6, 2026. If competing requests for repatriation are received, the University of California, Berkeley must determine the most appropriate requestor prior to repatriation. Requests

for joint repatriation of the cultural items are considered a single request and not competing requests. The University of California, Berkeley is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: May 29, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-11232 Filed 6-3-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[OMB Control Number 1010-0081; Docket ID: BOEM-2025-0008]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Operations in the Outer Continental Shelf for Minerals Other Than Oil, Gas, and Sulfur

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Ocean Energy Management (BOEM) proposes this information collection request (ICR) to renew Office of Management and Budget (OMB) control number 1010-0081.

DATES: Comments must be received by the OMB desk officer no later than July 6, 2026.

ADDRESSES: Submit your written comments on this ICR to the OMB's desk officer for the Department of the Interior at www.reginfo.gov/public/do/PRAMain. From the www.reginfo.gov/public/do/PRAMain landing page, find this information collection by selecting "Currently under Review—Open for Public Comments" or by using the search function. Please provide a copy of your comments by parcel delivery service or U.S. mail to the BOEM Information Collection Clearance Officer, Anna Atkinson, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, Virginia 20166; or by email to anna.atkinson@boem.gov. Please reference OMB Control Number 1010-0081 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT:

Anna Atkinson by email at anna.atkinson@boem.gov, or by telephone at 703-787-1025. 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 of the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

In accordance with the Paperwork Reduction Act of 1995, BOEM provides the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps BOEM assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand BOEM's information collection requirements and provide the requested data in the desired format.

BOEM published a **Federal Register** notice with a 60-day public comment period on the proposed ICR on August 6, 2025 (90 FR 37882). BOEM received one comment. The commentor shared that the renewal of this information collection risks an expansion of mining activities without regard for long-term environmental and ecological impacts. The commentor indicated that the approval process should be more robust, incorporating a wide range of stakeholders. BOEM does provide opportunity for public participation in the process that would be used if BOEM is evaluating a delineation, testing, or mining plan submitted under 30 CFR part 582. The comment submitted does not change the purpose of or need for the ICR, nor does it affect the cost or hour burden. To date, no lessee has submitted a plan or related information requirements established in 30 CFR part 582. BOEM contacted several companies that have recently expressed interest in leasing OCS marine minerals for information pertaining to this ICR. BOEM has made a reasonable estimate for the cost and burden hours based on this information, its experience with similar noncompetitive leasing for marine minerals activities, and plan submittals under competitive leases for OCS oil and gas and offshore wind energy.

As part of our continuing effort to reduce paperwork and respondent burdens, BOEM is again soliciting comments on the proposed ICR. BOEM is especially interested in public

comments addressing the following issues:

- (1) Is the collection necessary to the proper functions of BOEM?
- (2) What can BOEM do to ensure that this information is processed and used in a timely manner?
- (3) Is the burden estimate accurate?
- (4) How might BOEM enhance the quality, utility, and clarity of the information to be collected?
- (5) How might BOEM minimize the burden of this collection on the respondents, including minimizing the burden through the use of information technology?

Comments that you submit in response to this notice are a matter of public record and will be available for public review on www.reginfo.gov. BOEM will include or summarize each comment in its ICR to OMB for approval of this information collection. You should be aware that your entire comment—including your address, phone number, email address, or other personally identifiable information included in your comment—may be made publicly available at any time. Even if BOEM withholds your personally identifiable information in the context of this ICR, your comment is subject to the Freedom of Information Act (FOIA) (5 U.S.C. 552). Your information will only be withheld if a determination is made that one of the FOIA exemptions to disclosure applies. Such a determination will be made in accordance with the Department of the Interior's (DOI) FOIA implementing regulations (43 CFR part 2) and applicable law.

For BOEM to consider withholding from disclosure your personally identifiable information, you must identify, in a cover letter, any information contained in the submittal of your comments that, if released, would constitute a clearly unwarranted invasion of your personal privacy. You must also briefly describe any possible harmful consequences of the disclosure of information, such as embarrassment, injury, or other harm. BOEM will make available for public inspection, in their entirety, all comments submitted by organizations and businesses, or by individuals identifying themselves as representatives of organizations or businesses.

BOEM protects proprietary information in accordance with the Freedom of Information Act (5 U.S.C. 552), DOI's implementing regulations (43 CFR part 2), and 30 CFR part 581.7, promulgated pursuant to the OCSLA) (43 U.S.C. 1352(c)).

Title of Collection: “30 CFR 582, Operations in the Outer Continental

Shelf for Minerals Other Than Oil, Gas, and Sulfur.”

Abstract: The Outer Continental Shelf Lands Act (the “Act,” *see* 43 U.S.C. 1334 and 1337(k)(1)) authorizes the Secretary of the Interior to issue leases on available areas of the U.S. Outer Continental Shelf (OCS) to the highest qualified bidder to develop any mineral resources other than oil, gas, and sulfur. The Act also authorizes the Secretary to issue regulations governing such leasing and all operations under a mineral lease. BOEM implements this statutory program governing OCS mining operations other than for oil, gas and sulfur under regulations at 30 CFR part 582.

Competitive leasing has not occurred for OCS minerals other than oil, gas, and sulfur for decades. BOEM has not issued a lease since 30 CFR parts 581–582 were first promulgated in the late 1980s. Accordingly, BOEM has not collected information under 30 CFR part 582. However, given recent industry expression of interest, the Department's initiation of several competitive lease sales, and the Executive Order 14285, “Unleashing America's Offshore Critical Minerals and Resources,” the potential exists that BOEM may require information under this part. Therefore, BOEM seeks OMB renewal of this information collection.

BOEM will use the information required by 30 CFR part 582 to evaluate and approve, disapprove, or require modification of the proposed activities in delineation, testing, or mining plans submitted by lessees to explore, develop, and produce marine minerals other than oil, gas, and sulfur. BOEM will also use the information to ensure orderly resource development; to protect the human, marine, and coastal environments; to ensure fair and equitable return on leased minerals; and to inform BOEM's regulation and oversight of operations conducted under a lease.

OMB Control Number: 1010-0081.

Form Number: None.

Type of Review: Extension of a currently approved information collection.

Respondents/Affected Public: OCS lessees.

Total Estimated Number of Annual Responses: 44 responses.

Total Estimated Number of Annual Burden Hours: 2,081 hours.

Respondent's Obligation: Mandatory.

Frequency of Collection: Monthly, quarterly, or on occasion.

Total Estimated Annual Non-hour Cost Burden: None.

The current approved annual burden hours are equal to 212 hours. This ICR

increases annual burdens to a total of 2,081 hours, based on BOEM's recent collection of data and information. The changes in annual burden hours account

for increased interest in leasing OCS marine minerals and expectations related to plan preparation and submission over the next three years.

The following table details the individual components and estimated hour burdens.

BURDEN TABLE

Citation 30 CFR 582	Reporting or recordkeeping requirement	Hour burden	Average Number of annual responses	Annual burden hours
Subpart A—General				
4; 21(b)	Governors of adjacent States, State/Federal task forces, lessees and operators, and other interested parties review and provide comments/recommendations on all plans and environmental information.	40	4	160
4(b); 12(b)(2); 21; 22; 25; 26; 28.	Submit delineation plan, including environmental information, contingency plan, monitoring program, and various requests for approval referred to throughout; submit modifications and required information..	400	2 expected each year in next 3 years.	800
4(c); 12(c)(2); 21; 23; 25; 26; 28.	Submit testing plan, including environmental information, contingency plan, monitoring program, and various requests for approval referred to throughout; submit modifications and required information..	500	1 plan (BOEM expects 0 in the next 3 years).	500
4(d); 12(d)(2); 21; 24; 25; 26; 28.	Submit mining plan, including environmental information, contingency plan, monitoring program, and various requests for approval referred to throughout; submit modifications and required information..	230	1 expected in next 3 years; modifications, monitoring and information submittals after the initial plan submission will occur more than 3 years out.	230
5	Request non-disclosure of data and info; provide consent; demonstrate loss of competitive position..	10	4	40
6	Governors of adjacent States request proprietary data, samples, etc., and disclosure agreement with BOEM..	10	4	40
7	Governor of affected State initiates negotiations on jurisdictional controversy, etc., and enters agreement with BOEM..	10	1	10
Subtotal .....	.....		17 Responses	1,780
Subpart B—Jurisdiction and Responsibilities of Director				
11(c); 20(h); 30	Apply for right-of-use and easement; submit confirmations, demonstrations, and notifications..	30	1	30
11(d);	Request consolidation/splitting of two or more OCS mineral leases or portions..	2	1	2
14	Submit response copy indicating date violations (INCs) corrected..	5	2	10
Subtotal .....	.....		4 Responses	42
Subpart C—Obligations and Responsibilities of Lessees				
20(a), (g); 29(i)	Make available all mineral resource or environmental data and information; submit reports and maintain records, as specified..	.....	Burden included with individual reporting requirements below.	0
20(b) thru (e)	Submit designation of payor, operator, or local representative; submit changes, terminations, notifications..	1	1	1
20(h)	Confirm oral request in writing by the lessee or holder of a right of use and easement..	1	1	1
21(d)	Notify BOEM of preliminary activities.	10	2	20
29(a)	Submit monthly report of minerals produced; request extension..	10	1 report (0 expected in next 3 years).	10
29(b), (c)	Submit quarterly status and final report on exploration and/or testing activities..	40	2	80
29(d)	Submit results of environmental monitoring activities..	40	2	80
29(e)	Submit marked and certified maps annually or as required..	5	1	5

BURDEN TABLE—Continued

Citation 30 CFR 582	Reporting or recordkeeping requirement	Hour burden	Average Number of annual responses	Annual burden hours
29(f)	Maintain rock, minerals, and core samples for 5 years and make available upon request..	5	4	20
29(g)	Maintain original data and information and navigation tapes as long as lease is in effect and make available upon request..	5	4	20
29(h)	Maintain hard mineral records and make available upon request..	5	4	20
Subtotal .....	.....		22 Responses	257
Subpart D—Payments				
40	Submit surety, personal bond, or approved alternative..	2	1 Response	2
Subpart E—Appeals				
50; 15	File an appeal. ....	.....	Burden exempt under 5 CFR 1320.4(a)(2), (c)..	0
Total Burden .....	.....		44 Responses	2,081

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 authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

James G. Anderson,
Acting Deputy Director, Bureau of Ocean Energy Management.

[FR Doc. 2026–11183 Filed 6–3–26; 8:45 am]

BILLING CODE 4340–98–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[OMB Control Number 1010–NEW; Docket ID: BOEM–2025–0007]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; United States West Coast Port Infrastructure Survey

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Ocean Energy Management (BOEM) is proposing a new information collection request (ICR).

DATES: Comments must be received by the OMB desk officer no later than July 6, 2026.

ADDRESSES: Submit your written comments on this ICR to the OMB's desk officer for the Department of the

Interior at www.reginfo.gov/public/do/PRAMain. From the www.reginfo.gov/public/do/PRAMain landing page, find this information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function. Please provide a copy of your comments by parcel delivery service or U.S. mail to the BOEM Information Collection Clearance Officer, Anna Atkinson, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, Virginia 20166; or by email to anna.atkinson@boem.gov. Please reference OMB Control Number 1010–NEW in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT:

Anna Atkinson by email at anna.atkinson@boem.gov, or by telephone at 703–787–1025. 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 of the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, BOEM provides the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps BOEM assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand BOEM's information

collection requirements and provides the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period on the proposed ICR was published on August 11, 2025 (90 FR 38660). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we again invite the public and other Federal agencies to comment on this revised information collection. We are especially interested in public comments addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of BOEM's functions, including whether or not the information will have practical utility;

(2) What can BOEM do to ensure that this information is processed and used in a timely manner?

(3) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(4) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(5) How might BOEM minimize the burden of the information collection on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record and will be available for public review on www.reginfo.gov. BOEM will include or summarize each

comment in its ICR to OMB for approval.

You should be aware that your entire comment—including your address, phone number, email address, or other personally identifiable information included in your comment—may be made publicly available at any time. Even if BOEM withholds your personally identifiable information in the context of this ICR, your comment is subject to the Freedom of Information Act (FOIA) (5 U.S.C. 552). Your information will only be withheld if a determination is made that one of the FOIA exemptions to disclosure applies. Such a determination will be made in accordance with the Department of the Interior's (DOI) FOIA implementing regulations (43 CFR part 2) and applicable law.

For BOEM to consider withholding from disclosure your personally identifiable information, you must identify, in a cover letter, any information contained your comment that, if released, would constitute a clearly unwarranted invasion of your personal privacy. You must also briefly describe any possible harmful consequences of the disclosure of information, such as embarrassment, injury, or other harm.

BOEM will make available for public inspection, in their entirety, all comments submitted by organizations and businesses, or by individuals identifying themselves as representatives of organizations or businesses.

BOEM protects proprietary information in accordance with FOIA, DOI's implementing regulations (43 CFR part 2), and 30 CFR 581.7.

Abstract: BOEM proposes to gather information about the use of U.S. West Coast port infrastructure and how offshore energy activities, including decommissioning of oil and gas platforms, may affect port-based industries, especially those related to commercial and recreational fishing. The data gathered will be synthesized with other information to produce a final report as well as summary of port profiles that will inform BOEM planning and decision-making. The final report and port profiles will help ensure that future activities related to offshore energy can avoid, minimize, or offset potential space-use conflicts and enhance space-use synergies among port-based industries (especially commercial fishing) when interacting with the offshore energy industry.

BOEM seeks OMB approval for a set of standardized questions for stakeholders that will document existing port infrastructure, services,

and their uses so future activities related to offshore energy, including decommissioning of oil and gas platforms, can avoid, minimize, or offset potential conflicts and enhance beneficial opportunities among port-based industries. The insights gained from this feedback are critical for BOEM's planning, environmental reviews, Coastal Zone Management Act determinations, local harbor planning, and inter-industry negotiations.

The survey consists of approximately 30 questions asking about topics that include availability of port infrastructure and fishery-related facilities; historical and projected facility use; economic and cultural benefits of port industries and presence; level of concern about potential impacts of offshore energy, including decommissioning of oil and gas platforms, on port users; the importance of port infrastructure to local Tribes; and further comments and suggestions. The survey would be available in an online format or in a printed format that would be distributed to potential respondents. Respondents will also have the option to respond to the survey through an onsite interview. Interviews will be for the purpose of answering and clarifying the survey questions only; no new questions will be introduced.

Title of Collection: "United States West Coast Port Infrastructure Survey"
OMB Control Number: 1010-NEW.
Forms: None.

Type of Review: New.

Respondents/Affected Public: Port authority staff and port commissioners; representatives of commercial and recreational fishing associations; State commissioners with responsibilities related to fish and wildlife and/or port planning and development; commercial fish processing facility managers; local business owners; Tribal representatives who use U.S. West Coast ports for fishing activities; and individuals with expertise in State consistency reviews. Respondents will be selected from the States of Washington, Oregon, and California and from 20 ports on the West Coast chosen using statistical criteria.

Total Estimated Number of Annual Responses: 108 responses.

Estimated Completion Time per Response: 30 minutes for the online survey; 1 hour for an in-person interview.

Total Estimated Number of Annual Burden Hours: 108 hours.

Respondent's Obligation: Voluntary.

Frequency of Collection: One time.

Total Estimated Annual Non-hour Burden Cost: None.

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 authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

James G. Anderson,

Acting Deputy Director, Bureau of Ocean Energy Management.

[FR Doc. 2026-11184 Filed 6-3-26; 8:45 am]

BILLING CODE 4340-98-P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE-2026-0067;
EEEE500000-256E1700D2-
ET1SF0000.EAQ000; OMB Control Number
1014-0028]

Agency Information Collection Activities; Well Operations and Equipment

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to seek renewal of approval for an information collection.

DATES: Interested persons are invited to submit comments on or before August 3, 2026.

ADDRESSES: Send your comments on this information collection request (ICR) by either of the following methods listed below:

- Electronically go to <http://www.regulations.gov>. In the Search box, enter BSEE-2026-0067 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.

- Email Kelly.Odom@bsee.gov, fax (703) 787-1775, or mail or hand-carry comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Kelly Odom; 45600 Woodland Road, Sterling, VA 20166. Please reference OMB Control Number 1014-0028 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Kelly Odom by email

at Kelly.Odom@bsee.gov or by telephone at (703) 787-1775.

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

- (1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;
- (2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;
- (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- (4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: Regulations governing well operations and equipment are primarily covered in 30 CFR 250, subpart G and are the subject of this collection. In

addition, BSEE also issues various Notices to Lessees (NTLs) and Operators to clarify and provide additional guidance on some aspects of the regulations, as well as forms to capture the data and information.

BSEE uses the information to ensure safe drilling, workover, completion, and decommissioning operations and to protect the human, marine, and coastal environment. BSEE analyzes and evaluates these information/requirements to reduce the likelihood of a similar Deepwater Horizon event and to reduce the risk of fatalities, injuries, and spills. BSEE also utilizes these requirements in the approval, disapproval, or modification process for well operations.

Specifically, BSEE uses the information in Subpart G to ensure that:

- certain well designs and operations have been reviewed by appropriate third parties/engineers/classification societies that, after one year, have been approved by BSEE;
- rig tracking data is available to locate rigs during major storms;
- casing or equipment repairs are acceptable and tested;
- up-to-date engineering documents are available;
- the Blowout Preventer (BOP) and associated components are fit for service for their intended use;
- the BOP will function as intended;
- BOP components are properly maintained and inspected;
- the proper engineering reviews and approvals for all BOP designs, repairs, and modifications are met.

Rig Movement Notification Report, Form BSEE-0144 (Modified):

We use the information to schedule inspections and verify that the equipment being used complies with approved permits. The information on this form is used by all 3 regions, but primarily in the Gulf of America (GOA), to ascertain the precise arrival and departure of all rigs in OCS waters in the GOA. This form has minor changes. The accurate location of these rigs is necessary to facilitate the scheduling of inspections by BSEE personnel.

Information on form BSEE-0144:

- **General Information**—Identifies the Report Date, Lease Operator, Rig Name, Rig Type, Rig Representative, and the Rig Telephone Number (on location);
- **Rig Arrival Information**—Identifies the Rig Arrival Date; Operation Type, Estimated Start Date of Well Operations, Expected Duration of Well Ops (Days); Is rig new to OCS?, Location where rig came from, Well Information, Well API Number (10 digits), Well Name, Surface Information, Lease No., Area Name,

Block No., Latitude (optional), Longitude (optional); Helideck Information, Helideck Available, Helideck Rating, Helideck Size, Provide Access Information ONLY if Helideck is unavailable;

- **Rig Departure Information**—Identifies the Rig Departure Date, Well Status, Well API Number (10 digits), Well Name, Is Rig Being Skidded on the Platform?, Well Surface Location, Lease No., Area Name, Block No., Latitude (optional), Longitude (optional), Area Clearance Information (optional), Is Area Clear of Obstructions?, If no, explain, Remarks;

- **Rig Stacking Information**—Identifies Rig Arrival Date, Rig Departure Date, Manned (warm), Unmanned (cold), Location, Any modifications, repairs, or construction: Date of Modifications, repairs, or construction; Area Name, Block No., Latitude (optional), Longitude (optional), Area Clearance Information (Optional), Is Area Clear of Obstructions?, If No, Explain, Remarks;

- Certification Statement declaring the information submitted is complete and accurate to the best of signatory's knowledge; and

- BSEE OCS Contact Information.

Title of Collection: 30 CFR 250, Subpart G, Well Operations and Equipment.

OMB Control Number: 1014-0028.

Form Number: Form BSEE-0144, Rig Movement Notification Report.

Type of Review: Modification and Extension of a currently approved collection.

Respondents/Affected Public:

Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 60 Oil and Gas Drilling and Production Operators in the OCS. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 150,081.

Estimated Completion Time per Response: Varies from 15 minutes to 2,160 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 350,615.

Respondent's Obligation: Responses to this collection of information are mandatory; while some are required to obtain or retain a benefit.

Frequency of Collection: Submissions are generally on occasion, daily, weekly, monthly, quarterly, biennially, and as a result of situations encountered depending upon the requirement.

Total Estimated Annual Nonhour Burden Cost: \$6,732,500.

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 authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Kirk Malstrom,

Chief, Regulations and Standards Branch.

[FR Doc. 2026–11154 Filed 6–3–26; 8:45 am]

BILLING CODE 4310–VH–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1502]

Certain Energy Drinks and Labeling and Packaging Thereof; Notice of Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 17, 2026, under section 337 of the Tariff Act of 1930, as amended, on behalf of Monster Energy Company of Corona, California. A supplement to the complaint was filed on May 21, 2026. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain energy drinks and labeling and packaging thereof by reason of the infringement of one or more of U.S. Trademark Registration No. 6,760,278 (“the ‘278 mark”); U.S. Trademark Registration No. 6,451,182 (“the ‘182 mark”); U.S. Trademark Registration No. 2,903,214 (“the ‘214 mark”); and U.S. Trademark Registration No. 3,434,821 (“the ‘821 mark”). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute. The complainant requests that the Commission institute an investigation and, after the investigation, issue a general exclusion order, or in the alternative a limited exclusion order, and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email

EDIS3Help@usitc.gov. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

FOR FURTHER INFORMATION CONTACT:

Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission’s Rules of Practice and Procedure, 19 CFR 210.10 (2025).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on June 1, 2026, Ordered That—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(C) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of the ‘278 mark; the ‘182 mark; the ‘214 mark; and the ‘821 mark, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission’s Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is “gray market energy drinks and labeling and packaging thereof that are manufactured for distribution and sale solely outside the United States and that bear the Asserted Trademarks”;

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) *The complainant is:* Monster Energy Company,
1 Monster Way Corona, California 92879.

(b) The respondents are the following entities alleged to be in violation of

section 337, and are the parties upon which the complaint is to be served:

Gig Wholesale Corp. 1 Perlman Drive,
#106 Spring Valley, NY 10977
The Elegant Inc. 41 Sri Bimbarama
Road, Piliyandala 10300, Sri Lanka
Hamilton Trading Corp. 2429 East
Tremont Avenue 3, Bronx, NY 10461
Pal Global Imports Inc. 265 S. Cottage
Hill Avenue, Elmhurst, IL 60126
Asia Link Inc. 32 Hill Street, Onehunga,
Auckland, New Zealand 1061
Creative Trading PO Box 471,
Cedarhurst, NY 11516
MBCH Solutions LLC 23404 Larkshire
Street, Farmington Hills, MI 48336
Simple Shipping Solutions LLC 23404
Larkshire Street, Farmington Hills, MI
48336
JDC Trading Inc. Plaza 100, Calle
Principal El Ingenio 100 PI PB 4B,
Panama City, Panama 07158
Apollo Produce LLC 10510 Rockley
Road, Houston, TX 77099
232 Barren Springs LLC 10510 Rockley
Road, Houston, TX 77099
Sigmoid (Asia) Limited Inc. 6625 Miami
Lakes Drive, #362, Miami Lakes, FL
33014
Cats Media Inc. 233 Mt. Airy Road,
#100, Basking Ridge, NJ 07920

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission’s Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination

and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.
Issued: June 2, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–11201 Filed 6–3–26; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Vehicle Space Guards, DN 3912*; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Jonathan Black Kotyk on June 1, 2026. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the

United States, the sale for importation, and the sale within the United States after importation of certain vehicle space guards. The complaint names as respondents: Drop Stop, LLC of Los Angeles, CA; The Container Store of Coppell, TX; Walmart, Inc. of Bentonville, AR; 232 Technologies Inc. of Brooklyn, NY; and Sporty's (Sportman's Market Inc.) of Batavia, OH. The complainant requests that the Commission issue a general exclusion order, a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, members of the public, and interested government agencies are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing.

Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any

written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due, notwithstanding § 201.14(a) of the Commission's Rules of Practice and Procedure. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number ("Docket No. 3912") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, Electronic Filing Procedures¹). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at EDIS3Help@usitc.gov.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract

¹ Handbook for Electronic Filing Procedures: https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.

personnel,² solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.³

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: June 1, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–11196 Filed 6–3–26; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0366]

Agency Information Collection Activities; Proposed eCollection Comments Requested; Reinstatement, With Change, of a Previously Approved Collection for Which Approval Has Expired: Census of Tribal Law Enforcement Agencies (CTLEA)

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Bureau of Justice Statistics, Department of Justice (DOJ) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until August 3, 2026.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Steven W. Perry (email: bjspira.comments@ojp.usdoj.gov; telephone: 202–307–0765), Bureau of

Justice Statistics, 999 North Capital Street NE, Washington, DC 20531.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so, how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Abstract: The Bureau of Justice Statistics (BJS) has previously conducted the Census of Tribal Law Enforcement (CTLEA) through a survey that collects data on the staffing, functions, workloads, training, and operations of tribal law enforcement agencies serving tribal lands. The 2025 CTLEA will be the second administration of this collection. It will provide insight on emerging issues and challenges facing tribal law enforcement agencies since it was last conducted in 2019 and establish a time series of the data collection. BJS uses the information gathered in the CTLEA in published reports and statistics. The reports will be made available to the U.S. Congress, tribal nations and justice agencies, practitioners, researchers, students, the media, others interested in criminal justice statistics, and the public via the BJS website.

Overview of This Information Collection

1. *Type of Information Collection:* Reinstatement, with changes, of a previously approved collection for which approval has expired.

2. *Title of the Form/Collection:* 2025 Census of Tribal Law Enforcement Agencies (CTLEA).

3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* The form number is CTLEA–25. The applicable component within the Department of Justice is the Bureau of Justice Statistics (BJS), in the Office of Justice Programs.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Affected public are tribal law enforcement agencies. The 2025 CTLEA is revised from the 2018 CTLEA. BJS plans to field the 2025 CTLEA from September through December 2026. Respondents will be the staff at tribal law enforcement agencies. The obligation to respond is voluntary.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* A projected 303 respondents from tribal law enforcement agencies will take an average of 30 minutes (0.5 hours) each to complete the web form CTLEA. The time to review the invitation materials is 5 minutes and to complete the Question Guide is estimated to be 15 minutes to research or find information not readily available. In addition, an estimated 30 respondents will be contacted for data quality follow-up at 15 minutes (.25 hours) per respondent.

6. *An estimate of the total public burden (in hours) associated with the collection:* The total estimated burden hours for this collection is 260 hours.

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* BJS estimates the total annual cost burden to the respondents based on the mean hourly rate for police officer (\$38.16) for 260 burden hours is \$9,921.60.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency	Total annual responses	Time per response (min.)	Total annual burden (hours)
CTLEA Invitation Materials	303	1	303	5	25.25
CTLEA Question Guide	303	1	303	15	75.75
CTLEA Web Survey	303	1	303	30	151.50

² All contract personnel will sign appropriate nondisclosure agreements.

³ Electronic Document Information System (EDIS): <https://edis.usitc.gov>.

TOTAL BURDEN HOURS—Continued

Activity	Number of respondents	Frequency	Total annual responses	Time per response (min.)	Total annual burden (hours)
Data Quality Follow-Up	30	1	30	15	7.50
Unduplicated Totals	939	.....	.....	.....	260

If additional information is required, contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Enterprise Portfolio Management, Two Constitution Square, 145 N Street NE, 4W-218, Washington, DC.

Dated: June 2, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026-11173 Filed 6-3-26; 8:45 am]

BILLING CODE 4410-18-P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Prohibited Transaction Exemption 2026-04; Application Number D-12122]

Exemption for Certain Prohibited Transactions Involving the Goldman Sachs Group, Inc. (Goldman) Located in New York, New York

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of exemption.

SUMMARY: This exemption allows current and future Goldman-related asset managers to continue to rely on Prohibited Transaction Exemption 84-14 (PTE 84-14), notwithstanding the GS Malaysia FCPA Conviction, if certain conditions are met.

DATES: Exemption date: This exemption will be in effect for the period beginning on June 9, 2026, and ending on June 8, 2031.

FOR FURTHER INFORMATION CONTACT: Blessed Chuksonji-Keefe, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, (202) 693-8540 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Benefits of the Exemption

This exemption is intended to protect Covered Plans¹ from incurring the

harms and costs that Goldman represents would arise if Goldman-related “Qualified Professional Asset Managers” (Goldman QPAMs) are no longer able to rely on the relief described in PTE 84-14, due to Goldman QPAMs’ noncompliance with that class exemption. Among other things, this exemption ensures that a Covered Plan can terminate its relationship with a Goldman Affiliated QPAM² in an orderly and cost-effective fashion if the Covered Plan fiduciary determines that it is prudent to do so. This exemption requires Goldman Affiliated QPAMs to adhere to basic fiduciary standards and responsibilities mandated by Title I of ERISA and the Code and reinforces the obligation of Goldman Affiliated QPAMs to act with integrity on behalf of Covered Plans, as required by PTE 84-14.

Background

Goldman requested an exemption in accordance with the Department’s exemption procedures.³ On April 2, 2026, the Department published a notice of proposed exemption in the **Federal Register** (the Proposed Exemption),⁴ for certain current and future Goldman-related asset managers to continue to rely on PTE 84-14 until June 8, 2031, if certain conditions are met, notwithstanding the GS Malaysia FCPA

case, with respect to which a Goldman Affiliated QPAM relies on PTE 84-14, or with respect to which a Goldman Affiliated QPAM (or any Goldman affiliate) has expressly represented that the manager qualifies as a QPAM or relies on the QPAM class exemption (PTE 84-14). A Covered Plan does not include an ERISA-covered plan or IRA to the extent the Goldman Affiliated QPAM has expressly disclaimed reliance on QPAM status or PTE 84-14 in entering into a contract, arrangement, or agreement with the ERISA-covered plan or IRA.

² Goldman Affiliated QPAMs means any current or future “affiliate” of Goldman (as defined in Part VI(d) of PTE 84-14) that qualifies as a “qualified professional asset manager” (as defined in PTE 84-14 Section VI(a)) and that relies on the relief provided by PTE 84-14, but not including Goldman Sachs Malaysia.

³ 29 CFR part 2570, subpart B at 89 FR 4662, January 24, 2024. Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested by the Applicant to the Secretary of Labor. Therefore, this notice of exemption is issued solely by the Department.

⁴ See 91 FR 16745.

Conviction for violations of the Foreign Corrupt Practices Act of 1977.⁵ Based on the record and representations made by Goldman, the Department has determined to grant the Proposed Exemption with the modifications discussed below.

This exemption provides only the relief specified herein and does not provide relief from any other law. If any material statement in the record attributable to this exemption is not, or may no longer be, completely and factually accurate, Goldman must immediately alert the Department.

Comments Received

In the Proposed Exemption, the Department invited all interested persons to submit written comments and request a public hearing. All comments and requests for a hearing were due to the Department by May 14, 2026. The Department received six phone calls that did not raise any substantive issues. The Department also received two substantive written comments from the Securities Industry and Financial Markets Association (SIFMA) and Goldman, which are discussed below. The Department received no requests for a public hearing.⁶

SIFMA Comment

SIFMA’s comment generally raised issues regarding the scope of PTE 84-14’s disqualification provisions and argued that the conditions in individual exemptions from Section I(g) are disproportionate to the violation and largely unnecessary to protect plan participants and beneficiaries. Regarding Goldman specifically, SIFMA asked the Department to issue an exemption with conditions that are

⁵ The GS Malaysia FCPA Conviction means the judgment of conviction against Goldman Sachs Malaysia in connection with a U.S. plea by Goldman Sachs Malaysia to one count of conspiracy to commit offenses against the United States, in violation of Title 18, United States Code, Section 371, *i.e.*, to violate the anti-bribery provisions of the Foreign Corrupt Practices Act of 1977, as amended. See Title 15, United States Code, Sections 78dd-1 and 78dd-3.

⁶ All information submitted by the Applicant to the Department in connection with this exemption is available through the Department’s Public Disclosure Room, by referencing D-12122.

¹ Covered Plan means a plan subject to Part IV of Title I of ERISA (an ERISA-covered plan) or a plan subject to section 4975 of the Code (an IRA), in each

more tailored and similar to individual exemptions issued prior to 2013.

Department Response: SIFMA's assertions regarding the scope of Section I(g) of PTE 84–14 raises issues that are outside the scope of this individual exemption. Regarding SIFMA's request for the Department to tailor the conditions in this exemption to individual exemptions issued prior to 2013, SIFMA did not demonstrate why such tailoring would be in the interest of, and protective of, Covered Plans.

Goldman Comment

Goldman Request 1—*No fourth audit.* Goldman requests that the Department eliminate the fourth audit requirement during the total ten-year disqualification period. Goldman states that it has already had three independent audits in connection with its single disqualifying event. According to Goldman, these audits established a well-documented record of compliance and that other protective conditions are appropriate and reasonable at this stage to protect covered plans without any additional audits. Goldman represents that it will, among other things: conduct specialized ERISA training; undergo rigorous annual reviews of its QPAMs by senior compliance officers; and provide information to plans regarding their rights under the exemption and ERISA so that they can make prudent decisions.

Furthermore, Goldman states that an additional check on its QPAM compliance during the remainder of the ten-year term will be the auditor's written report for its third audit, to be issued in December 2026, which will be provided to the Department as well as made available to Covered Plans. Goldman asserts that this third audit report and the exemption's record keeping requirements, coupled with the Department's powers to revoke the exemption and/or investigate Goldman QPAMs for noncompliance, provide significant checks on Goldman's QPAM compliance.

Finally, Goldman asserts that the removal of any further audit requirement is appropriate because the GS Malaysia FCPA Conviction did not involve asset management and was triggered by a foreign affiliate that was not in position to influence the policies of any Goldman QPAMs.

Department Response: After reviewing the entire record, including Goldman's comment, the Department is unable to find that the requested change would be in the interest of Covered Plans. The fourth required independent audit helps protect the rights of participants of Covered Plans by

ensuring that, among other things: the Goldman Affiliated QPAMs adhere to their basic fiduciary obligations under ERISA; transactions prohibited under ERISA are implemented in accordance with the requirements of PTE 84–14 and are monitored in a way that protects participants; and the Goldman Affiliated QPAMs implement their policies and training in accordance with the requirements of the exemption and report and correct instances of noncompliance. The audit requirement not only helps to identify instances of noncompliance with this exemption but also helps promote and encourage an ongoing culture of compliance for personnel subject to the audit.

Although the GS Malaysia Conviction involved a foreign affiliate, the scope of misconduct was broad and the nature and impact of the criminal activity was severe. It is the Department's understanding that the U.S. Department of Justice (DOJ) reached its resolution with Goldman based on a number of factors, including Goldman's failure to voluntarily disclose the conduct to the DOJ; the nature and seriousness of the offense, which included the involvement of high-level employees within Goldman's investment bank and others who ignored significant red flags; the involvement of various Goldman subsidiaries across the world; the amount of the bribes, which totaled over \$1.6 billion; the number and high-level nature of the bribe recipients, which included at least 11 foreign officials, including high-ranking officials of the Malaysian government; and the significant amount of actual loss incurred as a result of the co-conspirators' conduct.⁷

Goldman Request 2—*Definition of "Goldman Affiliated QPAMs."* Goldman also requests a modification to the definition of "Goldman Affiliated QPAMs" so that it covers all of Goldman's current and future affiliates that may rely on PTE 84–14. According to Goldman, prior I(g) exemptions granted to Goldman, as well as UBS, contained definitions of QPAMs that were similarly inclusive of all current and future affiliates, and Goldman requests that Section I(d) of the exemption be modified to read as follows (new text bolded and underlined):

The term "Goldman Affiliated QPAMs" means The Goldman Sachs Trust Company, N.A.; Goldman Sachs Bank USA; Goldman Sachs & Co. LLC; Goldman Sachs Asset

Management, L.P.; Goldman Sachs Asset Management International; Goldman Sachs Hedge Fund Strategies LLC; GS Investment Strategies, LLC; GSAM Stable Value, LLC; The Ayco Company, L.P.; Aptitude Investment Management LP; Roca-ton Investment Advisors, LLC; United Capital Financial Advisers, LLC; and PFE Advisers, Inc., and any *current or future* "affiliate" of Goldman (as defined in Part VI(d) of PTE 84–14) that qualifies as a "qualified professional asset manager" (as defined in PTE 84–14 Section VI(a)) and that relies on the relief provided by PTE 84–14. The term "Goldman Affiliated QPAMs" excludes Goldman Sachs Malaysia.

Department Response: After reviewing the record and the definitions of this exemption, the Department has determined to make the requested change.

The complete application file (D–12122) is available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1515, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210 reachable by telephone at 1–866–444–3272. For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, please refer to the Notice of Proposed Exemption published on April 2, 2026, at 91 FR 16745.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under ERISA section 408(a) and/or Code section 4975(c)(2) does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of ERISA and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of ERISA section 404, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with ERISA section 404(a)(1)(B); nor does it affect the requirement of Code section 401(a) that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) As required by ERISA section 408(a) and/or Code section 4975(c)(2), the Department hereby finds that the exemption is (1) administratively feasible for the Department, (2) in the interest of the plan and its participants and beneficiaries, and (3) protective of

⁷ Office of Public Affairs | Goldman Sachs Charged in Foreign Bribery Case and Agrees to Pay Over \$2.9 Billion | United States Department of Justice.

the rights of participants and beneficiaries of the plan;

(3) The exemption is supplemental to, and not in derogation of, any other provisions of ERISA and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction;

(4) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describe all material terms of the transactions that are the subject of the exemption and are true at all times; and

Accordingly, after considering the entire record developed in connection with Goldman's exemption application, the Department grants the following exemption under the authority of ERISA section 408(a) and Code section 4975(c)(2) in accordance with the Department's exemption procedures regulation.⁸

Exemption

Section I. Definitions

(a) The term "Goldman Sachs Malaysia FCPA Conviction" means the judgment of conviction against Goldman Sachs Malaysia in connection with a U.S. plea by Goldman Sachs Malaysia to one count of conspiracy to commit offenses against the United States, in violation of Title 18, United States Code, Section 371, that is, to violate the anti-bribery provisions of the Foreign Corrupt Practices Act of 1977, as amended, see Title 15, United States Code, Sections 78dd-1 and 78dd-3.

(b) The term "Covered Plan" means a plan subject to Part IV of Title I of ERISA (an ERISA-covered plan) or a plan subject to section 4975 of the Code (an IRA), in each case, with respect to which a Goldman Affiliated QPAM relies on PTE 84-14, or with respect to which a Goldman Affiliated QPAM (or any Goldman affiliate) has expressly represented that the manager qualifies as a QPAM or relies on the QPAM class exemption (PTE 84-14). A Covered Plan does not include an ERISA-covered plan or IRA to the extent the Goldman

Affiliated QPAM has expressly disclaimed reliance on QPAM status or PTE 84-14 in entering into a contract, arrangement, or agreement with the ERISA-covered plan or IRA.

(c) The term "Goldman" means The Goldman Sachs Group, Inc.

(d) The term "Goldman Affiliated QPAMs" means The Goldman Sachs Trust Company, N.A.; Goldman Sachs Bank USA; Goldman Sachs & Co. LLC; Goldman Sachs Asset Management, L.P.; Goldman Sachs Asset Management International; Goldman Sachs Hedge Fund Strategies LLC; GS Investment Strategies, LLC; GSAM Stable Value, LLC; The Ayco Company, L.P.; Aptitude Investment Management LP; Rocatone Investment Advisors, LLC; United Capital Financial Advisers, LLC; and PFE Advisers, Inc., and any current or future "affiliate" of Goldman (as defined in Part VI(d) of PTE 84-14) that qualifies as a "qualified professional asset manager" (as defined in PTE 84-14 Section VI(a)) and that relies on the relief provided by PTE 84-14. The term "Goldman Affiliated QPAMs" excludes Goldman Sachs Malaysia.

(e) The term "Goldman Related QPAMs" means any current or future "qualified professional asset manager" (as defined in Section VI(a) of PTE 84-14) that relies on the relief provided by PTE 84-14, and with respect to which Goldman Sachs Malaysia owns a direct or indirect five (5) percent or more interest, but with respect to which Goldman Sachs Malaysia is not an "affiliate" (as defined in section VI(d)(1) of PTE 84-14). The term "Goldman Related QPAMs" excludes Goldman Sachs Malaysia.

(f) The term "Goldman Sachs Malaysia" means Goldman Sachs (Malaysia) Sdn. Bhd.

(g) The term "Exemption Period" means the five-year period beginning on June 9, 2026, immediately following the expiration of the exemptive relief in PTE 2021-02.

(h) The term "Plea Agreement" means the Plea Agreement entered into between the United States of America, by and through the United States Department of Justice, Criminal Division, Fraud Section and Money Laundering and Asset Recovery Section, and the United States Attorney's Office for the Eastern District of New York and Goldman Sachs (Malaysia) Sdn. Bhd. Cr. No. 20-438 (MKB), filed October 21, 2020.

(i) The term "Conviction Date" means the date that a judgment of conviction against Goldman Sachs (Malaysia) Sdn. Bhd., in Cr. No. 20-438 (MKB), was entered in the United States District

Court for the Eastern District of New York.

(j) The term "best knowledge," "to the best of one's knowledge," "best knowledge at that time," and other similar "best knowledge" terms include matters that are known to the applicable individual or should be known to such individual upon the exercise of such individual's due diligence required under the circumstances, and, with respect to an entity other than a natural person, such term includes matters that are known to the directors and officers of the entity or should be known to such individuals upon the exercise of such individuals' due diligence required under the circumstances.

(k) The "conduct" of any person or entity that is the "subject of" any misconduct refers to the misconduct by any Goldman personnel that is the basis of (or the subject of) the Goldman Sachs Malaysia FCPA Conviction.

(l) The term "participate in" when used to describe an individual or entity's participation in the Goldman Sachs Malaysia FCPA Conviction refers not only to active participation in the conduct that is the subject of the Goldman Sachs Malaysia FCPA Conviction but also includes an individual or entity's knowledge or approval of the conduct that is the subject of the Goldman Sachs Malaysia FCPA Conviction, without taking active steps to prohibit such conduct, such as reporting the conduct to the individual's supervisors, and to the Board of Directors.

Section II. Covered Transactions

The Goldman Affiliated QPAMs and the Goldman Related QPAMs will not be precluded from relying on the exemptive relief provided by Prohibited Transaction Class Exemption 84-14 (PTE 84-14)⁹ during the Exemption Period, notwithstanding the Goldman Sachs Malaysia FCPA Conviction, provided that the definitions in Section I and the conditions in Section III are satisfied.

Section III. Conditions

(a) Other than a single individual, who worked for a non-fiduciary business within a Goldman Affiliated QPAM, and who had no responsibility for, and exercised no authority in connection with, the management of plan assets, the Goldman Affiliated QPAMs and Goldman Related QPAMs

⁸ 29 CFR part 2570, subpart B (89 FR 4662 (January 24, 2024)). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this exemption is issued solely by the Department. For purposes of this exemption, references to ERISA section 406, unless otherwise specified, should be read to refer as well to the corresponding provisions of Code section 4975.

⁹ 49 FR 9494 (March 13, 1984), as corrected at 50 FR 41430, (Oct. 10, 1985), as amended at 70 FR 49305 (Aug. 23, 2005), as amended at 75 FR 38837 (July 6, 2010), as amended at 89 FR 23090 (April 3, 2024), and as corrected at 89 FR 65779 (Aug. 13, 2024).

(including their officers, directors, agents (other than Goldman Sachs Malaysia), and the employees of the Goldman Affiliated QPAMs and Goldman Related QPAMs (collectively, the Goldman QPAMs) did not know of, did not have reason to know of, or did not participate in the criminal conduct of Goldman Sachs Malaysia that is the subject of the Goldman Sachs Malaysia FCPA Conviction. Further, any other party engaged on behalf of the Goldman QPAMs who had responsibility for, or exercised authority in connection with the management of plan assets did not know of, did not have reason to know of, or participate in the criminal conduct of Goldman Sachs Malaysia that is the subject of the Goldman Sachs Malaysia FCPA Conviction;

(b) Other than a single individual, who worked for a non-fiduciary business within a Goldman Affiliated QPAM, and who had no responsibility for, and exercised no authority in connection with, the management of plan assets, the Goldman Affiliated QPAMs and the Goldman Related QPAMs (including their officers, directors, agents (other than Goldman Sachs Malaysia), and employees of such Goldman Affiliated QPAMs) did not receive direct compensation, or knowingly receive indirect compensation, in connection with the criminal conduct of Goldman Sachs Malaysia that is the subject of the Goldman Sachs Malaysia FCPA Conviction. Further, any other party engaged on behalf of the Goldman QPAMs who had responsibility for, or exercised authority in connection with the management of plan assets did not receive direct compensation, or knowingly receive indirect compensation, in connection with the criminal conduct of Goldman Sachs Malaysia that is the subject of the Goldman Sachs Malaysia FCPA Conviction;

(c) The Goldman Affiliated QPAMs do not currently and will not in the future employ or knowingly engage any of the individuals who participated in the criminal conduct of Goldman Sachs Malaysia that is the subject of the Goldman Sachs Malaysia FCPA Conviction;

(d) At all times during the Exemption Period, no Goldman Affiliated QPAM will use its authority or influence to direct an "investment fund" (as defined in PTE 84–14 Section VI(b)) that is subject to ERISA or the Code and managed by such Goldman Affiliated QPAM with respect to one or more Covered Plans to enter into any transaction with Goldman Sachs Malaysia or to engage Goldman Sachs

Malaysia to provide any service to such investment fund, for a direct or indirect fee borne by such investment fund, regardless of whether such transaction or service may otherwise be within the scope of relief provided by an administrative or statutory exemption;

(e) Any failure of a Goldman Affiliated QPAM or a Goldman Related QPAM to satisfy PTE 84–14 Section I(g) arose solely from the Goldman Sachs Malaysia FCPA Conviction;

(f) A Goldman Affiliated QPAM or a Goldman Related QPAM did not exercise authority over the assets of any plan subject to Part 4 of Title I of ERISA (an ERISA-covered plan) or Code section 4975 (an IRA) in a manner that it knew or should have known would further the criminal conduct that is the subject of the Goldman Sachs Malaysia FCPA Conviction; or cause the Goldman Affiliated QPAM, Related QPAM or its affiliates to directly or indirectly profit from the criminal conduct that is the subject of the Goldman Sachs Malaysia FCPA Conviction;

(g) Other than with respect to employee benefit plans maintained or sponsored for its own employees or the employees of an affiliate, Goldman Sachs Malaysia will not act as a fiduciary within the meaning of ERISA section 3(21)(A)(i) or (iii), or Code section 4975(e)(3)(A) and (C), with respect to ERISA-covered plan and IRA assets; provided, however, that Goldman Sachs Malaysia will not be treated as violating the conditions of this exemption, if granted, solely because they acted as an investment advice fiduciary within the meaning of ERISA section 3(21)(A)(ii) or Code section 4975(e)(3)(B);

(h)(1) Each Goldman Affiliated QPAM must continue to maintain, adjust to the extent necessary, implement, and follow written policies and procedures implemented previously in accordance with PTE 2021–02 (the Policies). Future Goldman Affiliated QPAMs have six months to develop Policies after the date they become subject to this exemption. The Policies must require, and must be reasonably designed to ensure that:

(i) The asset management decisions of the Goldman Affiliated QPAM are conducted independently of Goldman's corporate management and business activities, and the corporate management and business activities of Goldman Sachs Malaysia. This condition does not preclude a Goldman Affiliated QPAM from receiving publicly available research and other widely available information from Goldman Sachs Malaysia;

(ii) The Goldman Affiliated QPAM fully complies with ERISA's fiduciary duties, and with ERISA and the Code's prohibited transaction provisions, in each case as applicable with respect to each Covered Plan, and does not knowingly participate in any violation of these duties and provisions with respect to Covered Plans;

(iii) The Goldman Affiliated QPAM does not knowingly participate in any other person's violation of ERISA or the Code with respect to Covered Plans;

(iv) Any filings or statements made by the Goldman Affiliated QPAM to regulators, including, but not limited to, the Department, the Department of the Treasury, the Department of Justice, and the Pension Benefit Guaranty Corporation, on behalf of or in relation to Covered Plans, are materially accurate and complete, to the best of such QPAM's knowledge at that time;

(v) To the best of its knowledge at that time, the Goldman Affiliated QPAM does not make material misrepresentations or omit material information in its communications with such regulators with respect to Covered Plans, or make material misrepresentations or omit material information in its communications with Covered Plans; and

(vi) The Goldman Affiliated QPAM complies with the terms of this five-year exemption;

(2) Any violation of, or failure to comply with an item in subparagraphs (h)(1)(ii) through (vi), is corrected as soon as reasonably possible upon discovery, or as soon after the QPAM reasonably should have known of the noncompliance (whichever is earlier), and any such violation or compliance failure not so corrected is reported, upon the discovery of such failure to so correct, in writing. This report must be made to the head of compliance and the general counsel (or their functional equivalent) of the relevant Goldman Affiliated QPAM that engaged in the violation or failure, and the independent auditor responsible for reviewing compliance with the Policies. A Goldman Affiliated QPAM will not be treated as having failed to develop, implement, maintain, or follow the Policies, provided that it corrects any instance of noncompliance as soon as reasonably possible upon discovery, or as soon as reasonably possible after the Goldman Affiliated QPAM reasonably should have known of the noncompliance (whichever is earlier), and provided that it adheres to the reporting requirements set forth in this subparagraph (2); and

(3) Each Goldman Affiliated QPAM must continue to maintain, adjust (to

the extent necessary) and implement a program of training during the Exemption Period, to be conducted at least annually, for all relevant Goldman Affiliated QPAM asset/portfolio management, trading, legal, compliance, and internal audit personnel (the Training). Future Goldman Affiliated QPAMs have six months to develop the Training after the date they become subject to this exemption. The Training may be conducted electronically and must be set forth in the Policies and, at a minimum, cover the Policies, ERISA and Code compliance (including applicable fiduciary duties and the prohibited transaction provisions), ethical conduct, the consequences for not complying with the conditions of this exemption (including any loss of exemptive relief provided herein), and prompt reporting of wrongdoing. The Training must be conducted by a professional who has been prudently selected and who has appropriate training and proficiency with ERISA and the Code to perform the tasks required by this exemption;

(i)(1) Each Goldman Affiliated QPAM submits to one audit, to cover the final twelve months of exemptive relief, ending on June 8, 2031, to be completed within sixty days thereafter and conducted by a prudently selected independent auditor with appropriate technical training and proficiency with ERISA and the Code, to evaluate the adequacy of, and each Goldman Affiliated QPAM's compliance with, the Policies and Training. The audit requirement must be incorporated in the Policies. The corresponding certified Audit Report, as defined below, must be submitted to the Department no later than 45 days following the completion of the audit.

(2) Within the scope of the audit and to the extent necessary for the auditor, in its sole opinion, to complete its audit and comply with the conditions for relief described herein, and only to the extent the disclosure is not prevented by state or federal statute, or involves communications subject to attorney client privilege, each Goldman Affiliated QPAM and, if applicable, Goldman, will grant the auditor unconditional access to its business, including, but not limited to: Its computer systems; business records; transactional data; workplace locations; training materials; and personnel. Such access is limited to information relevant to the auditor's objectives as specified by the terms of this exemption;

(3) The auditor's engagement must specifically require the auditor to determine whether each Goldman Affiliated QPAM has developed,

implemented, maintained, and followed the Policies in accordance with the conditions of this exemption, and has developed and implemented the Training, as required by the terms of this exemption;

(4) The auditor's engagement must specifically require the auditor to test each Goldman Affiliated QPAM's operational compliance with the Policies and Training. In this regard, the auditor must test, for each Goldman Affiliated QPAM, a sample of the Goldman Affiliated QPAM's transactions involving Covered Plans, sufficient in size and nature to afford the auditor a reasonable basis to determine such Goldman Affiliated QPAM's operational compliance with the Policies and Training;

(5) On or before the end of the relevant period described in Section III(i)(1) for completing the audit, the auditor must issue a written report (the Audit Report) to Goldman and the Goldman Affiliated QPAM to which the audit applies that describes the procedures performed by the auditor in connection with its examination. The auditor, at its discretion, may issue a single consolidated Audit Report that covers all the Goldman Affiliated QPAMs. The Audit Report must include the auditor's specific determinations regarding:

(i) The adequacy of each Goldman Affiliated QPAM's Policies and Training; each Goldman Affiliated QPAM's compliance with the Policies and Training; the need, if any, to strengthen such Policies and Training; and any instance of the respective Goldman Affiliated QPAM's noncompliance with the written Policies and Training described in Section III(h) above. The Goldman Affiliated QPAM must promptly address any noncompliance. The Goldman Affiliated QPAM must promptly address or prepare a written plan of action to address any determination as to the adequacy of the Policies and Training and the auditor's recommendations (if any) with respect to strengthening the Policies and Training of the respective Goldman Affiliated QPAM. Any action taken or the plan of action to be taken by the respective Goldman Affiliated QPAM must be included in an addendum to the Audit Report (such addendum must be completed prior to the certification described in Section III(i)(7) below or as soon as practicable thereafter). Any determination by the auditor that a Goldman Affiliated QPAM has implemented, maintained, and followed sufficient Policies and Training must not be based solely or in substantial part on an absence of

evidence indicating noncompliance. In this last regard, any finding that a Goldman Affiliated QPAM has complied with the requirements under this subparagraph must be based on evidence that the particular Goldman Affiliated QPAM has actually implemented, maintained, and followed the Policies and Training required by this exemption, if granted. Furthermore, the auditor must not solely rely on the Exemption Report created by the Compliance Officer, as described in Section III(m) below, as the basis for the auditor's conclusions in lieu of independent determinations and testing performed by the auditor as required by Section III(i)(3) and (4) above; and

(ii) The adequacy of the Exemption Review described in Section III(m);

(6) The auditor must notify the respective Goldman Affiliated QPAM of any instance of noncompliance identified by the auditor within five (5) business days after such noncompliance is identified by the auditor, regardless of whether the audit has been completed as of that date;

(7) With respect to the Audit Report, the general counsel or one of the three most senior executive officers of the Goldman Affiliated QPAM to which the Audit Report applies, must certify in writing, under penalty of perjury, that the officer has reviewed the Audit Report and this exemption, if granted; that, to the best of such officer's knowledge at the time, the Goldman Affiliated QPAM has addressed, corrected, and remedied any noncompliance and inadequacy or has an appropriate written plan to address any inadequacy regarding the Policies and Training identified in the Audit Report. This certification must also include the signatory's determination that, to the best of the officer's knowledge at the time, the Policies and Training in effect at the time of signing were adequate to ensure compliance with the conditions of this exemption, and with the applicable provisions of ERISA and the Code. Notwithstanding the above, no person, including any person referenced in the Department of Justice's Statement of Facts that gave rise to the Plea Agreement, who knew of, or should have known of, or participated in, any misconduct described in the Statement of Facts, by any party, may provide the certification required by this paragraph, unless the person took active documented steps to stop the misconduct;

(8) The Goldman Board of Directors is provided a copy of the Audit Report; and a senior executive officer of the Audit Committee established by the Goldman Board of Directors, the general

counsel of the Goldman Sachs Affiliated QPAM to which the Audit Report applies, one of the three most senior executive officers of the Goldman Sachs Affiliated QPAM to which the Audit Report applies, or the Chief Compliance Officer of Goldman Sachs must review the Audit Report for each Goldman Affiliated QPAM with the Chairperson of the Audit Committee and must certify in writing, under penalty of perjury, that such officer has reviewed the Audit Report, that a copy of such Audit Report was provided to the Board of Directors, and that the Audit Report was reviewed with and by the Chairperson of the Audit Committee. Notwithstanding the above, no person, including any person referenced in the Department of Justice's Statement of Facts that gave rise to the Plea Agreement, who knew of, or should have known of, or participated in, any misconduct described in the Statement of Facts, by any party, may provide the certification required by this paragraph, unless such person took active documented steps to prohibit the misconduct;

(9) Each Affiliated QPAM must provide its certified Audit Report to the Office of Exemption Determinations (OED) via email to *e-OED@dol.gov*. This delivery must take place no later than 45 days following completion of the Audit Report. The Audit Report will be made part of the public record regarding this exemption. Furthermore, each Goldman Affiliated QPAM must make its Audit Report unconditionally available, electronically or otherwise, for examination upon request by any duly authorized employee or representative of the Department, other relevant regulators, and any fiduciary of a Covered Plan;

(10) Any engagement agreement with an auditor to perform the audit required by this exemption must be submitted to OED no later than two months after the execution of the agreement;

(11) The auditor must provide the Department, upon request, for inspection and review, access to all the workpapers created and used in connection with the audit, provided such access and inspection is otherwise permitted by law; and

(12) Goldman or a Goldman Affiliated QPAM must notify the Department of a change in the independent auditor no later than two months after the engagement of a substitute or subsequent auditor and must provide an explanation for the substitution or change including a description of any material disputes involving the terminated auditor;

(j) As of the effective date of this five-year exemption, with respect to any

arrangement, agreement, or contract between a Goldman Affiliated QPAM and a Covered Plan, the Goldman Affiliated QPAM agrees and warrants to Covered Plans:

(1) To comply with ERISA and the Code, as applicable with respect to such Covered Plan; to refrain from engaging in prohibited transactions that are not otherwise exempt (and to promptly correct any prohibited transactions); and to comply with the standards of prudence and loyalty set forth in section 404 of ERISA with respect to each such ERISA-covered plan and IRA to the extent that section 404 is applicable;

(2) To indemnify and hold harmless the Covered Plan for any actual losses resulting directly from: a Goldman Affiliated QPAM's violation of any conditions of this exemption preventing the Goldman Affiliated QPAM from relying on this exemption, ERISA's fiduciary duties, as applicable, and of the prohibited transaction provisions of ERISA and the Code, as applicable; a breach of contract by the QPAM; or any claim arising out of the failure of such Goldman Affiliated QPAM to qualify for the exemptive relief provided by PTE 84-14 as a result of a violation of PTE 84-14 Section I(g), other than the Goldman Sachs Malaysia FCPA Conviction. The term "actual losses" includes, but is not limited to, losses and related costs arising from unwinding transactions with third parties and from transitioning Plan assets to an alternative asset manager as well as costs associated with any exposure to excise taxes under Code section 4975 as a result of a QPAM's inability to rely upon the relief in PTE 84-14;

(3) Not to require (or otherwise cause) the Covered Plan to waive, limit, or qualify the liability of the Goldman Affiliated QPAM for violating ERISA or the Code or engaging in prohibited transactions;

(4) Not to restrict the ability of such Covered Plan to terminate or withdraw from its arrangement with the Goldman Affiliated QPAM with respect to any investment in a separately managed account or pooled fund subject to ERISA and managed by such QPAM, with the exception of reasonable restrictions, appropriately disclosed in advance, that are specifically designed to ensure equitable treatment of all investors in a pooled fund in the event such withdrawal or termination may have adverse consequences for all other investors. In connection with any such arrangements involving investments in pooled funds subject to ERISA entered into after the effective date of this exemption, the adverse consequences

must relate to a lack of liquidity of the underlying assets, valuation issues, or regulatory reasons that prevent the fund from promptly redeeming an ERISA covered plan's or IRA's investment, and such restrictions must be applicable to all such investors and be effective no longer than reasonably necessary to avoid the adverse consequences;

(5) Not to impose any fees, penalties, or charges for such termination or withdrawal with the exception of reasonable fees, appropriately disclosed in advance, that are specifically designed to prevent generally recognized abusive investment practices or specifically designed to ensure equitable treatment of all investors in a pooled fund in the event such withdrawal or termination may have adverse consequences for all other investors, provided that such fees are applied consistently and in a like manner to all such investors; and

(6) Not to include exculpatory provisions disclaiming or otherwise limiting liability of the Goldman Affiliated QPAM for a violation of such agreement's terms. To the extent consistent with Section 410 of ERISA, however, this provision does not prohibit disclaimers for liability caused by an error, misrepresentation, or misconduct of a plan fiduciary or other party hired by the plan fiduciary who is independent of Goldman and its affiliates, or damages arising from acts outside the control of the Goldman Affiliated QPAM;

(7) Unless already so provided, within four (4) months of the effective date of this five-year exemption, each Goldman Affiliated QPAM must provide a notice of its obligations under this Section III(j) to each Covered Plan. For Covered Plans that enter into a written asset or investment management agreement with a Goldman Affiliated QPAM on or after a date that is four (4) months after the effective date of this exemption, if granted, the Goldman Affiliated QPAM must agree to its obligations under this Section III(j) in an updated investment management agreement between the Goldman Affiliated QPAM and such clients, or other written contractual agreement. Notwithstanding the above, a Goldman Affiliated QPAM will not violate the condition solely because a Plan or IRA refuses to sign an updated investment management agreement.

(k) Unless already so provided, within 60 days of the effective date of this five-year exemption, each Goldman Affiliated QPAM must provide a **Federal Register** copy of the notice of the exemption, along with a separate summary describing the facts that led to the Goldman Sachs Malaysia FCPA

Conviction (the Summary), which has been submitted to the Department, with a prominently displayed statement (the Statement) that the Goldman Sachs Malaysia FCPA Conviction results in a failure to meet a condition in PTE 84–14, to each sponsor and beneficial owner of a Covered Plan that has entered into a written asset or investment management agreement with a Goldman Affiliated QPAM, or the sponsor of an investment fund in any case where a Goldman Affiliated QPAM acts as a sub-advisor to the investment fund in which such ERISA-covered plan and IRA invests. The Summary will be submitted to OED before it is distributed by each Affiliated QPAM. All prospective Covered Plan clients that enter into a written asset or investment management agreement with a Goldman Affiliated QPAM after a date that is 60 days after the effective date of this exemption must receive a copy of the notice of the exemption, the Summary, and the Statement prior to, or contemporaneously with, the Covered Plan's receipt of a written asset or investment management agreement from the Goldman Affiliated QPAM. The notices may be delivered electronically (including by an email that has a link to the five-year exemption);

(l) The Goldman Affiliated QPAMs must comply with each condition of PTE 84–14, as amended, with the sole exception of the violation of PTE 84–14 Section I(g) that is attributable to the Goldman Sachs Malaysia FCPA Conviction. If, during the Exemption Period, an entity within the Goldman corporate structure is convicted of a crime described in PTE 84–14 Section I(g) (other than the Goldman Sachs Malaysia FCPA Conviction), relief in this exemption, if granted, would terminate immediately;

(m)(1) Within 60 days after the effective date of this exemption, each Goldman Affiliated QPAM must designate a senior compliance officer (the Compliance Officer) who will be responsible for compliance with the Policies and Training requirements described herein. Each Goldman Sachs Affiliated QPAM or applicable line of business may designate its own Compliance Officer(s). Notwithstanding the above, no person, including any person referenced in the Department of Justice's Statement of Facts that gave rise to the Plea Agreement, who knew of, or should have known of, or participated in, any misconduct described in the Statement of Facts, by any party, may be involved with the designation or responsibilities required by this condition, unless the person

took active documented steps to stop the misconduct.

(2) The Compliance Officer must conduct a review of each twelve-month period of the Exemption Period (the Exemption Review), to determine the adequacy and effectiveness of the implementation of the Policies and Training. With respect to the Compliance Officer, the following conditions must be met:

(i) The Compliance Officer must be a professional who has extensive experience with, and knowledge of, the regulation of financial services and products, including under ERISA and the Code;

(ii) The Compliance Officer must be: (i) A compliance officer who regularly reports to the Audit Committee; or (ii) the highest-ranking compliance officer at the applicable Goldman Sachs Affiliated QPAM or line of business; and

(iii) The Compliance Officers responsible for the Exemption Review must provide the Exemption Report to the Auditor within seven (7) days of completing the report;

(3) With respect to the Exemption Review, the following conditions must be met:

(i) The Exemption Review includes a review of the Goldman Affiliated QPAMs' compliance with and effectiveness of the Policies and Training and of the following: Any compliance matter related to the Policies or Training that was identified by, or reported to, the Compliance Officer or the Audit Committee, during the previous year; the most recent Audit Report issued pursuant to PTE 2021–02 or this exemption; and any change to ERISA, the Code, or regulations related to fiduciary duties and the prohibited transaction provisions that may be applicable to the activities of the Goldman Affiliated QPAMs;

(ii) The Compliance Officer prepares a written report for the Exemption Review (an Exemption Report) that (A) summarizes his or her material activities during the prior year; (B) sets forth any instance of noncompliance discovered during the prior year, and any related corrective action; (C) details any change to the Policies or Training to guard against any similar instance of noncompliance occurring again; and (D) makes recommendations, as necessary, for additional training, procedures, monitoring, or additional and/or changed processes or systems, and management's actions on such recommendations;

(iii) In the Exemption Report, the Compliance Officer must certify in writing that to the best of his or her

knowledge at the time: (A) The report is accurate; (B) the Policies and Training are working in a manner which is reasonably designed to ensure that the Policies and Training requirements described herein are met; (C) any known instance of noncompliance during the prior year and any related correction taken to date have been identified in the Exemption Report; and (D) the Goldman Affiliated QPAMs have complied with the Policies and Training, and/or corrected (or are correcting) any known instances of noncompliance in accordance with Section III(h) above;

(iv) The Exemption Report must be provided to appropriate corporate officers of Goldman and the Goldman Affiliated QPAM to which such report relates, and to the head of compliance and the general counsel (or their functional equivalent) of Goldman Sachs the relevant Goldman Affiliated QPAM; and the report must be made unconditionally available to the independent auditor described in Section III(i) above;

(v) The first Exemption Review, including the Compliance Officer's written Exemption Report, must cover the twelve-month period from June 9, 2026, to June 8, 2027. The next four Exemption Reviews and Exemption Reports must each cover a twelve-month period that begins on the date that immediately follows the end of the prior Exemption Review coverage period. Each Annual Review, including the Compliance Officer's written Annual Report, must be completed within three months following the end of the period to which it relates;

(n) Goldman imposes its internal procedures, controls, and protocols on Goldman Sachs Malaysia to reduce the likelihood of any recurrence of conduct that is the subject of the Goldman Sachs Malaysia FCPA Conviction;

(o) Goldman complies in all material respects with the requirements imposed by a U.S. regulatory authority in connection with the Goldman Sachs Malaysia FCPA Conviction. Relief in this exemption will terminate on the date that is one year following the date that a U.S. regulatory authority makes a final decision that Goldman or an affiliate failed to comply in all material respects with such requirements;

(p) Each Goldman Affiliated QPAM will maintain records necessary to demonstrate that the conditions of this exemption have been met for six (6) years following the date of any transaction for which such Goldman Affiliated QPAM relies upon the relief in this exemption;

(q) During the Exemption Period, Goldman must: (1) Immediately disclose

to the Department via email addressed to *e-OED@dol.gov* any Deferred Prosecution Agreement (a DPA) or Non-Prosecution Agreement (an NPA) with the U.S. Department of Justice, entered into by The Goldman Sachs Group, Inc. or any of its affiliates (as defined in PTE 84–14 Section VI(d)) in connection with conduct described in PTE 84–14 Section I(g) or ERISA section 411; and (2) immediately provide the Department any information requested by the Department, as permitted by law, regarding the agreement and/or conduct and allegations that led to the agreement; and

(r) A Goldman Affiliated QPAM will not fail to meet the terms of this five-year exemption, if granted, solely because a different Goldman Affiliated QPAM fails to satisfy a condition for relief described in Sections I(c), (d), (h), (i), (j), (k), the first sentence of (l), (m), or (p); or if the independent auditor described in Section III(i) fails a provision of the exemption other than the requirement described in Section III(i)(11), provided that such failure did not result from any actions or inactions of Goldman or its affiliates.

Exemption Date: This exemption will be in effect for the period beginning on June 9, 2026, through June 8, 2031.

Signed at Washington, DC, this 29th day of May 2026.

Christopher Motta,

Acting Director, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2026–11222 Filed 6–3–26; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Federal Employees' Compensation Act Medical Reports and Compensation Claims

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of Workers' Compensation Programs (OWCP)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before July 6, 2026.

ADDRESSES: Written comments and recommendations for the proposed

information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT:

Nicole Bouchet by telephone at 202–693–0213, or by email at *DOL_PRA_PUBLIC@dol.gov*.

SUPPLEMENTARY INFORMATION: These forms are utilized for the submission of claims pertaining to wage loss resulting from Federal employment-related injuries. Additionally, they are required for the collection of essential medical documentation to determine whether a claimant is eligible for benefits under the Federal Employees Compensation Act (FECA). For additional substantive information about this ICR, see the related notice published in the **Federal Register** on March 20, 2025 (91 FR 13637).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OWCP.

Title of Collection: Federal Employees' Compensation Act Medical Reports and Compensation Claims.

OMB Control Number: 1240–0046.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 279,100.

Total Estimated Number of Responses: 279,100.

Total Estimated Annual Time Burden: 26,648 hours.

Total Estimated Annual Other Costs Burden: \$173,740.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior PRA Analyst.

[FR Doc. 2026–11161 Filed 6–3–26; 8:45 am]

BILLING CODE 4510–26–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–3103; NRC–2026–1156]

Louisiana Energy Services, LLC, dba Urenco USA; National Enrichment Facility; Exemption

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) issued an exemption to Louisiana Energy Services, LLC doing business as (dba) Urenco USA (UUSA), permitting UUSA, a general licensee and certificate of compliance (CoC) user, to use a vendors' transportation package design (*i.e.*, CoC No. 9362, Revision No. 5) for domestic transport of uranium hexafluoride (UF₆) of up to 10 weight (wt.) percent enrichment of uranium-235 (U–235) in approximately 40 to 50 30B cylinders of UF₆ in calendar years 2026 through 2027 to a single customer, where the terms and conditions in CoC No. 9362, Revision No. 5, are not met. No physical or design changes to the DN30 transportation package (*i.e.*, CoC No. 9362, Revision No. 5) are proposed in this exemption.

DATES: The exemption was issued on May 29, 2026.

ADDRESSES: Please refer to Docket ID NRC–2026–1156 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC–2026–1156. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran;

telephone: 301-415-1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin ADAMS Public Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at

301-415-4737, or by email to PDR.Resource@nrc.gov. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the "Availability of Documents" section.

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

FOR FURTHER INFORMATION CONTACT:

Daneira Meléndez-Colón, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone: 301-415-7295; email: Daneira.Melendez-Colon@nrc.gov.

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

I. 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./ web link/Federal Register citation
Louisiana Energy Services, LLC, also dba Urenco USA, exemption request, dated October 8, 2025.	ML25281A317.
Supplements to request for exemption, dated December 16, 2025, February 4, 2026, and April 22, 2026.	ML25350C350, ML26035A335, ML26114A114.
Certificate of Compliance No. 9362, Revision No. 5, dated June 11, 2024	ML24159A018 (Package).
NUREG-2216, "Standard Review Plan for Transportation Packages for Spent Fuel and Radioactive Material: Final Report," dated August 2020.	ML20234A651.
Dominion Energy Support for Urenco's Exemption Request for LEU+ UF ₆ Transportation in 30B Cylinders, dated October 21, 2025.	ML25295A488.
R. Hall, W. J. Marshall, and W. A. Wieselquist, "Assessment of Existing Transportation Packages for Use with HALEU," ORNL/TM-2020/1725, Oak Ridge National Laboratory, Oak Ridge, Tennessee, dated September 2020.	ML21055A030.
E. Saylor, A. Lang, W. J. Marshall, and R. Hall, "Analysis of the 30B UF ₆ Container for Use with Increased Enrichment," ORNL/TM-2021/2043, Oak Ridge National Laboratory, Oak Ridge, Tennessee, dated May 2021.	https://info.ornl.gov/sites/publications/Files/Pub158475.pdf .
Environmental Assessment and Finding of No Significant Impact LES, LLC, also dba UUSA, Exemption Request to 10 CFR 71.17.	91 FR 20180.
Revised Environmental Assessment and Finding of No Significant Impact LES, LLC, also dba UUSA, Exemption Request to 10 CFR 71.17.	91 FR 30733.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: June 2, 2026.

For the Nuclear Regulatory Commission.

Shana Helton,

Director, Division of Fuel Management, Office of Nuclear Material Safety, and Safeguards.

Attachment—Exemption

NUCLEAR REGULATORY COMMISSION

Docket No. 70-3103; Louisiana Energy Services, LLC dba Urenco USA; National Enrichment Facility

I. Background

Louisiana Energy Services, LLC doing business as (dba) Urenco USA (UUSA), is the holder of Special Nuclear Material (SNM) License 2010 (SNM-2010) for UUSA's gas centrifuge uranium enrichment facility, pursuant to title 10 of the *Code of Federal Regulations* part 70 (10 CFR part 70), "Domestic Licensing of Special Nuclear Material." The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC) now or hereafter in effect.

The nuclear industry is currently pursuing fuels with slightly increased enrichments for reactors to support industry initiatives, such as Accident Tolerant Fuel and Extended Fuel

Cycle fuel. Urenco USA and other nuclear facilities are pursuing advancements in fuel and enrichment in concert with reactor designs that utilize high-assay low-enriched uranium (HALEU) (*i.e.*, greater than 5 weight [wt.] percent uranium-235 [U-235] and less than 20 wt. percent U-235) fuel to support these initiatives.

On November 30, 2023 (Agencywide Documents Access and Management System [ADAMS] Accession No. ML23334A122), UUSA requested the NRC approval of a license amendment request (LAR) to increase the enrichment limit in SNM license SNM-2010, License Condition 6B, from 5.5 wt. percent U-235 to less than 10.0 wt. percent U-235. On December 11, 2024 (ADAMS Accession No. ML24318C241), the NRC staff approved the LAR to increase the enrichment limit in materials license SNM-2010 from 5.5 wt. percent U-235 to less than 10.0 wt. percent U-235.

While UUSA Material License SNM-2010 allows for enrichment up to less than 10 wt. percent U-235, the material must still be packaged for transport to the fuel fabricators and reactor operators. Currently, there is only one approved uranium hexafluoride (UF₆) transportation package for the transport of commercial quantities of HALEU fuel, which is Certificate of Compliance (CoC) No. 9388, the Orano NCS GmbH Model No. DN30-X. Under CoC No. 9388, the DN30-X

transportation package consists of the DN30 packaging and the 30B-X UF₆ cylinder. The "X" in DN30-X and 30B-X is either replaced by "10" or by "20" to refer to a specific design for a maximum enrichment of 10 or 20 percent by weight U-235, respectively.

While UUSA, through the Urenco Group, has actively supported prototype testing and placed an order for procuring an initial batch of 30B-10 cylinders, they are not yet ready for use. Manufacturing, incorporation of the new design into ANSI (American National Standards Institute) N14.1, and facility implementation is still required before the 30B-10 cylinders, which are approved for HALEU fuel, will be available. Because UUSA has current contracts for the higher-enriched UF₆ and CoC No. 9388 will not be ready for use to meet the current need, UUSA requested an exemption to allow shipment of the higher enriched UF₆ under the existing CoC No. 9362 (*i.e.*, Model No. DN30), Revision No. 5, which limits contents to UF₆ enriched to no more than 5 wt. percent U-235.

In support of their exemption request, UUSA submitted for approval proposed revisions to the UUSA 10 CFR part 71 Subpart H, "Quality Assurance Program for Packaging and Transportation of Radioactive Materials" (ADAMS Accession No. ML25280A232). The NRC approved the revision to the Quality Assurance Program on

January 29, 2026 (ADAMS Accession No. ML26022A108).

II. Request/Action

By letter dated October 8, 2025 (ADAMS Accession No. ML25281A317), as supplemented on December 16, 2025 (ADAMS Accession No. ML25350C350), February 4, 2026 (ADAMS Accession No. ML26035A335), and April 22, 2026 (ADAMS Accession No. ML26114A114), UUSA requested an exemption, pursuant to section 71.12 of 10 CFR, from the conditions and requirements that currently limit the use of CoC No. 9362 transportation packages for domestic transportation of up to 5 wt. percent U-235. Specifically, UUSA requested an exemption from paragraphs 71.17(c)(2) and 71.17(c)(3) that require UUSA to comply with the terms and conditions of CoC No. 9362, Revision No. 5, and submit information in writing before the first use of the package under the exemption.

The exemption would allow UUSA to use CoC No. 9362 for domestic transport of approximately 40 to 50 30B cylinders of UF₆ enriched to greater than 5, but less than 10 wt. percent U-235 in calendar years 2026 through 2027 to a single customer. UUSA is currently a registered user of the DN30 transportation package (*i.e.*, CoC No. 9362). No physical or design changes to CoC No. 9362 are proposed in this exemption.

The CoC is the NRC approved design for each transportation package system. The proposed action would exempt the applicant from the requirements of 10 CFR 71.17(c)(2) and 71.17(c)(3) only as these requirements pertain to the enrichment level of the UF₆ authorized in the 30B cylinder within the DN30 transportation package, and the requirement to submit information before first use of the package under the exemption. The exemption would allow UUSA to transport UF₆ enrichments of greater than 5 wt. percent U-235 but less than 10 wt. percent U-235, despite conditions in CoC No. 9362, Revision No. 5, including conditions 4 and 5(b), which would limit UF₆ enrichments to no more than 5 wt. percent U-235. This exemption is limited to the use of the 30B cylinder within the DN30 transportation package only (Coc No. 9362) for domestic UF₆ delivery and specific near-term planned transportation of approximately 40 to 50 cylinders in calendar years 2026–2027 to a single customer.

This safety evaluation and exemption analysis documents the NRC staff's review and evaluation of the exemption request. The staff's evaluation is based on a review of the application and whether it meets the applicable requirements in 10 CFR part 71, "Packaging and Transportation of Radioactive Material." The staff's evaluation focused only on information already publicly available and UUSA proprietary calculations and analyses submitted with the application, as supplemented. The staff reviewed the exemption request using the guidance in NUREG-2216, "Standard Review Plan for Transportation Packages for Spent Fuel and Radioactive Material: Final Report" (ADAMS Accession No. ML20234A651).

III. Safety Evaluation and Exemption Analysis

Pursuant to 10 CFR 71.12, "Specific exemptions," the Commission may, upon application by any interested person or upon its own initiative, grant any exemption from the requirements of the regulations of 10 CFR part 71 as it determines is authorized by law and will not endanger life or property nor the common defense and security.

A. The Exemption Is Authorized by Law

Section 71.12 of 10 CFR allows the NRC to grant exemptions from the requirements of 10 CFR part 71. Issuance of this exemption is consistent with the Atomic Energy Act of 1954, as amended, and is not otherwise inconsistent with NRC's regulations or other applicable laws. Therefore, the NRC concludes that there is no statutory prohibition on the issuance of the requested exemption, and the NRC is authorized to grant the exemption by law.

B. The Exemption Will Not Endanger Life or Property

UUSA seeks an exemption that would allow them to transport UF₆ enrichments of greater than 5 wt. percent U-235 but less than 10 wt. percent U-235, using CoC No. 9362, despite terms and conditions in CoC No. 9362, Revision No. 5, that would limit UF₆ enrichments to no more than 5 wt. percent U-235. Specifically, Condition 5(b) limits contents of the package to UF₆ with "a U-235 mass percentage not to exceed 5 weight percent." Additionally, Condition 4 of the CoC notes that the conditions in the CoC are in addition to the requirements of Part 71. Part 71 includes general requirements for fissile material packages including 71.55(b)(2) and 71.55(e)(2), which require packages to remain subcritical when moderated by water; and 71.55(g)(4), which exempts UF₆ packages containing less than 5 wt. percent U-235 from the requirement to consider water in-leakage in 10 CFR 71.55(b)(2). UUSA also seeks an exemption from the requirement to submit information on first use of the package under this exemption as no physical changes are being made to the package and the package has been in use already for shipments of up to 5 wt. percent U-235.

As explained in the application, while the areas of safety reviews for CoC No. 9362, and specifically, utilization of the 30B cylinder within the DN30 transportation package, originally included structural analysis, thermal analysis, and containment design, those areas are not impacted by the change in enrichment levels. According to UUSA, the only areas impacted by the change from 5 wt. percent U-235 to less than 10 wt. percent U-235 are the areas of external dose rate analysis (*i.e.*, shielding analysis) and criticality safety analysis. The staff agrees with this assessment because there are no physical or design changes to the package, and because the maximum quantity of material per 30B cylinder is within the contents allowed per CoC No. 9362, Revision No. 5, and ANSI N14.1 for the 30B cylinder. Therefore, the staff's evaluation focused on impacts of the exemption request in the areas of criticality safety and external radiation dose rate.

In support of this exemption request, UUSA asserts that issuance of the exemption would not endanger life or property because UUSA has determined, based on criticality and external dose rate analyses (*i.e.*, shielding analysis), that CoC No. 9362, and specifically, the 30B cylinders in the DN30 transportation package, with contents greater than 5 wt. percent U-235 but less than 10 wt. percent U-235, continue to meet the 10 CFR part 71 requirements. Additionally, UUSA is only seeking the exemption to apply for the domestic transport of approximately 40 to 50 30B cylinders of UF₆ enriched to greater than 5, but less than 10 wt. percent U-235 in calendar years 2026 through 2027 to a single customer. UUSA's application indicates that, under the exemption, the UF₆ mass per 30B cylinder would be limited to 2,277 kg UF₆; the CSI for shipment under this exemption would be 16.6.

Shielding Evaluation (*i.e.*, External Dose Rate Evaluation)

The staff reviewed the shielding (*i.e.*, external dose rate) evaluation submitted by UUSA in support of its request for the exemption. The applicant seeks authorization to use CoC No. 9362, and specifically, to use the 30B cylinder within the certified DN30 transportation package for domestic transport of UF₆ enriched to greater than 5 but less than 10 wt. percent U-235. Currently, the terms and conditions of CoC No. 9362, Revision No. 5, limit the contents of the transportation package to UF₆ enriched to no more than 5 wt. percent U-235.

To support the request, the applicant performed a conservative external dose analysis assuming an enrichment of higher than 10 wt. percent U-235. This is considered conservative because the exemption request is limited to UF₆ enriched up to 10 wt. percent U-235. The staff's review evaluated whether the package meets the acceptance criteria outlined in section 5 (Shielding Evaluation) of NUREG-2216, "Standard Review Plan for Transportation Packages for Spent Fuel and Radioactive Material: Final Report."

Relying on the existing CoC No. 9362 package design, the applicant performed the external dose rate evaluation using MCNP6, a general-purpose, three-dimensional, continuous-energy Monte Carlo N-Particle code verified for radiation transport applications. The calculations employed the F5 point detector tally for dose rate estimation, and fluxes calculated by MCNP6 were converted to dose rates using the American National Standards Institute (ANSI)/American Nuclear Society (ANS) 6.1.1, "Neutron and Gamma-Ray Flux-to-Dose-Rate Factors," 1977. The staff found the use of the F5 tally acceptable because it calculates fluence (or flux) at a specific point in space using a next-event estimator, which determines the contribution to the tally from each interaction point based on the particle's weight rather than averaging over a volume.

The applicant calculated neutron and gamma source terms using 2,277 kilograms (kg) of UF₆, representing the maximum fill limit for a 30B cylinder per ANSI N14.1–2019, "For Nuclear Materials—Uranium Hexafluoride—Packagings For Transport," and included 11.3 kg of heel material for

photon contribution only, which is the maximum allowable heel amount per ANSI N14.1–2019. Source term calculations were performed using the SCALE/ORIGEN–S code for uranium enriched to higher than 10 wt. percent U–235. The 30B cylinder configuration was modeled in accordance with ANSI N14.1 specifications. The staff reviewed multiple sets of calculations for both filled and heeled 30B cylinders under normal conditions of transport (NCT) and hypothetical accident conditions (HAC).

For NCT, the applicant modeled the radiation source using a conservative modeling approach. Photon and neutron dose rates were calculated at the package surface and at a distance of 1 meter (m) from the package, assuming a fully filled 30B cylinder containing 2,277 kg of UF₆ enriched to higher than 10 wt. percent U–235. For HAC calculations, the applicant did not credit the shielding provided by the 30B cylinder or the overpack materials. Instead, the source was modeled as unshielded UF₆ in a conservative arrangement.

The applicant calculated maximum external radiation levels under routine transport conditions, as presented in table 10 of the shielding evaluation in the application. Dose rates were evaluated at the package surface and at a distance of 1 m for UF₆ enriched to higher than 10 wt. percent U–235, to present a conservative calculation as the exemption request is limited to UF₆ enriched up to 10 wt. percent U–235. Even when calculated using a UF₆ enriched to higher than 10 wt. percent U–235, all calculated dose rates comply with the limits specified in 10 CFR 71.47. Specifically, calculations concluded that the maximum dose rate at the package surface was less than 15 millirem per hour (mrem/hr), which is below the regulatory limit of 200 mrem/hr, and the maximum dose rate at 1 m was less than 8 mrem/hr, which is below the regulatory limit of 10 mrem/hr.

Based on its review, the staff has determined that the shielding evaluation is acceptable and demonstrates that the exemption does not result in external radiation levels that exceed regulatory limits under normal or hypothetical accident conditions. The applicant's evaluation, and the staff's review were based on information already publicly available on the existing CoC No. 9362, Revision No. 5, which includes the DN30 transportation package design and the existing 30B cylinder. As a result of this fact, a condition has been added to the exemption requiring that there be no physical or design modifications made to the package. The staff concludes that the exemption, with the addition of a condition ensuring no physical or design changes are made to the package, demonstrates compliance with the applicable regulatory requirements in 10 CFR part 71.

Criticality Evaluation

The staff reviewed the applicant's criticality analysis for the DN30 transportation package (*i.e.*, CoC No. 9362) containing ANSI N14.1 certified UF₆ cylinders (*i.e.*, 30B cylinders) with UF₆ enriched up to 10 wt. percent U–235 provided in UUSA calculation CALC–S–00166, “Criticality Safety Calculation in

Support of 30B Cylinder Domestic Transportation Exemption Request.” The applicant evaluated single packages and package arrays under NCT and HAC, consistent with the transportation criticality safety requirements of 10 CFR 71.55 and 10 CFR 71.59.

For the single package analyses under 10 CFR 71.55, the applicant considered a conservative representation of a 30B cylinder, containing UF₆ enriched to 10 wt. percent U–235, under NCT and HAC. The applicant incorporated a similar approach used by Oak Ridge National Laboratory (ORNL) to model the 30B cylinder in ORNL/TM–2020/1725, “Assessment of Existing Transportation Packages for Use with HALEU,” and ORNL/TM–2021/2043, “Analysis of the 30B UF₆ Container for Use with Increased Enrichment.”

For the package array analysis under NCT (10 CFR 71.59), the applicant considered varying arrays of multiple packages, using the most reactive configuration of the package from the single package analysis. The applicant evaluated varying low water densities in between packages, consistent with rain or snow. Additionally, the applicant evaluated the presence of a maximum credible amount of hydrogenated uranium residues (HUR).

For the package array analysis under HAC (10 CFR 71.59), the applicant considered varying arrays of multiple damaged packages, using the most reactive configuration of the package from the single package analysis. The applicant conservatively assumed that the DN30 transportation package overpack is not present after accident conditions. The applicant evaluated varying water density between packages to determine the most reactive interstitial moderator density and assumed full water reflection of the array. The applicant also evaluated the presence of a credible amount of HUR.

For all criticality calculations, the applicant modeled the package using the MCNP6 Monte Carlo N-Particle transport code, with the continuous-energy ENDF/B–VII nuclear data library. The MCNP6 code with ENDF/B–VII nuclear data is a standard in the nuclear industry for performing Monte Carlo criticality safety and radiation shielding calculations.

Section 6.0 of CALC–S–00166 shows results of the applicant's criticality calculations for single packages and arrays of packages under NCT and HAC. The results demonstrate that neutron multiplication (*i.e.*, k_{eff}) values are maintained below the applicant's calculated upper subcritical limit (USL) for the single package under NCT and HAC and arrays of packages under NCT, when limited to the maximum certified capacity of the 30B cylinder of 2,277 kg and a maximum uranium enrichment of 10 wt. percent U–235. For arrays of packages under HAC, the applicant's results demonstrate that the maximum system k_{eff} remains below the USL, as shown in table 8 of CALC–S–00166. NRC staff, with support from contractors at Oak Ridge National Laboratory, performed confirmatory analyses based on the applicant's calculation, and on the analyses previously performed by ORNL in ORNL/TM–2020/1725 and ORNL/TM–2021/2043.

These confirmatory analyses indicate a criticality safety index (CSI) of 16.6, calculated in accordance with the requirements of 10 CFR 71.59 for package arrays.

The applicant benchmarked the MCNP6 code with the continuous-energy ENDF/B–VII nuclear data library for their analysis in UUSA report NCS–REP–002–06, “Urenco USA (UUSA) MCNP6 Validation.” Although this validation report is for benchmarking of fuel facility analyses, the applicant applied the USL determined in this report with an additional administrative margin to UF₆ cylinders in transport. The transportation scenarios evaluated by the applicant are within the area of applicability of the benchmarking analysis, in terms of enrichment and hydrogen-to-uranium ratio. The USL cited in NCS–REP–002–06 was based on the smallest k_{eff} value of the evaluated critical experiments, consistent with the recommendations for non-normal benchmarking k_{eff} values in NUREG/CR–6698, “Guide for Validation of Nuclear Criticality Safety Calculational Methodology.” Oak Ridge National Laboratory performed confirmatory sensitivity/uncertainty analyses of the applicant's selected critical benchmark experiments using the TSUNAMI/IP sequence of the SCALE computer code system. This analysis demonstrated that: (1) none of the selected critical benchmark experiments had similarity coefficients (c_k) greater than 0.8; and (2) the estimated nuclear data induced uncertainty, was greater than 1 percent (%) in k_{eff} . For staff confirmatory analyses, the staff increased this uncertainty to 2%, to determine a new USL.

The staff evaluated the applicant's calculated k_{eff} values by comparison to similar analyses conducted by ORNL in ORNL/TM–2021/2043. In this report, ORNL evaluated single 30B cylinders and arrays of cylinders containing UF₆ with uranium enrichments up to 20 wt. percent, with internal and external moderation conditions like those considered by the applicant. Oak Ridge National Laboratory's analyses resulted in higher k_{eff} values than those determined by the applicant for similar systems, and maximum k_{eff} values higher than the revised USL cited above. However, subsequent confirmatory analyses by ORNL and NRC staff for HAC arrays smaller than evaluated by the applicant, considering actual UF₆ fill mass in the cylinder and actual expected UF₆ density, demonstrated that the HAC array resulted in k_{eff} values below the revised USL.

The staff reviewed the applicant's exemption request, including criticality analyses of the DN30 transportation package containing ANSI N14.1—certified 30B cylinders with UF₆ enrichments up to 10 wt. percent U–235. The staff's review was based on information already publicly available on the existing CoC No. 9362, Revision No. 5, which includes the DN30 transportation package design and the existing 30B cylinder. The staff confirmed that the applicant's analysis, supplemented by additional ORNL and staff analyses, demonstrates that single DN30 transportation packages and arrays of packages containing 30B cylinders with UF₆ enrichments up to 10 wt. percent U–235 will

be adequately subcritical. This determination is based, in part, on the applicant's analysis and the conservatism present in ORNL and staff confirmatory analyses, and the limited duration and number of shipments for this exemption. Because the staff's determination is based, in part, on these limitations, they are imposed as conditions of the staff's approval of this exemption. Additionally, the staff agrees that the calculated CSI of 16.6, based on the applicant's NCT and HAC package array analysis supplemented by ORNL and staff analyses, is acceptable, and is therefore also included as a condition to this exemption. With the analysis provided, and the conditions as noted, the staff finds the application provides reasonable assurance that the package, with the requested contents, will meet the criticality safety requirements of 10 CFR part 71.

Information Submission on First Use

Urenco USA also requested an exemption from 10 CFR 71.13(c), which requires the submission of information upon first use of a transportation package. Because there are no physical or design changes to CoC No. 9362 as part of this exemption request, and because UUSA has already submitted the information necessary as part of the first use of CoC No. 9362, the staff approves of the applicant's request to be relieved from this requirement.

Conclusion

The staff reviewed UUSA's exemption request and concludes that, with the conditions provided in the application, and imposed as conditions of approval of this exemption, the use of CoC No. 9362, Revision No. 5, with UF₆ contents greater than 5 wt. percent U-235 but less than 10 wt. percent U-235 will not affect the ability of the transportation package to meet the criticality or shielding safety requirements of 10 CFR part 71. The staff's evaluation focused only on information already publicly available on the existing CoC No. 9362, Revision No. 5. Based on these evaluations, the staff has concluded that granting this exemption will be consistent with the requirements of 10 CFR part 71 and will not endanger life or property.

C. The Exemption Will Not Endanger the Common Defense and Security

In addition, UUSA asserts that issuance of the exemption would not endanger the common defense and security because the authorized limit for the 30B cylinder within the DN30 transportation package proposed by the exemption request would be less than 10 wt. percent U-235 enrichment. At a maximum authorized enrichment of less than 10 wt. percent U-235 enrichment, the low enriched uranium remains classified as Category III, the lowest risk category with the lowest security provisions. Therefore, according to UUSA, because of the low risk of theft or unauthorized diversion of the low enriched uranium, the contents of the package as approved under this exemption would not present a challenge to the common defense and security.

The staff reviewed UUSA's exemption request and determined that issuance of the exemption authorizing use of CoC No. 9362

for transport of UF₆ enriched to less than 10 wt. percent U-235, does not impact the current classification of the material for security requirement purposes. The contents of the package under the exemption will be less than 10 wt. percent U-235, and thus, will be subject to, and continue to, meet the same security requirements currently in place. The NRC staff has determined that application of these requirements will provide adequate protection and is not inimical to the common defense and security. Therefore, the NRC staff finds that the proposed exemption does not endanger the common defense and security, as required by 10 CFR 71.12.

IV. Environmental Consideration

The NRC staff also considered in the review of this exemption request whether there would be any significant environmental impacts associated with the exemption. For this proposed action, the NRC staff prepared an environmental assessment pursuant to 10 CFR 51.30. The environmental assessment concluded that the proposed action would not significantly impact the quality of the human environment.

Accordingly, the NRC determined that a finding of no significant impact is appropriate, and an environmental impact statement is not warranted. The environmental assessment and finding of no significant impact was published on April 15, 2026 (91 FR 20180). A revised environmental assessment and finding of no significant impact was published on May 26, 2026 (91 FR 30733), to account for a change in the exemption that did not result in changes to the potential environmental impacts.

V. Conditions

The following conditions apply to the exemption request:

1. No physical or design changes to the DN30 transportation package (CoC No. 9362, Revision No. 5) are authorized by this exemption.
2. The exemption is limited to the domestic transport of approximately 40 to 50 30B cylinders of UF₆ enriched to greater than 5, but less than 10 wt. percent U-235 in calendar years 2026 through 2027 to a single customer.
3. The UF₆ mass limit per 30B cylinder is limited to 2,277 kg UF₆.
4. The CSI for shipment under this exemption is 16.6.

VI. Conclusion

Based on the foregoing considerations, the NRC staff has determined that, pursuant to 10 CFR 71.12, the exemption is authorized by law and will not endanger life or property or the common defense and security. Therefore, the NRC grants the applicant an exemption from the requirements of 10 CFR 71.17(c)(2) and 71.17(c)(3), which will allow for the use of CoC No. 9362 for limited domestic shipments of UF₆ enriched to greater than 5 wt. percent U-235 but less than 10 wt. percent U-235, in the 30B cylinder within the DN30 transportation package, despite not being in compliance with certain terms and conditions in CoC No. 9362, Revision No. 5; and will relieve the applicant from

submitting information on first use of the package.

No physical or design changes to the DN30 transportation package (*i.e.*, CoC No. 9362) are authorized by this exemption. This exemption is limited to the transport of UF₆ enriched to greater than 5, but less than 10 wt. percent U-235, in 30B cylinders within the DN30 transportation package (CoC No. 9362) only for domestic delivery of UF₆ and specific near-term planned transportation of approximately 40 to 50 cylinders in calendar years 2026–2027 to a single customer. Also, the UF₆ mass limit per 30B cylinder is limited to 2,277 kg UF₆. The CSI for shipment under this exemption is 16.6.

Based on the statements contained in the application, and the conditions listed above, the staff concludes that the changes indicated do not affect the ability of the package to meet the requirements of 10 CFR part 71.

This exemption is effective upon issuance.

Dated: May 29, 2026

For the Nuclear Regulatory Commission.

/RA/

Shana Helton,

*Director, Division of Fuel Management,
Office of Nuclear Material Safety, and
Safeguards.*

[FR Doc. 2026–11192 Filed 6–3–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2025–0677]

Regulatory Guide: Acceptability of ASME OM–2 Code, Component Testing Requirements at Nuclear Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final guide; issuance and post-promulgation comment period.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Regulatory Guide (RG) 1.220, Revision 0, “Acceptability of ASME OM–2 Code, Component Testing Requirements at Nuclear Facilities.” This new RG endorses, with a regulatory position, the American Society of Mechanical Engineers (ASME) Operation and Maintenance OM–2 Code, *Component Testing Requirements at Nuclear Facilities*, 2024 Edition, and describes an approach that is acceptable to the NRC staff for the development and implementation of an Inservice Testing (IST) Program for all types of nuclear facilities. This RG is effective on the date of **Federal Register** Notice publication, with a 30-day post-promulgation comment period.

DATES: RG 1.220, Revision 0, takes effect on June 4, 2026. Post-promulgation comments must be received by July 6, 2026. Comments received after this date

will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: You may submit comments on RG 1.220, Revision 0, 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–2025–0677. 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: Thomas Scarbrough, Office of Nuclear Reactor Regulation, telephone: 301–415–2794; email: Thomas.Scarbrough@nrc.gov and Amir Mobasheran, Office of Nuclear Regulatory Research, telephone: 301–415–8112; email: Amir.Mobasheran@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2025–0677 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC–2025–0677.

- **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.

RG 1.220, Revision 0, “Acceptability of ASME OM–2 Code, Component Testing Requirements at Nuclear Facilities,” is available in ADAMS under Accession No. ML25329A088. The regulatory analysis for the RG can be found in ADAMS under Accession No. ML25329A089. Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

- **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–2025–0677 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

The NRC is issuing, with a post-promulgation comment period, a RG in the NRC’s “Regulatory Guide” series. This series was developed to describe methods that are acceptable to the NRC staff for implementing specific parts of

the NRC’s regulations, to explain techniques that the staff uses in evaluating specific issues or postulated events, and to describe information that the staff needs in its review of applications for permits and licenses.

The NRC staff is issuing Revision 0 of RG 1.220 to provide applicants and licensees of all types of nuclear facilities with an acceptable method for developing and implementing an IST program that would demonstrate compliance with NRC regulations for submission of an operating license or a combined operating license under part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), “Domestic Licensing of Production and Utilization Facilities” or 10 CFR 52 “Licenses, Certification, and Approvals for Nuclear Power Plants,” respectfully. This RG endorses, with a regulatory position, the ASME Operation and Maintenance OM–2 Code for use by applicants of all types of nuclear facilities that may have different types of reactor and component designs.

The staff is also issuing a final regulatory analysis with a post-promulgation comment period (ADAMS Accession No. ML25329A089). The staff developed a regulatory analysis to assess the value of issuing an RG as well as an alternative course of action.

III. Post-Promulgation Comment Procedure

The NRC considers this action to be non-controversial, and is issuing this guidance document as a direct final RG with a 30-day post-promulgation comment period. This RG is effective on June 4, 2026. However, if the NRC receives comments that causes the NRC to make a change to this direct final RG by July 6, 2026, then the NRC will publish a **Federal Register** Notice that withdraws the guidance document and will address the comments received in a subsequent final RG or as otherwise appropriate.

IV. Congressional Review Act

This RG is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

V. Backfitting, Forward Fitting, and Issue Finality

Issuance of RG 1.220 does not constitute backfitting as defined in 10 CFR 50.109, “Backfitting,” and as described in NRC Management Directive (MD) 8.4, “Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests”; constitute

forward fitting as that term is defined and described in MD 8.4; or affect the issue finality of any approval issued under 10 CFR part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants." As explained in Revision 0 of RG 1.220, applicants and licensees generally are not required to comply with the positions in the RG.

VI. Submitting Suggestions for Improvement of Regulatory Guides

A member of the public may, at any time, submit suggestions to the NRC for improvement of existing RGs or for the development of new RGs. Suggestions can be submitted on the NRC's public website at <https://www.nrc.gov/reading-rm/doc-collections/reg-guides/contactus.html>. Suggestions will be considered in future updates and enhancements to the "Regulatory Guide" series.

VII. Executive Order (E.O.) 12866

The Office of Information and Regulatory Affairs determined that this RG is not a significant regulatory action under E.O. 12866.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: June 2, 2026.

For the Nuclear Regulatory Commission.

James Steckel,

Acting Chief, Regulatory Guide and Programs Management Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2026-11191 Filed 6-3-26; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-528, STN 50-529, STN-530, and 72-44; NRC-2026-2575]

Arizona Public Service Company; Palo Verde Nuclear Generating Station, Units 1, 2, and 3; Consideration of Approval of Transfer of Licenses

AGENCY: Nuclear Regulatory Commission.

ACTION: Application for indirect transfer of licenses; opportunity to comment, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC, the Commission) received and is considering approval of an application filed by Arizona Public Service Company (APS), on behalf of Public Service Company of New Mexico (PNM), Troy ParentCo LLC (Troy ParentCo), and their corporate affiliates (together, Applicants), on April 24, 2026. The application seeks NRC approval of the indirect transfer of PNM's co-ownership of the Renewed

Facility Operating License Nos. NPF-41, NPF-51, and NPF-74 for the Palo Verde Nuclear Generating Station (Palo Verde), Units 1, 2, and 3, respectively, as well as the associated general license for the Palo Verde Independent Spent Fuel Storage Installation (ISFSI) (together, the facility). The transfer is being requested so that PNM can complete a transaction pursuant to an Agreement and Plan of Merger, dated May 18, 2025, between Troy ParentCo, Troy Merger Sub Inc., and TXNM Energy, Inc. ("TXNM") (the "Merger Agreement").

DATES: Submit comments July 6, 2026.

A request for a hearing or petition for leave to intervene must be filed by June 24, 2026.

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-2026-2575. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301-415-1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Email comments to:* Hearing.Docket@nrc.gov. If you do not receive an automatic email reply confirming receipt, then contact us at 301-415-1677.

- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. eastern time (ET) Federal workdays; telephone: 301-415-1677.

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: Jason Drake, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-8378; email: Jason.Drake@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2026-2575 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-2026-2575.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin ADAMS Public Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. The license transfer application is available in ADAMS under Accession No. ML26114A391.

- *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. 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-2026-1618 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. Introduction

The NRC is considering the issuance of an order under section 50.80 of title 10 of the *Code of Federal Regulations* (10 CFR) approving the indirect transfer of control of PNM's co-owned interests in the licenses for Palo Verde, Units 1, 2, and 3 and the associated general license for the Palo Verde ISFSI. The indirect transfer of control is being requested to support the completion of a transaction pursuant to an Agreement and Plan of Merger dated May 18, 2025. Under the Merger Agreement, Troy Merger Sub Inc. will merge into TXNM, with TXNM surviving the merger as a direct, wholly owned subsidiary of Troy ParentCo. PNM, as a wholly owned subsidiary of TXNM would become an indirect wholly owned subsidiary of Troy ParentCo and an indirect wholly controlled subsidiary of Blackstone. Arizona Public Service Company holds both operating and possession rights in the facility and operates the facility; the proposed transfer implicates only an indirect upstream change in control over PNM's possession-only rights in the facility and does not involve or implicate any change in PNM's rights and obligations or any other co-owners' rights and obligations.

No physical changes or operational changes to the facility were proposed in the license transfer application.

The NRC's regulations at 10 CFR 50.80 state that no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. The Commission will approve an application for the indirect transfer of control of a license if the Commission determines that the proposed transfer will not affect the qualifications of the licensee to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission.

III. Opportunity To Comment

Within 30 days from the date of publication of this notice, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted as described in the **ADDRESSES** section of this document.

IV. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 20 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested persons should consult 10 CFR 2.309. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

Petitions must be filed no later than 20 days from the date of publication of this notice in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

A State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h) no later than 20 days from the date of publication of this notice. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof, may participate as a non-party under 10 CFR 2.315(c).

For information about filing a petition and about participation by a person not a party under 10 CFR 2.315, see ADAMS Accession No. ML20340A053 (<https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML20340A053>) and the NRC's public website (<https://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing.html#participate>).

V. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative

filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the "Guidance for Electronic Submissions to the NRC" (ADAMS Accession No. ML13031A056), and on the NRC's public website (<https://www.nrc.gov/site-help/e-submittals.html>).

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at Hearing.Docket@nrc.gov, or by telephone at 301-415-1677, to: (1) request a digital identification (ID) certificate which allows the participant (or their counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or their counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website (<https://www.nrc.gov/site-help/e-submittals/getting-started.html>). After a digital ID certificate is obtained and a docket is created, the participant must submit adjudicatory documents in the Portable Document Format. Guidance on submissions is available on the NRC's public website (<https://www.nrc.gov/site-help/electronic-sub-ref-mat.html>). A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed in order to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public website (<https://www.nrc.gov/site-help/e-submittals.html>), by email to MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)–(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available on the NRC's public website (<https://adams.nrc.gov/ehd>), unless otherwise excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click "cancel" when the link requests certificates and you will be automatically directed to the NRC's electronic hearing docket where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a

hearing will be published in the **Federal Register** and served on the parties to the hearing.

For further details with respect to this application, see the application dated April 24, 2026 (ADAMS Accession No. ML26114A391).

Authority: 42 U.S.C. 2011 *et seq.*

Dated: June 1, 2026.

For the Nuclear Regulatory Commission.

Jason Drake,

*Project Manager, Plant Licensing Branch IV,
Division of Operating Reactor Licensing,
Office of Nuclear Reactor Regulation.*

[FR Doc. 2026–11137 Filed 6–3–26; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0466]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Rule 103

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("SEC" or "Commission") is submitting to the Office of Management and Budget ("OMB") this request for extension of the proposed collection of information provided for in Rule 103 of Regulation M (17 CFR 242.103), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 103 permits passive market-making in Nasdaq securities during a distribution. A distribution participant that seeks use of this exception would be required to disclose to third parties its intention to engage in passive market making.

There are approximately 249 respondents per year that require an aggregate total of approximately 249 hours to comply with this rule. Each respondent makes an estimated 1 annual response. Each response takes approximately 1 hour to complete. Thus, the total hour burden per year is approximately 249 hours (249 secondary offerings of Nasdaq securities eligible for passive market making × 1 hour per offering). The total estimated aggregate internal cost of compliance for the respondents is approximately \$40,836 per year, resulting in an estimated aggregate internal cost of compliance per response of

approximately \$164 (*i.e.*, \$40,836/249 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202603-3235-017 or email comment to MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov within 30 days of the day after publication of this notice, by July 6, 2026.

Dated: June 2, 2026.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026–11207 Filed 6–3–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105596; File No. 4–631]

Joint Industry Plan; Notice of Filing of the Twenty-Seventh Amendment to the National Market System Plan To Address Extraordinary Market Volatility To Establish Temporary Price Band Protections in Overnight Trading

June 1, 2026.

I. Introduction

On May 27, 2026, Nasdaq, Inc., on behalf of Nasdaq Texas LLC ("NDTX"), Nasdaq PHLX LLC ("PHLX"), and The Nasdaq Stock Market LLC ("Nasdaq"), and the following parties to the Plan to Address Extraordinary Market Volatility ("Plan") Pursuant to Rule 608 of Regulation NMS under the Securities Exchange Act of 1934 ("Act" or "Exchange Act")¹: 24X National

¹ See Securities Exchange Act Release No. 67091, 77 FR 33498 (June 6, 2012); Securities Exchange Act Release No. 68953 (February 20, 2013), 78 FR 13113 (Feb. 26, 2013); Securities Exchange Act Release No. 69287 (April 3, 2013), 78 FR 21483 (Apr. 10, 2013); Securities Exchange Act Release No. 70273 (August 27, 2013), 78 FR 54321 (September 3, 2013); Securities Exchange Act Release No. 70530 (September 26, 2013), 78 FR 60937 (October 2, 2013); Securities Exchange Act Release No. 71247 (January 7, 2014), 79 FR 2204 (January 13, 2014); Securities Exchange Act Release No. 71851 (April 3, 2014), 79 FR 19687 (April 9, 2014); Securities Exchange Act Release No. 74323 (February 19, 2015), 80 FR 10169 (February 25, 2015); Securities Exchange Act Release No. 76244 (October 22, 2015), 80 FR 66099 (October 28, 2015); Securities Exchange Act Release No. 77679 (April 21, 2016), 81 FR 24908 (April 27, 2016); Securities Exchange Act Release No. 78703 (August 26, 2016), 81 FR 60397 (September 1, 2016); Securities Exchange Act Release No. 79845 (January 19, 2017), 82 FR 8551 (January 26, 2017); Securities Exchange Act Release No. 80455 (April 13, 2017), 82 FR 18519 (April 19, 2017); Securities Exchange Act Release No. 80549

Exchange LLC, Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors Exchange LLC, Long-Term Stock Exchange, Inc., MEMX LLC, MIA X PEARL, LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Texas, Inc., and NYSE National, Inc., (collectively with NDTX, PHLX, and Nasdaq, “Participants”), filed with the Securities and Exchange Commission (“Commission”) pursuant to Section 11A(a)(3) of the Exchange Act² and Rule 608 thereunder,³ a proposal to amend the Plan (“Twenty-Seventh Amendment”).⁴ The proposal reflects changes unanimously approved by the Participants. The Twenty-Seventh Amendment proposes to amend the Plan to establish temporary price band protections to overnight trading (“Overnight Protections”) in anticipation of overnight trading by certain national securities exchanges. The Commission is publishing this notice to solicit comments from interested persons on the Twenty-Seventh Amendment.⁵

II. Description of the Plan

Set forth in this Section II is the statement of the purpose and summary of the Twenty-Seventh Amendment, along with the information required by Rule 608(a)(4) and (5) under the Exchange Act,⁶ prepared and submitted by the Participants to the Commission.⁷

(April 28, 2017), 82 FR 20928 (May 4, 2017); Securities Exchange Act Release No. 81720 (September 26, 2017), 82 FR 45922 (October 2, 2017); Securities Exchange Act Release No. 82887 (March 15, 2018), 83 FR 12414 (March 21, 2018); Securities Exchange Act Release No. 83044 (April 12, 2018), 83 FR 17205 (April 18, 2018); Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019); Securities Exchange Act Release No. 88122 (February 5, 2020), 85 FR 7805 (February 11, 2020); Securities Exchange Act Release No. 88704 (April 21, 2020), 85 FR 23383 (April 27, 2020); Securities Exchange Act Release No. 89420 (July 29, 2020), 85 FR 46762 (August 3, 2020); Securities Exchange Act Release No. 90068 (October 1, 2020), 85 FR 63322 (October 7, 2020); Securities Exchange Act Release No. 101036 (September 16, 2024), 89 FR 77203 (September 20, 2024); Securities Exchange Act Release No. 103042 (May 14, 2025), 90 FR 21529 (May 20, 2025); Securities Exchange Act Release No. 103845 (September 3, 2025), 90 FR 43254 (September 8, 2025); Securities Exchange Act Release No. 105443 (May 12, 2026), 91 FR 27995 (May 15, 2026).

² 15 U.S.C 78k-1(a)(3).

³ 17 CFR 242.608.

⁴ See Letter from Andrew Oppenheimer, Head of U.S. Equities, Nasdaq, to Vanessa Countryman, Secretary, Commission, dated May 27, 2026 (“Transmittal Letter”).

⁵ 17 CFR 242.608.

⁶ See 17 CFR 242.608(a)(4) and (a)(5).

⁷ See Transmittal Letter, *supra* note 4.

A. Statement of Purpose and Summary of the Plan Amendment

The Participants filed the Plan with the Commission on April 5, 2011, to create a market-wide limit up-limit down mechanism intended to address extraordinary market volatility in NMS Stocks, as defined in Rule 600(b)(65) of Regulation NMS under the Exchange Act.⁸ The Plan sets forth procedures that provide for market-wide limit up-limit down requirements to prevent trades in individual NMS Stocks from occurring outside of the specified Price Bands.⁹ These limit up-limit down requirements are coupled with Trading Pauses, as defined in Section I(Y) of the Plan, to accommodate more fundamental price moves. In particular, the Participants adopted this Plan to address extraordinary volatility in the securities markets, *i.e.*, significant fluctuations in individual securities’ prices over a short period of time, such as those experienced during the “Flash Crash” on the afternoon of May 6, 2010.

As set forth in more detail in the Plan, all trading centers in NMS Stocks, including both those operated by Participants and those operated by members of Participants, are required to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the Limit Up-Limit Down requirements specified in the Plan. The Participants believe that the Limit Up-Limit Down mechanism specified in the Plan has reduced the negative impacts of sudden, unanticipated price movements in NMS Stocks (and erroneous trades in such stocks), thereby protecting investors and promoting a fair and orderly market.¹⁰

The Participants propose a cautious approach to extending protections to the unique conditions presented by overnight markets. The proposal is to be implemented in two phases. In the first phase, the Participants propose to apply protections based on those currently used by certain ATSS to constrain significant fluctuations in individual securities’ prices over a short period of

⁸ 17 CFR 242.600(b)(65).

⁹ Unless otherwise stated, capitalized terms are defined in the LULD Plan.

¹⁰ Data collected during the pilot period between the initial filing of the Plan and the approval of the Plan on a permanent basis by the Commission, and studies conducted by the Participants and the Commission’s Division of Economic and Risk Analysis demonstrated that the Plan has been beneficial to markets by serving to dampen price volatility, and the Commission approved the Plan on a permanent basis after finding that the LULD mechanism effectively addressed extraordinary market volatility. See Securities Exchange Act Release No. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018); Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019).

time. The Participants believe that these protections are narrowly tailored to current market conditions, and will promote market stability over an interim period.

During implementation of this first phase, Participants will gather and analyze information concerning overnight trading, and will use that information to develop recommendations for a final proposal to be implemented in the overnight session. The final proposal will be submitted to the Commission as a plan amendment that will remove the interim measures and replace them with revised overnight protections.

1. Authority To Amend Under Rule 608 of Regulation NMS

The Participants respectfully submit this amendment to the Plan pursuant to Rule 608 of Regulation NMS under the Exchange Act, which authorizes the Participants to act jointly in preparing, filing, and implementing national market system plans. Rule 608(a)(3) specifically provides that any two or more self-regulatory organizations, acting jointly, may file a national market system plan or any amendment thereto with the Commission. The Participants are self-regulatory organizations that are parties to the Plan and have the authority under Rule 608 to propose amendments to the Plan for Commission approval.

Section III(A) of the Plan provides that, except with respect to the addition of new Participants to the Plan, any proposed change in, addition to, or deletion from the Plan shall be effected by means of a written amendment to the Plan that: (1) sets forth the change, addition, or deletion; (2) is executed on behalf of each Participant; and (3) is approved by the SEC pursuant to Rule 608 of Regulation NMS under the Exchange Act, or otherwise becomes effective under Rule 608 of Regulation NMS under the Exchange Act.

Each of the Participants has approved this Twenty-Seventh Amendment in accordance with Section III(C) of the Plan. The Participants also received and incorporated feedback from the Plan Advisory Committee in preparing this proposal.

The Participants believe that this amendment is consistent with Section 11A of the Exchange Act and Rule 608 thereunder. Rule 608 provides that the Commission shall approve a proposed NMS plan, or proposed amendment thereto, if it finds that such plan or amendment is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act; and such

plan provides that all brokers and dealers may obtain access to transaction reports and quotations on terms that are not unreasonably discriminatory.¹¹ Section 11A of the Act establishes the Congressional finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure economically efficient execution of securities transactions, fair competition among brokers and dealers and exchange markets, and the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.¹² Consistent with these standards, the proposed amendment would enhance the stability and integrity of the national market system by implementing price band protections during overnight trading sessions, thereby reducing the risk of extraordinary volatility and erroneous trades during periods of reduced liquidity.

2. Summary of Proposed Amendment

The Participants propose to add a new Section VIII to the Plan, entitled "Overnight Protections," which establishes a framework for calculating and disseminating Overnight Price Bands for use during Overnight Protected Hours (defined as 9:00 p.m. Eastern Time on Sunday through Thursday to 4:00 a.m. Eastern Time on the next calendar day), and requires all trading centers that are operative during such hours to establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent trades outside of such Overnight Price Bands. In Phase 2 of the proposal, Participants intend to replace the interim Section VIII proposed in this amendment with a more permanent Section VIII to govern overnight trading protections, and expect these protections to more closely resemble the LULD program in place during Regular Trading Hours, for instance by including sliding bands.

The proposed amendment for Phase 1 includes the following key aspects:

(a) **Overnight Price Bands.** The Primary Listing Exchange for each NMS Stock shall calculate and disseminate to the Processors an Overnight Lower Price Band and an Overnight Upper Price Band to be applied during Overnight Protected Hours for NMS Stocks. The Overnight Price Bands shall be based on two reference prices as adjusted for any relevant corporate actions, (i) the official closing price of a stock as reported by

the listing market for such NMS stock and (ii) the consolidated last round lot sale as of 7:45 p.m. Eastern Time, with the Overnight Lower Price Band being 20% lower than the lower of the reference prices, and the Overnight Upper Price Band being 20% greater than the greater of the reference prices; the Overnight Percentage Parameter for a leveraged ETP shall be 20%, multiplied by the leverage ratio. For NMS Stocks with a Closing Price of less than \$1.00, the minimum Overnight Upper Price Band and minimum Overnight Lower Price Band thresholds shall each be \$1.00 from the applicable reference price; for NMS Stocks with a Closing Price of \$1.00 or more, the minimum Overnight Upper Price Band and minimum Overnight Lower Price Band thresholds shall each be \$3.00 from the applicable reference price. The Minimum Price Band for a leveraged ETP shall be multiplied by the leverage ratio of such product.

(b) Primary Listing Exchanges shall transmit the calculated Overnight Price Bands to the Processors no later than 8:55 p.m. Eastern Time, and the Processors shall disseminate such bands to the public prior to 9:00 p.m. Eastern Time.

(c) All trading centers in NMS Stocks that are operative during Overnight Protected Hours, must establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent both trades and the display of prices outside the Overnight Price Bands during Overnight Protected Hours.

(d) The Primary Listing Exchange of a stock may declare a Regulatory Halt in accordance with Primary Listing Exchange rules, and, if so, shall notify the Processor.¹³ During a Regulatory Halt during Overnight Protected Hours, Participants shall reject orders. Any NMS Stock subject to a Regulatory Halt during Overnight Protected Hours shall not reopen during Overnight Protected Hours.

(e) The proposed amendment also amends Section IV of the Plan to require that trading center policies and procedures comply with the overnight requirements specified in the new Section VIII.¹⁴

¹³ The Primary Listing Exchanges anticipate using halt codes currently available within the Processors' specifications.

¹⁴ Unlike policies at certain ATSS, the proposed amendment does not include guidance regarding how to handle corporate actions during Overnight Protected Hours, as this decision will be left to the discretion of each listing exchange.

Overnight Protected Hours

The Participants have determined to implement overnight protections between the hours of 9:00 p.m. and 4:00 a.m. Eastern Time. The 9:00 p.m. Eastern Time commencement of the Overnight Protected Hours corresponds to the time at which the Processors will open for overnight trading, thereby ensuring that the limit up-limit down mechanism is operative from the moment overnight trading activity becomes available through the consolidated market data infrastructure. The 4:00 a.m. Eastern Time conclusion of the Overnight Protected Hours was selected to accommodate the well-established practice of issuers releasing earnings announcements, material corporate disclosures, and other price-sensitive information during pre-market hours in advance of the Regular Trading Session. By terminating Overnight Protected Hours at 4:00 a.m. Eastern Time, the Participants intend for market participants to be able to incorporate newly disclosed information into securities prices without the constraints of pricing bands based on the prior day's activity.

The Participants acknowledge that the application of price bands during Overnight Protected Hours has the potential to inhibit price discovery to some degree, insofar as the bands may constrain the range of prices at which transactions can occur during those hours. However, the Participants believe that this risk does not outweigh the significant investor protections afforded by the proposed amendment. In particular, the Participants' analysis¹⁵ indicates that only a minority of NMS stocks would be materially impacted by the presence of price bands during Overnight Protected Hours, suggesting that the constraining effect on price discovery would be limited in scope and would not broadly impair the market's ability to reflect fundamental value. Moreover, to the extent that the price band mechanism may in certain instances restrain price movement during the overnight session, the Participants believe that this trade-off is justified by the protections that the amendment provides against erroneous trades and aberrant executions in a low-liquidity trading environment—protections that serve the interests of investors and the integrity of the national market system. Finally, in a circumstance in which orders are consistently being placed outside the bands or the price bands are otherwise limiting price discovery, Primary Listing

¹¹ 15 U.S.C. 78k-1(a)(1)(C).

¹² 15 U.S.C. 78k-1(a)(1)(C).

¹⁵ See Section 2 above.

Exchanges will be able to declare a Regulatory Halt¹⁶ to suspend trading for the remainder of the overnight session, allowing the market to resume price discovery in the more liquid environment following the end of Overnight Protected Hours.

This calibration of the Overnight Protected Hours appropriately balances the Plan's dual objectives of preventing extraordinary volatility and facilitating price discovery: during the overnight session, when liquidity is reduced and the risk of erroneous trades or transitory gaps in liquidity is heightened, the price band mechanism will prevent trades at prices far removed from a security's recent fundamental value, thereby protecting investors who might otherwise execute transactions at aberrant prices. This is in contrast to the pre-market session, when fundamental corporate information is being disseminated and absorbed by the market, and the price discovery process will be allowed to function without impediment. Accordingly, the Participants believe that the proposed Overnight Protected Hours window removes impediments to, and perfects the mechanism of, the national market system by extending proven investor protections to a trading environment that presents the types of risks that the Plan was designed to address, while preserving the market's capacity to efficiently incorporate material new information during the pre-market period.

Overnight Price Band Calculation

The Participants have designed the Overnight Price Bands to balance the Plan's dual objectives of preventing extraordinary volatility and facilitating price discovery during overnight trading sessions. The Overnight Price Bands are calculated using two reference prices: the Closing Price and a more recent Consolidated Price representing an execution in the post-market. The use of dual reference prices is designed to mitigate the risks associated with reliance on a single closing price that may become stale or unrepresentative of current market conditions by the time overnight trading commences. Material information is frequently disseminated after the close of the Regular Trading Session, and post-market trading activity may result in prices that differ meaningfully from the Closing Price.

If the Overnight Price Bands were anchored to just one price, the bands could be misaligned with prevailing market sentiment, potentially resulting

in price bands that are too restrictive impeding legitimate price discovery based on post-market developments. By incorporating the Consolidated Price, the Overnight Price Bands dynamically account for post-market trading activity, ensuring that the bands reflect a price at which market participants have demonstrated a willingness to transact, which is aligned with ATS practice, while also incorporating the Closing Price to reflect market sentiment during Regular Trading hours. This dual-reference methodology grounds the Overnight Price Bands in demonstrated market sentiment across both the Regular Trading Session and post-market hours, providing maximum flexibility in the protections while ensuring those protections remain appropriately calibrated to actual market conditions. The Participants believe that this approach is consistent with the protection of investors and the maintenance of fair and orderly markets, and removes impediments to, and perfects the mechanism of, the national market system.

The Participants selected a Percentage Parameter of 20% for Overnight Price Bands to align with the 20% static band protections currently in place for overnight trading on ATSs, while differing from ATS approach by using two reference prices in calculating those bands. Furthermore, the Participants expect that during the initial period of overnight trading hours (commonly referred to as "23/5 trading"), when market participants are adjusting to the new structure, applying the same Percentage Parameters to all stocks in the Overnight trading session will be easier for participants to understand, balancing the interest of protecting investors with ensuring transparent market practices.

The Overnight Price Bands are also subject to minimum price band thresholds¹⁷ to ensure that a minimum range of permissible trading prices remains available during overnight hours. These minimum thresholds prevent the Overnight Price Bands from becoming so narrow as to unduly restrict trading activity or impede legitimate price movements, particularly for lower-priced securities where the application of percentage-based parameters alone could result in price bands of only a few cents. The Participants believe that establishing minimum price band thresholds appropriately balances investor

protection against extraordinary volatility with the preservation of fair and orderly markets by ensuring that overnight trading can continue to occur within a reasonable price range, consistent with the purposes of Section 11A of the Exchange Act and Rule 608 thereunder.

Primary Listing Exchange and Processor Obligations

This proposed amendment requires the Primary Listing Exchange of an NMS Stock to calculate the price bands and disseminate them to the Processors, who will then disseminate those bands to the market. This was chosen as the approach in Phase 1 because the Processors are currently testing and implementing extensive updates¹⁸ and the Participants agreed that the most effective way to implement Overnight Protections would be to reduce the burden on the Processors that would have come from calculating the bands themselves. Phase 1 is designed to require minimal work from the Processors. The Processors, however, will then disseminate the bands to the public over trade and quote multicast channels via existing fields in the LULD messages starting at approximately 8:55 p.m. Eastern Time, in line with their current role during Regular Trading Hours.

Overnight Halts

At this time, the Participants have determined not to implement automatic Trading Pauses during Overnight Protected Hours, similar to ATSs which also do not implement automatic trading pauses during overnight trading sessions (ATSs simply reject orders that fall outside their bands). This approach reflects the Participants' careful consideration of the distinct characteristics of overnight trading, including significantly reduced liquidity, lower trading volumes, and fewer active market participants relative to Regular Trading Hours. During the Regular Trading Session, automatic Trading Pauses serve to provide market participants with a brief opportunity to reassess their trading interest and supply additional liquidity following a significant price movement, after which trading resumes with an auction to

¹⁶ In accordance with Primary Listing Exchange rules.

¹⁷ For stocks with a Closing Price of \$1.00 or greater, the minimum band is \$3.00, and for stocks with a Closing Price of less than \$1.00, the minimum band size is \$1.00.

¹⁸ Including to implement 23/5 trading, implement changes to collect and disseminate odd-lot quote information, incorporating fractional share trading information, preparing for amended tick sizes, implementing a new Issue Symbol Directory Message, and transitioning to a new Consolidated Tape Plan. See Securities Exchange Act Release No. 101070 (September 18, 2024), 89 FR 81620 (October 8, 2024), File No. S7-30-22; Securities Exchange Act Release No. 88827 (May 6, 2020), 85 FR 28702 (May 13, 2020).

facilitate orderly price discovery. Instead of implementing a similar process of automatic Trading Pauses followed by an auction for the Overnight Protected Hours, Primary Listing Exchanges would instead retain discretion to announce Regulatory Halts, in accordance with Primary Listing Exchange rules, during Overnight Protected Hours, which would remain in place for the duration of the overnight trading session. The Participants have elected not to reopen trading halts with auctions during Overnight Protected Hours because they expect that there will be insufficient liquidity in the initial phase of the overnight trading session for an efficient auction to occur. Without confidence in the standard method of reopening trading following a halt, and without sufficient information to create a different method, the Participants believe that it is in the best interests of the market not to reopen trading following a halt in the overnight session.

The Participants believe that permitting the Primary Listing Exchanges to announce Regulatory Halts during Overnight Protected Hours aligns with the Plan's fundamental purpose of promoting a fair and orderly market. Under this framework, the Overnight Price Bands will continue to operate as a safeguard against trades occurring at prices that deviate significantly from a security's recent fundamental value, thereby preventing extraordinary volatility and protecting investors from executing transactions at aberrant prices. When an event occurs that a Primary Listing Exchange, in accordance with Primary Listing Exchange rules, determines merits a Regulatory Halt, the Primary Listing Exchange will have the authority, but not the obligation, to announce a Regulatory Halt if, in its judgment, such action is warranted to maintain a fair and orderly market. This discretionary approach permits the Primary Listing Exchange to evaluate the totality of the circumstances, including any material information that may be affecting the security's price, and which may also include, in certain circumstances, prevailing liquidity conditions, before determining whether a halt is necessary and appropriate.

The Participants believe this framework is consistent with Section 11A of the Securities Exchange Act of 1934 and Rule 608 thereunder because it preserves the core investor protections of the limit up-limit down mechanism while the Participants analyze data on overnight trading, thereby removing impediments to, and perfecting the

mechanism of, the national market system.

Ministerial Amendments

The Participants have proposed ministerial changes to update the addresses of certain Participants in Section II(A) of the Plan.

The Participants have also proposed a change to the definition of Regular Trading Hours, in Section I(S) to conform to the amended citation in Regulation NMS for the definition of Regular Trading Hours.¹⁹

3. Proposed Overnight Trading Protections Based on Current ATS Protections in Anticipation of 23/5 Exchange Trading

The Commission has recently approved applications by 24X National Exchange LLC, NYSE Arca Inc., and Nasdaq to conduct trading on a near-continuous 23/5 basis.²⁰ These approvals represent a significant expansion of exchange trading into periods that have historically been characterized by lower liquidity, wider spreads, and the potential for increased price volatility due to the release of overnight news and developments in foreign markets. The Processors are preparing to commence overnight trading on December 6, 2026.²¹

The 20% Percentage Parameter proposed in this amendment reflects the existing price protection mechanisms employed by ATSs that currently operate in the overnight trading space. ATSs that currently facilitate overnight trading have generally adopted 20% trading bands as a market-wide price protection standard, although those bands are based on a single static price,²² unlike the two reference prices

in this proposal.²³ The Participants expect that adopting a band percentage consistent with these established ATS practices will facilitate a smoother transition for market participants as overnight trading expands to national securities exchanges. By aligning the Overnight Price Bands with protections conceptually familiar to broker-dealers, institutional investors, and retail participants who have engaged in overnight trading through ATSs, the proposed amendment reduces operational complexity and minimizes the risk of market disruption that could arise from the introduction of materially different price protection standards. The Participants submit that this alignment serves the public interest and the protection of investors by establishing uniform expectations across trading venues, thereby promoting confidence in the integrity of overnight trading and supporting the orderly expansion of 23/5 trading to the national market system.

The Participants believe that the application of protections to these newly approved overnight trading sessions is necessary and appropriate and in the public interest, for the protection of investors and for the maintenance of fair and orderly markets. The fundamental purpose of the Plan—to prevent trades in individual NMS Stocks from occurring at prices that are not reflective of a fair and orderly market—applies with equal, if not greater, force during overnight periods when market conditions may exacerbate the risk of sudden, unanticipated price movements similar to the “Flash Crash.” The LULD mechanism is intended to reduce the negative impacts of sudden, unanticipated price movements in NMS Stocks, thereby protecting investors and promoting a fair and orderly market. Previously conducted data and analysis have demonstrated that the LULD mechanism has been largely effective at reducing the negative impacts of such price movements,²⁴ and the Participants believe protections should extend to overnight trading sessions where similar risks—or heightened risks due to reduced liquidity—may arise.

Based on an analysis of data from the ATS Blue Ocean, the Participants expect

¹⁹ 17 CFR 242.600(b)(88). *See also* Securities Exchange Act Release No. 99679 (March 6, 2024), 89 FR 26428 (April 15, 2024).

²⁰ *See* Securities Exchange Act Release No. 34–102400 (Feb. 11, 2025); 90 FR 9794 (Feb. 18, 2025) (order approving NYSE Arca Inc. proposal to lengthen its trading session to 22 hours per day, 5 days per week) (“NYSE Arca Approval Order”); Securities Exchange Act Release No. 89–235 (Nov. 27, 2024); 89 FR 97092 (order approving application of 24X National Exchange, LLC for registration as a national securities exchange and to trade 23 hours per day, 5 days per week) (“24X Approval Order”); Securities Exchange Act Release No. 34–105199 (April 10, 2026) 91 FR 20222 (April 15, 2026) (SR–NASDAQ–2025–109) (“Nasdaq Approval Order”). The Commission is also contemplating a similar proposal by Choe EDGX Exchange, Inc. *See* Securities Exchange Act Release No. 34–105206 (April 10, 2026) 91 FR 20213 (April 15, 2026) (SR–ChoeEDGX–2026–019).

²¹ *See* letter from Jeff Kimsey, Chair of the Operating Committees of the Equity Data Plans, dated March 23, 2026.

²² *See, e.g.,* Blue Ocean Technologies LLC, *Frequently Asked Questions*, available at <https://blueocean-tech.io/faq/>.

²³ Due to the different approaches of one vs. two reference prices with the same percentage parameters applied, this proposal could result in wider trading bands than those currently used by ATSs, although the current expectation is that using two reference prices will have minimal impact on the bands the majority of the time, while capturing the reality of any extraordinary shifts in the market following the close of Regular Trading Hours.

²⁴ *See, e.g.,* Securities Exchange Act Release No. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018).

that the impact of this proposal on actual overnight trading will be minimal, although the guardrails are valuable to the outliers. Using an approximation of the proposed

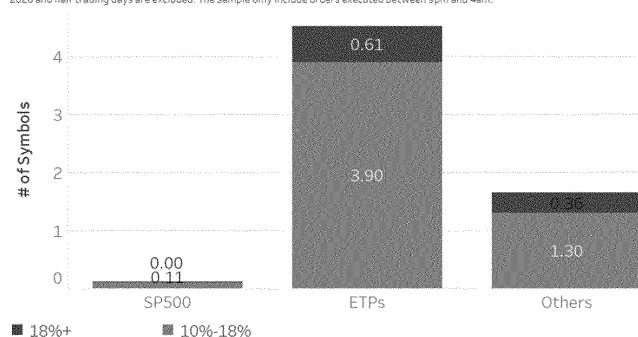
overnight trading bands²⁵ and the closing price and the price of a stock as of 7:45 p.m. Eastern Time, an average of 0 S&P 500 stocks, 0.6 ETPs and 0.4 non-S&P 500 stocks per day, or less than

0.1% of total volume, would be impacted by the bands.

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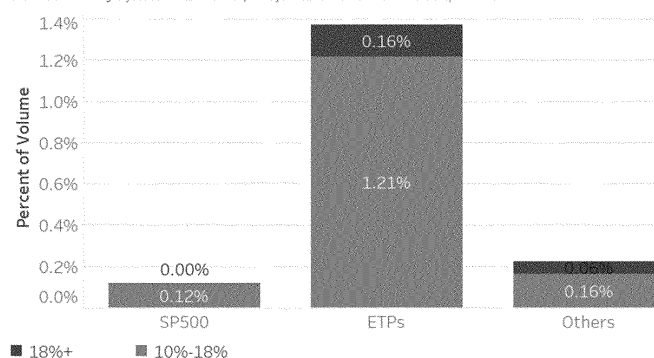
Average Stock Count by Price Deviation on Blue Ocean

Notes: This chart shows the number of stocks with maximum price deviation between 10-18% and more than 18% relative to the dual benchmarks. Benchmark prices are based on the closing price and the last trade printed on SIP before 8 pm. For stocks priced above \$1, the minimum collar is \$3; for stocks with price below \$1, the minimum price band is \$1. The sample period is between Jan 1, 2025 and Mar 31, 2026 and half trading days are excluded. The sample only include orders executed between 9pm and 4am.



Distribution of BOATS Volume Relative to Benchmark Prices

Notes: This chart shows the percentage of Blue Ocean's volume executed with price deviations of 10-18% and greater than 18% relative to the dual benchmarks. Benchmark prices are based on the closing price and the last trade printed on SIP before 8 pm. For stocks priced above \$1, the minimum collar is \$3; for stocks with price below \$1, the minimum price band is \$1. The sample period is between Jan 1, 2025 and Mar 31, 2026 and half trading days are excluded. The sample only include orders executed between 9pm and 4am.



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Overnight trading sessions present unique challenges for market integrity, including reduced liquidity, increased information asymmetry due to overnight news flow and global developments, and a heightened potential for erroneous trades. Implementing the proposed market protections during overnight trading sessions should limit the frequency and severity of harmful price dislocations, consistent with the purposes for which the Plan was adopted.

Indeed, the development of price band protections in the overnight trading space illustrates the organic evolution of similar safeguards in response to market need. Before

national securities exchanges sought to extend their operating hours into overnight sessions, ATSs pioneered overnight trading and independently implemented price band mechanisms to protect market participants from aberrant executions during periods of reduced liquidity. The adoption of 20% price bands by ATSs operating in this space emerged as a market-driven response to the unique risks presented by overnight trading—demonstrating that sophisticated market participants recognize the necessity of such protections. Market participants who have engaged in overnight trading through ATSs have come to rely on these safeguards. These market participants have a reasonable

expectation that comparable protections will accompany the expansion of overnight trading to national securities exchanges, which the Participants believe this proposed amendment will achieve, although with some differences to the ATS approach, including by using two reference prices in order to reflect relevant market activity.

4. Phased Implementation of Overnight Protections

As noted above, the Participants propose to implement Overnight Protections in two phases. The amendments to the Plan set forth herein constitute Phase 1 of this implementation. Phase 2 is anticipated to be implemented in 2027, following a

²⁵ Blue Ocean rejects orders that are 20% away from the last sale price for the security printed on a national securities exchange as of 7:30 p.m. ET, so this analysis was conducted using 18% bands as a proxy for orders likely to hit the 20% threshold

of the proposed overnight trading bands. The Participants acknowledge that this analysis is unable to capture orders that are currently being cancelled or rejected for falling outside the bands, but believe that if orders were surpassing the bands,

there would also be a concentration of orders that approach the bands, and so this 18% approximation should capture and reflect that reality.

period of observation, data gathering, and assessment of overnight trading. As no national exchange currently conducts trading in the overnight session, comprehensive and reliable data on overnight trading activity remains limited, and the Participants recognize that the provisions of Phase 1 in the proposed Plan may require recalibration as empirical evidence accumulates. Phase 1 is therefore designed not only to provide meaningful protections against extraordinary volatility during overnight hours, but also to serve as a structured framework for generating the granular, real-world data necessary to evaluate and refine these overnight provisions to craft a thoughtful Phase 2.

The Participants currently expect Phase 2 to include: (1) sliding price bands that adjust based on market activity during Overnight Protected Hours without imposing an absolute limit on prices (*e.g.*, sliding the Upper Price Band to a higher price if a security is in a prolonged limit state where the national best bid is equal to the Overnight Upper Price Band; (2) the Processors calculating and disseminating the Overnight Price Bands, rather than the Primary Listing Exchanges; and (3) recalibrated Overnight Percentage Parameters, which may be lower than the proposed parameters set forth in Section VIII(A)(3) of the Plan and which may differ between Tier 1 and Tier 2 NMS Stocks.

Each of these anticipated Phase 2 enhancements reflects the Participants' recognition that certain provisions in the current proposal—including the initial Overnight Percentage Parameters, the assignment of calculation and dissemination responsibilities, and the static nature of the price bands—may not be optimally calibrated for the unique liquidity and volatility conditions that characterize overnight trading sessions. The Participants believe that the phased approach is the most prudent and responsible means of addressing them these challenges, by enabling the Plan and the Commission to collect and analyze data on overnight trading before proceeding to a more complex system of overnight protections.

The Operating Committee intends to evaluate data on overnight trading and the performance of Phase 1 in 2027 and determine the appropriate timing and specifications for Phase 2. In conducting this evaluation, the Operating Committee will analyze, among other things, the interactions between the market and Overnight Price Bands across varying liquidity conditions, the

incidence and causes of any trading halts declared by Listing Exchanges, the adequacy of the Overnight Percentage Parameters in mitigating extraordinary volatility without unduly constraining legitimate price discovery, and the operational performance of the Primary Listing Exchanges in calculating Overnight Price Bands and the Processors in disseminating them. The Participants are committed to a rigorous, evidence-based assessment and intend to work collaboratively with the Commission and its Staff throughout this process to identify additional data points or analytical methodologies that may enhance the evaluation. The Participants expect to include information regarding the operations of Phase 1 in the Plan's quarterly reports, commencing with the quarterly report covering the first full quarter of overnight trading. Participants expect to submit a Phase 2 proposal for consideration by the Commission with sufficient time for implementation by the fourth quarter of 2027. The Participants will report on the evidence gathered on overnight trading together with its proposal for Phase 2 revisions to overnight protections.

Just as the Plan was initially approved on a trial basis²⁶ to allow the Participants and the public to gain valuable practical experience with Plan operations, and subsequently made permanent following extensive data collection and analysis,²⁷ the Participants' proposal to implement Overnight Protections in a phased approach will enable the Operating Committee, the Commission, and the market as a whole, to observe overnight trading and the effectiveness of the Overnight Protections and compile data to inform future decisions.

The Plan has always operated on the premise that the Participants will engage in a continuous data-intensive review of the National Market System and the Plan's impact on that market. That premise carries particular force here, where the implementation of protections to Overnight Protected Hours presents novel challenges—including thinner liquidity, wider spreads, and the potential for price dislocations driven by international developments or after-hours corporate announcements—that cannot be fully anticipated or addressed through existing data alone. The current provisions of the proposal reflect the

Participants' best judgment based on available information, but the Participants recognize that certain parameters and operational assignments may require adjustment once real-world evidence becomes available. The proposed two-phased approach, based on a review of the evidence prior to implementing a final proposal, is consistent with that fundamental approach, and will enable the Operating Committee and the Commission to collaborate to review new information.

The Commission has repeatedly emphasized the importance of ongoing review and assessment to ensure that the Plan continues to achieve its objective of reducing extraordinary volatility. The Participants believe that the same data-driven approach is appropriate for overnight protections, and that the restrained approach of observing the interim effects of this Twenty-Seventh Amendment during new overnight trading hours will enable the Plan to respond to market activity with overnight protections that are effective and specifically tailored to the particular circumstances that present during overnight trading.

5. Consistency With the Purposes of the Plan and the Exchange Act

The Participants believe that the proposed amendment is necessary and appropriate in the public interest, for the protection of investors, and for the maintenance of fair and orderly markets, because extending the protections afforded by the Plan to overnight hours is consistent with the fundamental purposes of the Plan. The Plan was originally adopted to address extraordinary volatility in the securities markets and to prevent trades in individual NMS Stocks from occurring outside of Price Bands selected to maintain orderly market conditions. These objectives are equally applicable—and may be more critical—during overnight trading sessions when market conditions may be less liquid and more susceptible to price dislocations. The efficacy of current LULD mechanisms in addressing extraordinary market volatility, moreover, informs the Participants' belief that it is appropriate to also establish price protections in the new overnight trading environment.

The Participants believe that the proposed amendment is consistent with Section 11A(a)(1)(C) of the Exchange Act, which directs the Commission to facilitate the establishment of a national market system that assures, among other things, economically efficient execution of securities transactions, fair competition among brokers and dealers

²⁶ See Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4-631) ("Approval Order").

²⁷ See Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019) (File No. 4-631).

and among markets, and the practicability of brokers executing investors' orders in the best market.²⁸ Applying uniform protections across all trading centers that operate during Overnight Protected Hours promotes fair competition and ensures that investor protection does not vary based on the venue at which an order is executed during overnight hours.

This Twenty-Seventh Amendment to the Plan would enhance the public interest, protect investors, and help maintain fair and orderly markets, while removing impediments to and perfecting the mechanism of the national market system in conformance with Rule 608.²⁹ This proposed amendment establishes guardrails for overnight trading to mitigate the risk of excessive volatility in markets and will help to prevent extreme price swings and erroneous trades, which will protect investors from excessive volatility in the new overnight trading session. The amendment appropriately balances the dual objectives of preventing extraordinary volatility and facilitating price discovery, and will thus enhance confidence in the market as a whole by demonstrating the exchange industry's thoughtful approach to implementing new market protections in the new world of 23/5 Trading.

B. Governing or Constituent Documents

The governing documents of the Processor, as defined in Section I(P) of the Plan, will not be affected by the Amendment.

C. Implementation of Amendment

The Participants will announce the operative date of the amendment ("Operative Date"), which will be subject to the completion of certain systems changes by the Processors for the Unlisted Trading Privileges (UTP) Plan and Consolidated Tape Association (CTA) Plan to ensure dissemination of overnight trading bands.

D. Development and Implementation Phases

The Participants propose to implement the proposed amendment on the Operative Date. As discussed, a separate "Phase 2" proposal will be filed with the Commission at a later date. Phase 1 overnight protections will remain in place until the operative date of such Phase 2 proposal.

E. Analysis of Impact on Competition

The Participants believe that the proposed amendment does not impose

any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed amendment to the Plan would apply to all market participants equally and would not impose a competitive burden on one category of market participants in favor of any other category of market participant. The proposed amendment would apply to trading on all trading centers that operate during Overnight Protected Hours, and all NMS Stocks (other than rights and warrants, which are excluded from the Plan) would be subject to the amended Plan's requirements. The Participants do not believe that the proposed amendment introduces terms that are unreasonably discriminatory for the purposes of Section 11A(c)(1)(D) of the Exchange Act because it would apply to all market participants equally.

F. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plan

The Participants have no written understandings or agreements relating to interpretation of the Plan. Section II(C) of the Plan sets forth how any entity registered as a national securities exchange or national securities association may become a Participant.

G. Approval of Amendment of the Plan

Each of the Participants has approved this Twenty-Seventh Amendment in accordance with Section III(C) of the Plan. The Participants also received and incorporated feedback from the Plan Advisory Committee in preparing this proposal. Each of the Plan's Participants has executed a written amended Plan.

H. Description of Operation of Facility Contemplated by the Proposed Amendment

Not applicable.

I. Terms and Conditions of Access

Section II(C) of the Plan provides that any entity registered as a national securities exchange or national securities association under the Exchange Act may become a Participant by: (1) becoming a participant in the applicable Market Data Plans, as defined in Section II(F) of the Plan; (2) executing a copy of the Plan, as then in effect; (3) providing each then-current Participant with a copy of such executed Plan; and (4) effecting an amendment to the Plan as specified in Section III(B) of the Plan.

J. Method of Determination and Imposition, and Amount of, Fees and Charges

This section is not applicable as the proposed amendment to the Plan does not involve fees or charges.

K. Method and Frequency of Processor Evaluation

Not applicable.

L. Dispute Resolution

Section III(C) of the Plan provides that each Participant shall designate an individual to represent the Participant as a member of an Operating Committee. No later than the initial date of the Plan, the Operating Committee shall designate one member of the Operating Committee to act as the Chair of the Operating Committee. Any recommendation for an amendment to the Plan from the Operating Committee that receives an affirmative vote of at least two-thirds of the Participants, but is less than unanimous, shall be submitted to the Commission as a request for an amendment to the Plan initiated by the Commission under Rule 608.

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 Exchange Act and the rules thereunder. 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 4-631 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 4-631. 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 (<http://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 information in submissions; you should submit only information that you wish to make available publicly. We may redact in

²⁸ 15 U.S.C. 78k-1(a)(1)(C) and (a)(2).

²⁹ 17 CFR 242.608(b)(2).

part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number 4–631 and should be submitted on or before June 25, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁰

Sherry R. Haywood,

Assistant Secretary.

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EXHIBIT A

Proposed new language is double-underlined; proposed deletions are in [~~brackets and strikethrough~~]

PLAN TO ADDRESS EXTRAORDINARY MARKET VOLATILITY

SUBMITTED TO

THE SECURITIES AND EXCHANGE COMMISSION

PURSUANT TO RULE 608 OF REGULATION NMS

UNDER THE

SECURITIES EXCHANGE ACT OF 1934

³⁰ 17 CFR 200.30–3(a)(85).

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Preamble

The Participants submit to the SEC this Plan establishing procedures to address extraordinary volatility in NMS Stocks. The procedures provide for market-wide limit up-limit down requirements that prevent trades in individual NMS Stocks from occurring outside of the specified Price Bands. These limit up-limit down requirements are coupled with Trading Pauses to accommodate more fundamental price moves. The Plan procedures are designed, among other things, to protect investors and promote fair and orderly markets. The Participants developed this Plan pursuant to Rule 608(a)(3) of Regulation NMS under the Exchange Act, which authorizes the Participants to act jointly in preparing, filing, and implementing national market system plans.

I. Definitions

(A) "Eligible Reported Transactions" shall have the meaning prescribed by the Operating Committee and shall generally mean transactions that are eligible to update the last sale price of an NMS Stock.

(B) "Exchange Act" means the Securities Exchange Act of 1934, as amended.

(C) "Limit State" shall have the meaning provided in Section VI of the Plan.

(D) "Limit State Quotation" shall have the meaning provided in Section VI of the Plan.

(E) "Lower Price Band" shall have the meaning provided in Section V of the Plan.

(F) "Market Data Plans" shall mean the effective national market system plans through which the Participants act jointly to disseminate consolidated information in compliance with Rule 603(b) of Regulation NMS under the Exchange Act.

(G) "National Best Bid" and "National Best Offer" shall have the meaning provided in Rule 600(b)(42) of Regulation NMS under the Exchange Act.

(H) "NMS Stock" shall have the meaning provided in Rule 600(b)(47) of Regulation NMS under the Exchange Act.

(I) "Opening Price" shall mean the price of a transaction that opens trading on the Primary Listing Exchange. If the Primary Listing Exchange opens with quotations, the "Opening Price" shall mean the closing price of the NMS Stock on the Primary Listing Exchange on the previous trading day, or if no such closing price exists, the last sale on the Primary Listing Exchange.

(J) "Operating Committee" shall have the meaning provided in Section III(C) of the Plan.

(K) "Participant" means a party to the Plan.

(L) "Plan" means the plan set forth in this instrument, as amended from time to time in accordance with its provisions.

(M) "Percentage Parameter" shall mean the percentages for each tier of NMS Stocks set forth in Appendix A of the Plan.

(N) "Price Bands" shall have the meaning provided in Section V of the Plan.

(O) "Primary Listing Exchange" shall mean the Participant on which an NMS Stock is listed. If an NMS Stock is listed on more than one Participant, the Participant on which the NMS Stock has been listed the longest shall be the Primary Listing Exchange.

(P) "Processor" shall mean the single plan processor responsible for the consolidation of information for an NMS Stock pursuant to Rule 603(b) of Regulation NMS under the Exchange Act.

(Q) "Pro-Forma Reference Price" shall have the meaning provided in Section V(A)(2) of the Plan.

(R) "Reference Price" shall have the meaning provided in Section V of the Plan.

(S) "Regular Trading Hours" shall have the meaning provided in Rule 600(b)(~~64~~188) of Regulation NMS under the Exchange Act. For purposes of the Plan, Regular Trading Hours can end earlier than 4:00 p.m. ET in the case of an early scheduled close.

(T) "Regulatory Halt" shall have the meaning specified in the Market Data Plans.

(U) "Reopening Price" shall mean the price of a transaction that reopens trading on the Primary Listing Exchange following a Trading Pause or a Regulatory Halt, or, if the Primary Listing Exchange reopens with quotations, the midpoint of those quotations.

(V) "SEC" shall mean the United States Securities and Exchange Commission.

(W) "Straddle State" shall have the meaning provided in Section VII(A)(2) of the Plan.

(X) "Trading center" shall have the meaning provided in Rule 600(b)(78) of Regulation NMS under the Exchange Act.

(Y) "Trading Pause" shall have the meaning provided in Section VII of the Plan.

(Z) "Upper Price Band" shall have the meaning provided in Section V of the Plan.

II. Parties

(A) List of Parties

The parties to the Plan are as follows:

- (1) 24X National Exchange LLC
One Landmark Square, 18th Floor
Stamford, Connecticut 06901
- (2) Cboe BZX Exchange, Inc.
400 South LaSalle Street
Chicago, Illinois 60605
- (3) Cboe BYX Exchange, Inc.
400 South LaSalle Street
Chicago, Illinois 60605
- (4) Cboe EDGA Exchange, Inc.
400 South LaSalle Street
Chicago, Illinois 60605
- (5) Cboe EDGX Exchange, Inc.
400 South LaSalle Street
Chicago, Illinois 60605
- (6) Financial Industry Regulatory Authority, Inc.
1735 K Street, NW
Washington, DC 20006
- (7) Investors Exchange LLC
~~[4] 3~~ World Trade Center, ~~[44th]~~ 58th Floor
New York, New York 10007
- (8) Long-Term Stock Exchange, Inc.
101 Greenwich St., Suite 11A
New York, NY 10006
- (9) MEMX LLC
~~[1111 Town Square Place, Suite 520]~~ 525 Washington Blvd, Suite 300
Jersey City, NJ 07310
- (10) MIAX Pearl, LLC
7 Roszel Road, Suite 1A
Princeton, NJ 08540
- (11) Nasdaq Texas LLC

One Liberty Plaza
New York, New York 10006

- (12) Nasdaq PHLX LLC
1900 Market Street
Philadelphia, Pennsylvania 19103
- (13) The Nasdaq Stock Market LLC
1 Liberty Plaza
165 Broadway
New York, NY 10006
- (14) NYSE National, Inc.
11 Wall Street
New York, NY 10005
- (15) New York Stock Exchange LLC
11 Wall Street
New York, New York 10005
- (15) NYSE American LLC
11 Wall Street
New York, New York 10005
- (16) NYSE Arca, Inc.
11 Wall Street
New York, New York 10005
- (17) NYSE Texas, Inc.
11 Wall Street
New York, New York 10005

(B) Compliance Undertaking

By subscribing to and submitting the Plan for approval by the SEC, each Participant agrees to comply with and to enforce compliance, as required by Rule 608(c) of Regulation NMS under the Exchange Act, by its members with the provisions of the Plan. To this end, each Participant shall adopt a rule requiring compliance by its members with the provisions of the Plan, and each Participant shall take such actions as are necessary and appropriate as a participant of the Market Data Plans to cause and enable the Processor for each NMS Stock to fulfill the functions set forth in this Plan.

(C) New Participants

The Participants agree that any entity registered as a national securities exchange or national securities association under the Exchange Act may become a Participant by:

(1) becoming a participant in the applicable Market Data Plans; (2) executing a copy of the Plan, as then in effect; (3) providing each then-current Participant with a copy of such executed Plan; and (4) effecting an amendment to the Plan as specified in Section III (B) of the Plan.

(D) Advisory Committee

(1) Formation. Notwithstanding other provisions of this Plan, an Advisory Committee to the Plan shall be formed and shall function in accordance with the provisions set forth in this section.

(2) Composition. Members of the Advisory Committee shall be selected for two-year terms as follows:

(A) Advisory Committee Selections. By affirmative vote of a majority of the Participants, the Participants shall select at least one representatives from each of the following categories to be members of the Advisory Committee: (1) a broker-dealer with a substantial retail investor customer base; (2) a broker-dealer with a substantial institutional investor customer base; (3) an alternative trading system; (4) a broker-dealer that primarily engages in trading for its own account; and (5) an investor.

(3) Function. Members of the Advisory Committee shall have the right to submit their views to the Operating Committee on Plan matters, prior to a decision by the Operating Committee on such matters. Such matters shall include, but not be limited to, proposed material amendments to the Plan.

(4) Meetings and Information. Members of the Advisory Committee shall have the right to attend meetings of the Operating Committee and to receive any

information concerning Plan matters; provided, however, that the Operating Committee may meet in executive session if, by affirmative vote of a majority of the Participants, the Operating Committee determines that an item of Plan business requires confidential treatment.

III. Amendments to Plan

(A) General Amendments

Except with respect to the addition of new Participants to the Plan, any proposed change in, addition to, or deletion from the Plan shall be effected by means of a written amendment to the Plan that: (1) sets forth the change, addition, or deletion; (2) is executed on behalf of each Participant; and, (3) is approved by the SEC pursuant to Rule 608 of Regulation NMS under the Exchange Act, or otherwise becomes effective under Rule 608 of Regulation NMS under the Exchange Act.

(B) New Participants

With respect to new Participants, an amendment to the Plan may be effected by the new national securities exchange or national securities association executing a copy of the Plan, as then in effect (with the only changes being the addition of the new Participant's name in Section II(A) of the Plan) and submitting such executed Plan to the SEC for approval. The amendment shall be effective when it is approved by the SEC in accordance with Rule 608 of Regulation NMS under the Exchange Act or otherwise becomes effective pursuant to Rule 608 of Regulation NMS under the Exchange Act.

(C) Operating Committee

(1) Each Participant shall select from its staff one individual to represent the Participant as a member of an Operating Committee, together with a substitute for such individual. The substitute may participate in deliberations of the Operating Committee and shall be considered a voting member thereof only in the absence of the primary

representative. Each Participant shall have one vote on all matters considered by the Operating Committee. No later than the initial date of Plan operations, the Operating Committee shall designate one member of the Operating Committee to act as the Chair of the Operating Committee.

The Operating Committee shall monitor the procedures established pursuant to this Plan and advise the Participants with respect to any deficiencies, problems, or recommendations as the Operating Committee may deem appropriate. The Operating Committee shall establish specifications and procedures for the implementation and operation of the Plan that are consistent with the provisions of this Plan and the Appendixes thereto. With respect to matters in this paragraph, Operating Committee decisions shall be approved by a simple majority vote.

(2) Any recommendation for an amendment to the Plan from the Operating Committee that receives an affirmative vote of at least two-thirds of the Participants, but is less than unanimous, shall be submitted to the SEC as a request for an amendment to the Plan initiated by the Commission under Rule 608 of Regulation NMS.

IV. Trading Center Policies and Procedures

All trading centers in NMS Stocks, including both those operated by Participants and those operated by members of Participants, shall establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the limit up - limit down requirements specified in Sections VI and VIII of the Plan, and to comply with the Trading Pauses specified in Section VII of the Plan.

V. Price Bands

(A) Calculation and Dissemination of Price Bands

(1) The Processor for each NMS stock shall calculate and disseminate to the public a Lower Price Band and an Upper Price Band during Regular Trading Hours for

such NMS Stock. The Price Bands shall be based on a Reference Price for each NMS Stock that equals the arithmetic mean price of Eligible Reported Transactions for the NMS stock over the immediately preceding five-minute period (except for periods following openings and reopenings, which are addressed below). If no Eligible Reported Transactions for the NMS Stock have occurred over the immediately preceding five-minute period, the previous Reference Price shall remain in effect. The Price Bands for an NMS Stock shall be calculated by applying the Percentage Parameter for such NMS Stock to the Reference Price, with the Lower Price Band being a Percentage Parameter below the Reference Price, and the Upper Price Band being a Percentage Parameter above the Reference Price. The Price Bands shall be calculated during Regular Trading Hours. Between 3:35 p.m. and 4:00 p.m. ET, or in the case of an early scheduled close, during the last 25 minutes of trading before the early scheduled close, the Price Bands shall be calculated by applying double the Percentage Parameters set forth in Appendix A for (i) all Tier 1 NMS Stocks and (ii) Tier 2 NMS Stocks priced equal to or below \$3.00. If the Processor has not yet disseminated Price Bands, but a Reference Price is available, a trading center may calculate and apply Price Bands based on the same Reference Price that the Processor would use for calculating such Price Bands until such trading center receives Price Bands from the Processor. If, under Section VII(B)(2), the Primary Listing Exchange notifies the Processor that it is unable to reopen an NMS Stock due to a systems or technology issue and it has not declared a Regulatory Halt, the Processor will calculate and disseminate Price Bands by applying triple the Percentage Parameters set forth in Appendix A for the first 30 seconds such Price Bands are disseminated.

(2) The Processor shall calculate a Pro-forma Reference Price on a continuous basis during Regular Trading Hours, as specified in Section V(A)(1) of the

Plan. If a Pro-forma Reference Price has not moved by 1% or more from the Reference Price currently in effect, no new Price Bands shall be disseminated, and the current Reference Price shall remain the effective Reference Price. When the Pro-forma Reference Price has moved by 1% or more from the Reference Price currently in effect, the Pro-forma Reference Price shall become the Reference Price, and the Processor shall disseminate new Price Bands based on the new Reference Price; provided, however, that each new Reference Price shall remain in effect for at least 30 seconds.

(B) Openings

(1) Except when a Regulatory Halt is in effect at the start of Regular Trading Hours, the first Reference Price for a trading day shall be the Opening Price on the Primary Listing Exchange in an NMS Stock if such Opening Price occurs less than five minutes after the start of Regular Trading Hours.

During the period less than five minutes after the Opening Price, a Pro-Forma Reference Price shall be updated on a continuous basis to be the arithmetic mean price of Eligible Reported Transactions for the NMS Stock during the period following the Opening Price (including the Opening Price), and if it differs from the current Reference Price by 1% or more shall become the new Reference Price, except that a new Reference Price shall remain in effect for at least 30 seconds. Subsequent Reference Prices shall be calculated as specified in Section V(A) of the Plan.

(2) If the Opening Price on the Primary Listing Exchange in an NMS Stock does not occur within five minutes after the start of Regular Trading Hours, the first Reference Price for a trading day shall be the arithmetic mean price of Eligible Reported Transactions for the NMS Stock over the preceding five minute time

period, and subsequent Reference Prices shall be calculated as specified in Section V(A) of the Plan.

(C) Reopenings

(1) Following a Trading Pause in an NMS Stock, and if the Primary Listing Exchange has not declared a Regulatory Halt, if the Primary Listing Exchange reopens trading with a transaction or quotation that does not include a zero bid or zero offer, the next Reference Price shall be the Reopening Price on the Primary Listing Exchange. Subsequent Reference Prices shall be determined in the manner prescribed for normal openings, as specified in Section V(B)(1) of the Plan. If the Primary Listing Exchange notifies the Processor that it is unable to reopen an NMS Stock due to a systems or technology issue, or if the Primary Listing Exchange reopens trading with a quotation that has a zero bid or zero offer, or both, the next Reference Price shall be the last effective Price Band that was in a Limit State before the Trading Pause. Subsequent Reference Prices shall be calculated as specified in Section V(A) of the Plan.

(2) Following a Regulatory Halt, the next Reference Price shall be the Opening or Reopening Price on the Primary Listing Exchange if such Opening or Reopening Price occurs within five minutes after the end of the Regulatory Halt, and subsequent Reference Prices shall be determined in the manner prescribed for normal openings, as specified in Section V(B)(1) of the Plan. If such Opening or Reopening Price has not occurred within five minutes after the end of the Regulatory Halt, the Reference Price shall be equal to the arithmetic mean price of Eligible Reported Transactions for the NMS Stock over the preceding five minute time period, and subsequent Reference Prices shall be calculated as specified in Section V(A) of the Plan.

VI. Limit Up-Limit Down Requirements

(A) Limitations on Trades and Quotations Outside of Price Bands

(1) All trading centers in NMS Stocks, including both those operated by Participants and those operated by members of Participants, shall establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent trades at prices that are below the Lower Price Band or above the Upper Price Band for an NMS Stock. Single-priced opening, reopening, and closing transactions on the Primary Listing Exchange, however, shall be excluded from this limitation. In addition, any transaction that both (i) does not update the last sale price (except if solely because the transaction was reported late or because the transaction was an odd-lot sized transaction), and (ii) is excepted or exempt from Rule 611 under Regulation NMS shall be excluded from this limitation.

(2) When a National Best Bid is below the Lower Price Band or a National Best Offer is above the Upper Price Band for an NMS Stock, the Processor shall disseminate such National Best Bid or National Best Offer with an appropriate flag identifying it as non-executable. When a National Best Offer is equal to the Lower Price Band or a National Best Bid is equal to the Upper Price Band for an NMS Stock, the Processor shall distribute such National Best Bid or National Best Offer with an appropriate flag identifying it as a "Limit State Quotation".

(3) All trading centers in NMS Stocks, including both those operated by Participants and those operated by members of Participants, shall establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent the display of offers below the Lower Price Band and bids above the Upper Price Band for an NMS Stock. The Processor shall disseminate an offer below the Lower Price Band or bid above the Upper Price Band that may be submitted despite such reasonable policies and

procedures, but with an appropriate flag identifying it as non-executable; provided, however, that any such bid or offer shall not be included in National Best Bid or National Best Offer calculations.

(B) Entering and Exiting a Limit State

(1) All trading for an NMS Stock shall immediately enter a Limit State if the National Best Offer equals the Lower Price Band and does not cross the National Best Bid, or the National Best Bid equals the Upper Price Band and does not cross the National Best Offer.

(2) When trading for an NMS Stock enters a Limit State, the Processor shall disseminate this information by identifying the relevant quotation (i.e., a National Best Offer that equals the Lower Price Band or a National Best Bid that equals the Upper Price Band) as a Limit State Quotation. At this point, the Processor shall cease calculating and disseminating updated Reference Prices and Price Bands for the NMS Stock until either trading exits the Limit State or trading resumes with an opening or re-opening as provided in Section V.

(3) Trading for an NMS Stock shall exit a Limit State if, within 15 seconds of entering the Limit State, the entire size of all Limit State Quotations are executed or cancelled.

(4) If trading for an NMS Stock exits a Limit State within 15 seconds of entry, the Processor shall immediately calculate and disseminate updated Price Bands based on a Reference Price that equals the arithmetic mean price of Eligible Reported Transactions for the NMS Stock over the immediately preceding five-minute period (including the period of the Limit State).

(5) If trading for an NMS Stock does not exit a Limit State within 15 seconds of entry, the Limit State will terminate when the Primary Listing Exchange declares a Trading Pause pursuant to Section VII of the Plan or at the end of Regular Trading Hours.

VII. Trading Pauses

(A) Declaration of Trading Pauses

(1) If trading for an NMS Stock does not exit a Limit State within 15 seconds of entry during Regular Trading Hours, then the Primary Listing Exchange shall declare a Trading Pause for such NMS Stock and shall notify the Processor.

(2) The Primary Listing Exchange may also declare a Trading Pause for an NMS Stock when an NMS Stock is in a Straddle State, which is when National Best Bid (Offer) is below (above) the Lower (Upper) Price Band and the NMS Stock is not in a Limit State, and trading in that NMS Stock deviates from normal trading characteristics such that declaring a Trading Pause would support the Plan's goal to address extraordinary market volatility. The Primary Listing Exchange shall develop policies and procedures for determining when it would declare a Trading Pause in such circumstances. If a Trading Pause is declared for an NMS Stock under this provision, the Primary Listing Exchange shall notify the Processor.

(3) The Processor shall disseminate Trading Pause information to the public. No trades in an NMS Stock shall occur during a Trading Pause, but all bids and offers may be displayed.

(B) Reopening of Trading During Regular Trading Hours

(1) Five minutes after declaring a Trading Pause for an NMS Stock, and if the Primary Listing Exchange has not declared a Regulatory Halt, the Primary Listing Exchange shall attempt to reopen trading using its established reopening procedures. The Processor will publish the following information that the Primary Listing Exchange

provides to the Processor in connection with such reopening: auction reference price; auction collars; and number of extensions to the reopening auction. The Trading Pause shall end when the Primary Listing Exchange reports a Reopening Price.

(2) The Primary Listing Exchange shall notify the Processor if it is unable to reopen trading in an NMS Stock due to a systems or technology issue and if it has not declared a Regulatory Halt. The Processor shall disseminate this information to the public.

(3) Trading centers may not resume trading in an NMS Stock following a Trading Pause without Price Bands in such NMS Stock.

(4) The Processor shall update the Price Bands as set forth in Section V(C)(1) - (2) of the Plan after receiving notification from the Primary Listing Exchange of a Reopening Price following a Trading Pause (or a resume message in the case of a reopening quote that has a zero bid or zero offer, or both) or that it is unable to reopen trading following a Trading Pause due to a systems or technology issue, provided that if the Primary Listing Exchange is unable to reopen due to a systems or technology issue, the update to the Price Bands will be no earlier than ten minutes after the beginning of the Trading Pause.

(C) Trading Pauses Within Ten Minutes of the End of Regular Trading Hours

(1) If an NMS Stock is in a Trading Pause during the last ten minutes of trading before the end of Regular Trading Hours, the Primary Listing Exchange shall not reopen trading and shall attempt to execute a closing transaction using its established

closing procedures. All trading centers may begin trading the NMS Stock when the Primary Listing Exchange executes a closing transaction.

(2) If the Primary Listing Exchange does not execute a closing transaction within five minutes after the end of Regular Trading Hours, all trading centers may begin trading the NMS Stock.

VIII. Overnight Protections

(A) For the purposes of this section VIII, the following definitions shall apply:

(1) “Closing Price” of an NMS Stock shall mean the Listing Market Official Closing Price of an NMS Stock, adjusted for relevant corporate actions.

(2) “Consolidated Price” shall mean the consolidated last round lot sale price of an NMS Stock as of 7:45 p.m., Eastern Time, adjusted for relevant corporate actions.

(3) “Overnight Percentage Parameter” shall mean 20% for both Tier 1 and Tier 2 NMS Stocks and non-leveraged ETPs; the Overnight Percentage Parameters for a leveraged ETP shall be 20%, multiplied by the leverage ratio of such product.

(4) “Overnight Price Bands” shall have the meaning provided in Section VIII(B)(1) of the Plan.

(5) “Overnight Protected Hours” will begin at 9:00 p.m. Eastern Time on Sunday through Thursday and conclude at 4:00 a.m. Eastern Time on the next calendar day.

(6) “Overnight Reference Prices” shall mean the two reference prices used for calculating Overnight Price Bands: (i) the Closing Price; and (ii) the Consolidated Price.

Any term not defined in this Section VIII(A) shall have the meaning assigned to it in Section I.

(B) Overnight Price Bands

(1) The Primary Listing Exchange for each NMS Stock shall calculate and disseminate to the Processors an Overnight Lower Price Band and an Overnight Upper

Price Band (each as defined below) to be disseminated by the Processors and applied during Overnight Protected Hours for such NMS Stock. The Overnight Price Bands for an NMS Stock shall be calculated by applying the Overnight Percentage Parameter for such NMS Stock to the Overnight Reference Prices. The Overnight Lower Price Band shall be an Overnight Percentage Parameter below the lower of the two Overnight Reference Prices, and the Overnight Upper Price Band shall be an Overnight Percentage Parameter above the higher of the two Overnight Reference Prices.

(2) Minimum Price Bands. For any NMS Stock with a Closing Price of less than \$1.00, the minimum Overnight Upper Price Band and the minimum Overnight Lower Price Band shall each be \$1.00 from the applicable Overnight Reference Price. For any NMS Stock with a Closing Price of \$1.00 or more, the minimum Overnight Upper Price Band and the minimum Overnight Lower Price Band shall each be \$3.00 from the applicable Overnight Reference Price. The Minimum Price Band for a leveraged ETP shall be multiplied by the leverage ratio of such product.

(3) The Primary Listing Exchange for each NMS Stock shall be responsible for determining the Overnight Reference Prices and calculating the Overnight Price Bands. Each Primary Listing Exchange shall transmit the calculated Overnight Price Bands to the Processors no later than 8:55 p.m. Eastern Time.

(4) The Processors shall disseminate to the public the Overnight Price Bands provided by the Primary Listing Exchange prior to 9:00 p.m. Eastern Time.

(C) All trading centers in NMS Stocks that are operative during Overnight Protected Hours, including both those operated by Participants and those operated by members of Participants, shall establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent trades at prices that are below the Overnight Lower Price Band or above the Overnight Upper Price Band for an NMS Stock during Overnight Protected Hours.

(D) During the Overnight Protected Hours, the Primary Listing Exchange for an NMS Stock may declare a Regulatory Halt, in accordance with Primary Listing Exchange rules. In the event the Primary Listing Exchange declares a Regulatory Halt it shall notify the Processor, which shall disseminate notice of the halt. Once a Regulatory Halt is declared, trading in such NMS stock will not reopen during Overnight Protected Hours.

~~FVIII~~X. Implementation

The initial date of Plan operations shall be April 8, 2013. Overnight Protections, as described in Section VIII, are expected to commence on December 6, 2026.

~~FX~~. Withdrawal from Plan

If a Participant obtains SEC approval to withdraw from the Plan, such Participant may withdraw from the Plan at any time on not less than 30 days' prior written notice to each of the other Participants. At such time, the withdrawing Participant shall have no further rights or obligations under the Plan.

XI. Counterparts and Signatures

The Plan may be executed in any number of counterparts, no one of which need contain all signatures of all Participants, and as many of such counterparts as shall together contain all such signatures shall constitute one and the same instrument.

IN WITNESS THEREOF, this Plan has been executed as of the __ day of _____ 2026 by each of the parties hereto.

24X NATIONAL EXCHANGE
LLC

CBOE BZX EXCHANGE, INC.

BY: _____

BY: _____

CBOE BYX EXCHANGE, INC

CBOE EDGA EXCHANGE, INC.

BY: _____

BY: _____

CBOE EDGX EXCHANGE, INC.

FINANCIAL INDUSTRY
REGULATORY AUTHORITY, INC.

BY: _____

BY: _____

INVESTORS EXCHANGE LLC

LONG-TERM STOCK
EXCHANGE, INC.

BY: _____

BY: _____

MEMX LLC

MIAX PEARL, LLC

BY: _____

BY: _____

NASDAQ TEXAS LLC

NASDAQ PHLX LLC

BY: _____

THE NASDAQ STOCK MARKET
LLC

BY: _____

NYSE NATIONAL, INC.

BY: _____

NEW YORK STOCK EXCHANGE
LLC

BY: _____

NYSE AMERICAN LLC

BY: _____

NYSE ARCA, INC.

BY: _____

NYSE TEXAS, INC.

BY: _____

BY: _____

Appendix A - Percentage Parameters

I. Tier 1 NMS Stocks

(1) Tier 1 NMS Stocks shall include all NMS Stocks included in the S&P 500 Index and the Russell 1000 Index, and the exchange-traded products ("ETP") identified as Schedule 1 to this Appendix. Schedule 1 to the Appendix will be reviewed and updated semi-annually based on the fiscal year by the Primary Listing Exchange to add ETPs that meet the criteria, or delete ETPs that are no longer eligible. To determine eligibility for an ETP to be included as a Tier 1 NMS Stock, all ETPs across multiple asset classes and issuers, including domestic equity, international equity, fixed income, currency, and commodities and futures will be identified. Leveraged ETPs will be excluded and the list will be sorted by notional consolidated average daily volume ("CADY"). The period used to measure CADY will be from the first day of the previous fiscal half year up until one week before the beginning of the next fiscal half year. Daily volumes will be multiplied by closing prices and then averaged over the period. ETPs, including inverse ETPs, that trade over \$2,000,000 CADY will be eligible to be included as a Tier 1 NMS Stock. The semi-annual updates to Schedule 1 do not require an amendment to the Plan. The Primary Listing Exchanges will maintain the updated Schedule 1 on their respective websites.

(2) The Percentage Parameters for Tier 1 NMS Stocks with a Reference Price more than \$3.00 shall be 5%.

(3) The Percentage Parameters for Tier 1 NMS Stocks with a Reference Price equal to \$0.75 and up to and including \$3.00 shall be 20%.

(4) The Percentage Parameters for Tier 1 NMS Stocks with a Reference Price less than \$0.75 shall be the lesser of (a) \$0.15 or (b) 75%.

(5) The Reference Price used for determining which Percentage Parameter shall be applicable during a trading day shall be based on the closing price of the NMS Stock on the Primary Listing Exchange on the previous trading day, or if no closing price exists, the last sale on the Primary Listing Exchange reported by the Processor.

II. Tier 2 NMS Stocks

- (1) Tier 2 NMS Stocks shall include all NMS Stocks other than those in Tier 1, provided, however, that all rights and warrants are excluded from the Plan.
- (2) The Percentage Parameters for Tier 2 NMS Stocks with a Reference Price more than \$3.00 shall be 10%.
- (3) The Percentage Parameters for Tier 2 NMS Stocks with a Reference Price equal to \$0.75 and up to and including \$3.00 shall be 20%.
- (4) The Percentage Parameters for Tier 2 NMS Stocks with a Reference Price less than \$0.75 shall be the lesser of (a) \$0.15 or (b) 75%.
- (5) Notwithstanding the foregoing, the Percentage Parameters for a Tier 2 NMS Stock that is a leveraged ETP shall be the applicable Percentage Parameter set forth in clauses (2), (3), or (4) above, multiplied by the leverage ratio of such product.
- (6) The Reference Price used for determining which Percentage Parameter shall be applicable during a trading day shall be based on the closing price of the NMS Stock on the Primary Listing Exchange on the previous trading day, or if no closing price exists, the last sale on the Primary Listing Exchange reported by the Processor.

Appendix A - Schedule 1 (as
of January 2, 2020)

Ticker	ETP Name	Exchange
SPY	SPDR S&P 500 ETF Trust	NYSE Arca
QQQ	Invesco QQQ Trust	NASDAQ
IWM	iShares Russell 2000 ETF	NYSE Arca
EEM	iShares MSCI Emerging Markets ETF	NYSE Arca
GDX	VanEck Vectors Gold Miners ETF	NYSE Arca
HYG	iShares iBoxx \$ High Yield Corporate Bond ETF	NYSE Arca
EFA	iShares MSCI EAFE ETF	NYSE Arca
TLT	iShares 20+ Year Treasury Bond ETF	NASDAQ
GLD	SPDR Gold Trust	NYSE Arca
XLFX	Financial Select Sector SPDR Fund	NYSE Arca
LQD	iShares iBoxx \$ Investment Grade Corporate Bond ETF	NYSE Arca
IVV	iShares Core S&P 500 ETF	NYSE Arca
XLU	Utilities Select Sector SPDR Fund	NYSE Arca
EWZ	iShares MSCI Brazil ETF	NYSE Arca
FXI	iShares China Large-Cap ETF	NYSE Arca
XLE	Energy Select Sector SPDR Fund	NYSE Arca
XLK	Technology Select Sector SPDR Fund	NYSE Arca
XLV	Health Care Select Sector SPDR Fund	NYSE Arca
VXX	iPath Series B S&P 500 VIX Short-Term Futures ETN	CboeBZX
XLI	Industrial Select Sector SPDR Fund	NYSE Arca
XLP	Consumer Staples Select Sector SPDR Fund	NYSE Arca
DIA	SPDR Dow Jones Industrial Average ETF Trust	NYSE Arca
VOO	Vanguard S&P 500 ETF	NYSE Arca
IEMG	iShares Core MSCI Emerging Markets ETF	NYSE Arca
IYR	iShares U.S. Real Estate ETF	NYSE Arca
GDXJ	VanEck Vectors Junior Gold Miners ETF	NYSE Arca
JNK	SPDR Bloomberg Barclays High Yield Bond ETF	NYSE Arca
XOP	SPDR S&P Oil & Gas Exploration & Production ETF	NYSE Arca
SMH	VanEck Vectors Semiconductor ETF	NASDAQ
IEF	iShares 7-10 Year Treasury Bond ETF	NASDAQ
VWO	Vanguard FTSE Emerging Markets ETF	NYSE Arca
IEFA	iShares Core MSCI EAFE ETF	CboeBZX
AGG	iShares Core U.S. Aggregate Bond ETF	NYSE Arca
VNQ	Vanguard Real Estate ETF	NYSE Arca
EMB	iShares JP Morgan USO Emerging Markets Bond ETF	NASDAQ
XLY	Consumer Discretionary Select Sector SPDR Fund	NYSE Arca
VTI	Vanguard Total Stock Market ETF	NYSE Arca
XBI	SPDR S&P BIOTECH ETF	NYSE Arca

Ticker	ETP Name	Exchange

EWJ	iShares MSCI Japan ETF	NYSE Arca
MDY	SPDR S&P Midcap 400 ETF Trust	NYSE Arca
VEA	Vanguard FTSE Developed Markets ETF	NYSE Arca
XLB	Materials Select Sector SPDR Fund	NYSE Arca
KRE	SPDR S&P Regional Banking ETF	NYSE Arca
SLV	iShares Silver Trust	NYSE Arca
USO	United States Oil Fund LP	NYSE Arca
IAU	iShares Gold Trust	NYSE Arca
USMV	iShares Edge MSCI Min Vol USA ETF	CboeBZX
IBB	iShares NASDAQ Biotechnology ETF	NASDAQ
BND	Vanguard Total Bond Market ETF	NASDAQ
IJR	iShares Core S&P Small Cap ETF	NYSE Arca
SHV	iShares Short Treasury Bond ETF	NASDAQ
IWD	iShares Russell 1000 Value ETF	NYSE Arca
SPLV	Invesco S&P 500 Low Volatility ETF	NYSE Arca
IWF	iShares Russell 1000 Growth ETF	NYSE Arca
XRT	SPDR S&P Retail ETF	NYSE Arca
EWY	iShares MSCI South Korea ETF	NYSE Arca
MCHI	iShares MSCI China ETF	NASDAQ
ACWI	iShares MSCI ACWI ETF	NASDAQ
VCIT	Vanguard Intermediate-Term Corporate Bond ETF	NASDAQ
AMLP	Alerian MLP ETF	NYSE Arca
SHY	iShares 1-3 Year Treasury Bond ETF	NASDAQ
VGK	Vanguard FTSE Europe ETF	NYSE Arca
BIL	SPDR Bloomberg Barclays 1-3 Month T-Bill ETF	NYSE Arca
EZU	iShares MSCI Eurozone ETF	CboeBZX
IJH	iShares Core S&P Mid-Cap ETF	NYSE Arca
XLRE	Real Estate Select Sector SPDR Fund	NYSE Arca
XLC	Communication Services Select Sector SPDR Fund	NYSE Arca
IWB	iShares Russell 1000 ETF	NYSE Arca
EWT	iShares MSCI Taiwan ETF	NYSE Arca
TIP	iShares TIPS Bond ETF	NYSE Arca
MTUM	iShares Edge MSCI USA Momentum Factor ETF	CboeBZX
RSX	VanEck Vectors Russia ETF	CboeBZX
VTV	Vanguard Value ETF	NYSE Arca
INDA	iShares MSCI India ETF	CboeBZX
PFF	iShares Preferred & Income Securities ETF	NASDAQ
EWH	iShares MSCI Hong Kong ETF	NYSE Arca
VT	Vanguard Total World Stock ETF	NYSE Arca
MBB	iShares MBS ETF	NASDAQ

Ticker	ETP Name	Exchange
IGV	iShares Expanded Tech-Software Sector ETF	CboeBZX
BSV	Vanguard Short-Term Bond ETF	NYSE Arca

SVXY	ProShares Short VIX Short-Term Futures ETF	NYSE Arca
BKLN	Invesco Senior Loan ETF	NYSE Arca
VIG	Vanguard Dividend Appreciation ETF	NYSE Arca
OIH	VanEck Vectors Oil Services ETF	NYSE Arca
EWX	iShares MSCI Mexico ETF	NYSE Arca
VEU	Vanguard FTSE All-World ex-US Index Fund	NYSE Arca
VCSH	Vanguard Short-Term Corporate Bond ETF	NASDAQ
SH	ProShares Short S&P500	NYSE Arca
IEI	iShares 3-7 Year Treasury Bond ETF	NASDAQ
GOVT	iShares U.S. Treasury Bond ETF	CboeBZX
SOXX	iShares PHLX Semiconductor ETF	NASDAQ
VGT	Vanguard Information Technology ETF	NYSE Arca
BNDX	Vanguard Total International Bond ETF	NASDAQ
ASHR	Xtrackers Harvest CST 300 China A-Shares ETF	NYSE Arca
ITOT	iShares Core S&P Total U.S. Stock Market ETF	NYSE Arca
IWO	iShares Russell 2000 Growth ETF	NYSE Arca
VUG	Vanguard Growth ETF	NYSE Arca
JPST	JPMorgan Ultra-Short Income ETF	CboeBZX
IWN	iShares Russell 2000 Value ETF	NYSE Arca
MINT	PIMCO Enhanced Short Maturity Active ETF	NYSE Arca
VYM	Vanguard High Dividend Yield Index ETF	NYSE Arca
ITB	iShares U.S. Home Construction ETF	CboeBZX
FEZ	SPDR EURO STOXX 50 ETF	NYSE Arca
QUAL	iShares Edge MSCI USA Quality Factor ETF	CboeBZX
EWG	iShares MSCI Germany ETF	NYSE Arca
MUB	iShares National Muni Bond ETF	NYSE Arca
IVE	iShares S&P 500 Value ETF	NYSE Arca
SCHF	Schwab International Equity ETF	NYSE Arca
VXUS	Vanguard Total International Stock ETF	NASDAQ
XHB	SPDR S&P Homebuilders ETF	NYSE Arca
AAXJ	iShares MSCI All Country Asia ex Japan ETF	NASDAQ
EWU	iShares MSCI United Kingdom ETF	NYSE Arca
IVW	iShares S&P 500 Growth ETF	NYSE Arca
KBE	SPDR S&P Bank ETF	NYSE Arca
VO	Vanguard Mid-Cap ETF	NYSE Arca
VB	Vanguard Small-Cap ETF	NYSE Arca
EMLC	VanEck Vectors J.P. Morgan EM Local Currency Bond ETF	NYSE Arca

Ticker	ETP Name	Exchange
SCHX	Schwab U.S. Large-Cap ETF	NYSE Arca
IGSB	iShares Short-Term Corporate Bond ETF	NASDAQ
ACWX	iShares MSCI ACWI ex U.S. ETF	NASDAQ
PSQ	ProShares Short QQQ	NYSE Arca
FLOT	iShares Floating Rate Bond ETF	CboeBZX

IGIB	iShares Intermediate-Term Corporate Bond ETF	NASDAQ
SJNK	SPDR Bloomberg Barclays Short Term High Yield Bond ETF	NYSE Arca
UNG	United States Natural Gas Fund LP	NYSE Arca
XME	SPDR S&P Metals & Mining ETF	NYSE Arca
BIV	Vanguard Intermediate-Term Bond ETF	NYSE Arca
NEAR	iShares Short Maturity Bond ETF	CboeBZX
DXJ	WisdomTree Japan Hedged Equity Fund	NYSE Arca
VIXY	ProShares VIX Short-Term Futures ETF	NYSE Arca
KWEB	KraneShares CSI China Internet ETF	NYSE Arca
IWR	iShares Russell Midcap ETF	NYSE Arca
EFAV	iShares Edge MSCI Min Vol EAFE ETF	CboeBZX
EWC	iShares MSCI Canada ETF	NYSE Arca
IXUS	iShares Core MSCI Total International Stock ETF	NASDAQ
EWA	iShares MSCI Australia ETF	NYSE Arca
RSP	Invesco S&P 500 Equal Weight ETF	NYSE Arca
DGRO	iShares Core Dividend Growth ETF	NYSE Arca
FDN	First Trust Dow Jones Internet Index Fund	NYSE Arca
SCZ	iShares MSCI EAFE Small-Cap ETF	NASDAQ
SCHB	Schwab U.S. Broad Market ETF	NYSE Arca
DVY	iShares Select Dividend ETF	NASDAQ
SDY	SPDR S&P Dividend ETF	NYSE Arca
IHI	iShares U.S. Medical Devices ETF	NYSE Arca
OEF	iShares S&P 100 ETF	NYSE Arca
SPIB	SPDR Portfolio Intermediate Term Corporate Bond ETF	NYSE Arca
IWS	iShares Russell Mid-Cap Value ETF	NYSE Arca
AMJ	J.P. Morgan Alerian MLP Index ETN	NYSE Arca
SCHO	Schwab Short-Term US Treasury ETF	NYSE Arca
FTSM	First Trust Enhanced Short Maturity ETF	NASDAQ
SPYG	SPDR Portfolio S&P 500 Growth ETF	NYSE Arca
SPAB	SPDR Portfolio Aggregate Bond ETF	NYSE Arca
VCLT	Vanguard Long-Term Corporate Bond ETF	NASDAQ
SCIID	Schwab US Dividend Equity ETF	NYSE Arca
EWL	iShares MSCI Switzerland ETF	NYSE Arca
IWV	iShares Russell 3000 ETF	NYSE Arca

Ticker	ETP Name	Exchange
VXF	Vanguard Extended Market ETF	NYSE Arca
FVD	First Trust Value Line Dividend Index Fund	NYSE Arca
IYT	iShares Transportation Average ETF	CboeBZX
EWQ	iShares MSCI France ETF	NYSE Arca
VMBS	Vanguard Mortgage-Backed Securities ETF	NASDAQ
ILF	iShares Latin America 40 ETF	NYSE Arca
SPTL	SPDR Portfolio Long Term Treasury ETF	NYSE Arca
BLY	Vanguard Long-Term Bond ETF	NYSE Arca

VBR	Vanguard Small Cap Value ETF	NYSE Arca
VLUE	iShares Edge MSCI USA Value Factor ETF	CboeBZX
EPI	WisdomTree India Earnings Fund	NYSE Arca
VFH	Vanguard Financials ETF	NYSE Arca
VGSH	Vanguard Short-Term Treasury ETF	NASDAQ
SCHP	Schwab US TIPS ETF	NYSE Arca
USIG	iShares Broad USD Investment Grade Corporate Bond ETF	NASDAQ
IWP	iShares Russell Mid-Cap Growth ETF	NYSE Arca
ITA	iShares U.S. Aerospace & Defense ETF	CboeBZX
SCHG	Schwab U.S. Large-Cap Growth ETF	NYSE Arca
PCY	Invesco Emerging Markets Sovereign Debt ETF	NYSE Arca
IUSG	iShares Core S&P U.S. Growth ETF	NASDAQ
SPSB	SPDR Portfolio Short Term Corporate Bond ETF	NYSE Arca
VTEB	Vanguard Tax-Exempt Bond ETF	NYSE Arca
SPYV	SPDR Portfolio S&P 500 Value ETF	NYSE Arca
GSLC	Goldman Sachs ActiveBeta U.S. Large Cap Equity ETF	NYSE Arca
CWB	SPDR Bloomberg Barclays Convertible Securities ETF	NYSE Arca
VTIP	Vanguard Short-Term Inflation-Protected Securities ETF	NASDAQ
HYLB	Xtrackers USD High Yield Corporate Bond ETF	NYSE Arca
FLRN	SPDR Bloomberg Barclays Investment Grade Floating Rate ETF	NYSE Arca
SPEM	SPDR Portfolio Emerging Markets ETF	NYSE Arca
VHT	Vanguard Health Care ETF	NYSE Arca
PGX	Invesco Preferred ETF	NYSE Arca
EEMV	iShares Edge MSCI Min Vol Emerging Markets ETF	CboeBZX
SPDW	SPDR Portfolio Developed World ex-US ETF	NYSE Arca
NOBL	ProShares S&P 500 Dividend Aristocrats ETF	CboeBZX
HDV	iShares Core High Dividend ETF	NYSE Arca
EWP	iShares MSCI Spain ETF	NYSE Arca
SHYG	iShares 0-5 Year High Yield Corporate Bond ETF	NYSE Arca
VBK	Vanguard Small-Cap Growth ETF	NYSE Arca
IUSV	iShares Core S&P US Value ETF	NASDAQ

Ticker	ETP Name	Exchange
SCHE	Schwab Emerging Markets Equity ETF	NYSE Arca
VGLT	Vanguard Long-Term Treasury ETF	NASDAQ
SCHH	Schwab U.S. REIT ETF	NYSE Arca
SPLG	SPDR Portfolio Large Cap ETF	NYSE Arca
IEUR	iShares Core MSCI Europe ETF	NYSE Arca
VV	Vanguard Large-Cap ETF	NYSE Arca
ACWV	iShares Edge MSCI Min Vol Global ETF	CboeBZX
SCHY	Schwab U.S. Large-Cap Value ETF	NYSE Arca
EFV	iShares MSCI EAFE Value ETF	CboeBZX
VPL	Vanguard FTSE Pacific ETF	NYSE Arca
US	iShares S&P Small-Cap 600 Value ETF	NYSE Arca

VOE	Vanguard Mid-Cap Value ETF	NYSE Arca
SCHZ	Schwab US Aggregate Bond ETF	NYSE Arca
VDE	Vanguard Energy ETF	NYSE Arca
DBEF	Xtrackers MSCI EAFE Hedged Equity ETF	NYSE Arca
EWI	iShares MSCI Italy ETF	NYSE Arca
GBIL	Goldman Sachs Access Treasury 0-1 Year ETF	NYSE Arca
ICSH	iShares Ultra Short-Term Bond ETF	CboeBZX
FPE	First Trust Preferred Securities & Income ETF	NYSE Arca
SCHA	Schwab U.S. Small-Cap ETF	NYSE Arca
HYD	VanEck Vectors High-Yield Municipal Index ETF	CboeBZX
EDY	Vanguard Extended Duration Treasury ETF	NYSE Arca
HEDJ	WisdomTree Europe Hedged Equity Fund	NYSE Arca
VPU	Vanguard Utilities ETF	NYSE Arca
EZA	iShares MSCI South Africa ETF	NYSE Arca
HYS	PIMCO 0-5 Year High Yield Corporate Bond Index ETF	NYSE Arca
VGIT	Vanguard Intermediate-Term Treasury ETF	NASDAQ
LMBS	First Trust Low Duration Opportunities ETF	NASDAQ
SCHR	Schwab Intermediate-Term US Treasury ETF	NYSE Arca
GSY	Invesco Ultra Short Duration ETF	NYSE Arca
EPP	iShares MSCI Pacific ex-Japan ETF	NYSE Arca
FBT	First Trust NYSE Arca Biotechnology Index Fund	NYSE Arca
IYF	iShares U.S. Financials ETF	NYSE Arca
IYW	iShares U.S. Technology ETF	NYSE Arca
SRLN	SPDR Blackstone / GSO Senior Loan ETF	NYSE Arca
VNQI	Vanguard Global ex-U.S. Real Estate ETF	NASDAQ
USRY	iShares Broad USD High Yield Corporate Bond ETF	CboeBZX
IDV	iShares International Select Dividend ETF	CboeBZX
MGK	Vanguard Mega Cap Growth ETF	NYSE Arca

Ticker	ETP Name	Exchange
TLH	iShares 10-20 Year Treasury Bond ETF	NYSE Arca
SPHD	Invesco S&P 500 High Dividend Low Volatility ETF	NYSE Arca
VTWO	Vanguard Russell 2000 ETF	NASDAQ
USFR	WisdomTree Floating Rate Treasury Fund	NYSE Arca
VOT	Vanguard Mid-Cap Growth ETF	NYSE Arca
KSA	iShares MSCI Saudi Arabia ETF	NYSE Arca
PDBC	Invesco Optimum Yield Diversified Commodity Strategy No K-1 ETF	NASDAQ
IGLB	iShares Long-Term Corporate Bond ETF	NYSE Arca
SCHM	Schwab U.S. Mid-Cap ETF	NYSE Arca
ISTB	iShares Core 1-5 Year USD Bond ETF	NASDAQ
IJK	iShares S&P Mid-Cap 400 Growth ETF	NYSE Arca
GLDM	SPDR Gold MiniShares Trust	NYSE Arca
DOG	ProShares Short Dow30	NYSE Arca

KBWB	Invesco KBW Bank ETF	NASDAQ
EUFN	iShares MSCI Europe Financials ETF	NASDAQ
EIDO	iShares MSCI Indonesia ETF	NYSE Arca
XAR	SPDR S&P Aerospace & Defense ETF	NYSE Arca
RWM	ProShares Short Russell2000	NYSE Arca
BOND	PIMCO Active Bond ETF	NYSE Arca
VDC	Vanguard Consumer Staples ETF	NYSE Arca
UUP	Invesco DB US Dollar Index Bullish Fund	NYSE Arca
SP11	SPDR Portfolio Intermediate Term Treasury ETF	NYSE Arca
FXE	Invesco CurrencyShares Euro Trust	NYSE Arca
VSS	Vanguard FTSE All-World ex-US Small-Cap ETF	NYSE Arca
EFG	iShares MSCI EAFE Growth ETF	CboeBZX
FXO	First Trust Financials AlphaDEX Fund	NYSE Arca
XMLV	Invesco S&P MidCap Low Volatility ETF	NYSE Arca
FTEC	Fidelity MSCI Information Technology Index ETF	NYSE Arca
SPYD	SPDR Portfolio S&P 500 High Dividend ETF	NYSE Arca
QTEC	First Trust NASDAQ-100 Technology Sector Index Fund	NASDAQ
THD	iShares MSCI Thailand ETF	NYSE Arca
MOAT	VanEck Vectors Morningstar Wide Moat ETF	CboeBZX
EWM	iShares MSCI Malaysia ETF	NYSE Arca
RWR	SPDR Dow Jones REIT ETF	NYSE Arca
BNO	United States Brent Oil Fund LP	NYSE Arca
FTCS	First Trust Capital Strength ETF	NASDAQ
DBC	Invesco DB Commodity Index Tracking Fund	NYSE Arca
TOTL	SPDR DoubleLine Total Return Tactical ETF	NYSE Arca
EWS	iShares MSCI Singapore ETF	NYSE Arca

Ticker	ETP Name	Exchange
PTLC	Pacer Trendpilot US Large Cap ETF	CboeBZX
SPTS	SPDR Portfolio Short Term Treasury ETF	NYSE Arca
GUNR	FlexShares Morningstar Global Upstream Natural Resources Index Fund	NYSE Arca
PRF	Invesco FTSE RAFI US 1000 ETF	NYSE Arca
ECII	iShares MSCI Chile ETF	CboeBZX
SPTM	SPDR Portfolio Total Stock Market ETF	NYSE Arca
MJ	ETFMG Alternative Harvest ETF	NYSE Arca
IYE	iShares U.S. Energy ETF	NYSE Arca
VOX	Vanguard Communication Services ETF	NYSE Arca
UT	iShares S&P Small-Cap 600 Growth ETF	NASDAQ
IPAY	ETFMG Prime Mobile Payments ETF	NYSE Arca
RWX	SPDR Dow Jones International Real Estate ETF	NYSE Arca
FNDX	Schwab Fundamental US Large Co. Index ETF	NYSE Arca
IAGG	iShares Core International Aggregate Bond ETF	CboeBZX
ANGL	VanEck Vectors Fallen Angel High Yield Bond ETF	NASDAQ

IEV	iShares Europe ETF	NYSE Arca
VOOG	Vanguard S&P 500 Growth ETF	NYSE Arca
FLCB	Franklin Liberty U.S. Core Bond ETF	NYSE Arca
IJJ	iShares S&P Mid-Cap 400 Value ETF	NYSE Arca
IUSB	iShares Core Total USD Bond Market ETF	NASDAQ
TBF	Proshares Short 20+ Year Treasury	NYSE Arca
BBEU	JPMorgan BetaBuilders Europe ETF	CboeBZX
SPSM	SPDR Portfolio Small Cap ETF	NYSE Arca
SIZE	iShares Edge MSCI USA Size Factor ETF	NYSE Arca
SHM	SPDR Nuveen Bloomberg Barclays Short Term Municipal Bond ETF	NYSE Arca
TUR	iShares MSCI Turkey ETF	NASDAQ
RODM	Hartford Multifactor Developed Markets (ex-US) ETF	NYSE Arca
BBJP	JPMorgan BetaBuilders Japan ETF	CboeBZX
MLPI	ETRACS Alerian MLP Infrastructure Index ETN	NYSE Arca
IXN	iShares Global Tech ETF	NYSE Arca
LGLV	SPDR SSGA US Large Cap Low Volatility Index ETF	NYSE Arca
FNDF	Schwab Fundamental International Large Co. Index ETF	NYSE Arca
SGOL	Aberdeen Standard Physical Gold Shares ETF	NYSE Arca
IGOV	iShares International Treasury Bond ETF	NASDAQ
FIXD	First Trust TCW Opportunistic Fixed Income ETF	NASDAQ
EWD	iShares MSCI Sweden ETF	NYSE Arca
ICF	iShares Cohen & Steers REIT ETF	CboeBZX
VIS	Vanguard Industrials ETF	NYSE Arca

Ticker	ETP Name	Exchange
MDYV	SPDR S&P 400 Mid Cap Value ETF	NYSE Arca
SPHQ	Invesco S&P 500 Quality ETF	NYSE Arca
SKYY	First Trust Cloud Computing ETF	NASDAQ
IGF	iShares Global Infrastructure ETF	NASDAQ
REM	iShares Mortgage Real Estate ETF	CboeBZX
BOTZ	Global X Robotics & Artificial Intelligence ETF	NASDAQ
FXL	First Trust Technology AlphaDEX Fund	NYSE Arca
EMLP	First Trust North American Energy Infrastructure Fund	NYSE Arca
SUB	iShares Short-Term National Muni Bond ETF	NYSE Arca
SPLB	SPDR Portfolio Long Term Corporate Bond ETF	NYSE Arca
HEWJ	iShares Currency Hedged MSCI Japan ETF	NYSE Arca
VONG	Vanguard Russell 1000 Growth ETF	NASDAQ
IYG	iShares US Financial Services ETF	NYSE Arca
IYZ	iShares U.S. Telecommunications ETF	CboeBZX
VCR	Vanguard Consumer Discretionary ETF	NYSE Arca
DGS	WisdomTree Emerging Markets SmallCap Dividend Fund	NYSE Arca
XES	SPDR S&P Oil & Gas Equipment & Services ETF	NYSE Arca
IHF	iShares U.S. Healthcare Providers ETF	NYSE Arca

VWOB	Vanguard Emerging Markets Government Bond ETF	NASDAQ
XSLV	Invesco S&P SmallCap Low Volatility ETF	NYSE Arca
HEZU	iShares Currency Hedged MSCI Eurozone ETF	NYSE Arca
ONEQ	Fidelity Nasdaq Composite Index Tracking Stock	NASDAQ
PULS	PGIM Ultra Short Bond ETF	NYSE Arca
ARKK	ARK Innovation ETF	NYSE Arca
SLYV	SPDR S&P 600 Small Cap Value ETF	NYSE Arca
DGRW	WisdomTree US Quality Dividend Growth Fund	NASDAQ
FNDE	Schwab Fundamental Emerging Markets Large Co. Index ETF	NYSE Arca
KIE	SPDR S&P Insurance ETF	NYSE Arca
USRT	iShares Core U.S. REIT ETF	NYSE Arca
IYH	iShares U.S. Healthcare ETF	NYSE Arca
RPV	Invesco S&P 500 Pure Value ETF	NYSE Arca
DEM	WisdomTree Emerging Markets High Dividend Fund	NYSE Arca
HEFA	iShares Currency Hedged MSCI EAFE ETF	CboeBZX
XSD	SPDR S&P Semiconductor ETF	NYSE Arca
IXC	iShares Global Energy ETF	NYSE Arca
MLPA	Global X MLP ETF	NYSE Arca
ERUS	iShares MSCI Russia ETF	NYSE Arca
SIL	Global X Silver Miners ETF	NYSE Arca
DON	WisdomTree U.S. MidCap Dividend Fund	NYSE Arca

Ticker	ETP Name	Exchange
VNLA	Janus Henderson Short Duration Income ETF	NYSE Arca
AGGY	WisdomTree Yield Enhanced U.S. Aggregate Bond Fund	NYSE Arca
SPMD	SPDR Portfolio Mid Cap ETF	NYSE Arca
RPG	Invesco S&P 500 Pure Growth ETF	NYSE Arca
BBRE	JPMorgan BetaBuilders MSCI U.S. REIT ETF	CboeBZX
STIP	iShares 0-5 Year TIPS Bond ETF	NYSE Arca
FTSL	First Trust Senior Loan Fund	NASDAQ
PHYS	Sprott Physical Gold Trust	NYSE Arca
GXC	SPDR S&P China ETF	NYSE Arca
PPLT	Aberdeen Standard Physical Platinum Shares ETF	NYSE Arca
FXB	Invesco CurrencyShares British Pound Sterling Trust	NYSE Arca
TFI	SPDR Nuveen Bloomberg Barclays Municipal Bond ETF	NYSE Arca
GVI	iShares Intermediate Government/Credit Bond ETF	CboeBZX
MLPX	Global X MLP & Energy Infrastructure ETF	NYSE Arca
IXJ	iShares Global Healthcare ETF	NYSE Arca
ESGD	iShares ESG MSCI EAFE ETF	NASDAQ
FNDA	Schwab Fundamental US Small Co. Index ETF	NYSE Arca
CEF	Sprott Physical Gold and Silver Trust	NYSE Arca
SLQD	iShares 0-5 Year Investment Grade Corporate Bond ETF	NASDAQ
LEMB	iShares J.P. Morgan EM Local Currency Bond ETF	NYSE Arca
IYC	iShares U.S. Consumer Services ETF	NYSE Arca

FMB	First Trust Managed Municipal ETF	NASDAQ
PDP	Invesco DWA Momentum ETF	NASDAQ
HYLS	First Trust Tactical High Yield ETF	NASDAQ
DBEU	Xtrackers MSCI Europe Hedged Equity ETF	NYSE Arca
IDEV	iShares Core MSCI International Developed Markets ETF	NYSE Arca
REET	iShares Global REIT ETF	NYSE Arca
RYT	Invesco S&P 500 Equal Weight Technology ETF	NYSE Arca
HYMB	SPDR Nuveen Bloomberg Barclays High Yield Municipal Bond ETF	NYSE Arca
MGC	Vanguard Mega Cap ETF	NYSE Arca
IDU	iShares U.S. Utilities ETF	NYSE Arca
JPIN	J.P. Morgan Diversified Return International Equity ETF	NYSE Arca
XLG	Invesco S&P 500 Top 50 ETF	NYSE Arca
SLYG	SPDR S&P 600 Small Cap Growth ETF	NYSE Arca
SCHC	Schwab International Small-Cap Equity ETF	NYSE Arca
RWO	SPDR Dow Jones Global Real Estate ETF	NYSE Arca
VIOO	Vanguard S&P Small-Cap 600 ETF	NYSE Arca
VRP	Invesco Variable Rate Preferred ETF	NYSE Arca
FXV	Invesco Currencyshares Japanese Yen Trust	NYSE Arca

Ticker	ETP Name	Exchange
RDIV	Invesco S&P Ultra Dividend Revenue ETF	NYSE Arca
PXH	Invesco FTSE RAFI Emerging Markets ETF	NYSE Arca
MGV	Vanguard Mega Cap Value ETF	NYSE Arca
CORP	PIMCO Investment Grade Corporate Bond Index ETF	NYSE Arca
VAW	Vanguard Materials ETF	NYSE Arca
EWN	iShares MSCI Netherlands ETF	NYSE Arca
BWX	SPDR Bloomberg Barclays International Treasury Bond ETF	NYSE Arca
EUM	ProShares Short MSCI Emerging Markets	NYSE Arca
QYLD	Global X NASDAQ 100 Covered Call ETF	NASDAQ
PGF	Invesco Financial Preferred ETF	NYSE Arca
FREL	Fidelity MSCI Real Estate Index ETF	NYSE Arca
IGM	iShares Expanded Tech Sector ETF	NYSE Arca
IAT	iShares U.S. Regional Banks ETF	NYSE Arca
TAN	Invesco Solar ETF	NYSE Arca
VONV	Vanguard Russell 1000 Value ETF	NASDAQ
FUTY	Fidelity MSCI Utilities Index ETF	NYSE Arca
KBA	KraneShares BofA MSCI China A Share ETF	NYSE Arca
PRFZ	Invesco FTSE RAFI US 1500 Small-Mid ETF	NASDAQ
FBND	Fidelity Total Bond ETF	NYSE Arca
FXH	First Trust Health Care AlphaDEX Fund	NYSE Arca
PSK	SPDR Wells Fargo Preferred Stock ETF	NYSE Arca
IQLT	iShares Edge MSCI Intl Quality Factor ETF	NYSE Arca
EPHE	iShares MSCI Philippines ETF	NYSE Arca

ITM	VanEck Vectors AMT-Free Intermediate Municipal Index ETF	CboeBZX
GSIE	Goldman Sachs ActiveBeta International Equity ETF	NYSE Arca
DLN	WisdomTree U.S. LargeCap Dividend Fund	NYSE Arca
HACK	ETFMG Prime Cyber Security ETF	NYSE Arca
DJP	iPath Bloomberg Commodity Index Total Return ETN	NYSE Arca
FHLC	Fidelity MSCI Health Care Index ETF	NYSE Arca
DBJP	Xtrackers MSCI Japan Hedged Equity ETF	NYSE Arca
URTH	iShares MSCI World ETF	NYSE Arca
VYMI	Vanguard International High Dividend Yield ETF	NASDAQ
FDT	First Trust Developed Markets ex-US AlphaDEX Fund	NASDAQ
BSCL	Invesco BulletShares 2021 Corporate Bond ETF	NASDAQ
FXU	First Trust Utilities AlphaDEX Fund	NYSE Arca
BSCK	Invesco BulletShares 2020 Corporate Bond ETF	NASDAQ
IYJ	iShares U.S. Industrials ETF	CboeBZX
AGZ	iShares Agency Bond ETF	NYSE Arca
INTF	iShares Edge MSCI Multifactor Intl ETF	NYSE Arca

Ticker	ETP Name	Exchange
SPMB	SPDR Portfolio Mortgage Backed Bond ETF	NYSE Arca
GSG	iShares S&P GSCI Commodity Indexed Trust	NYSE Arca
PSJ	Invesco Dynamic Software ETF	NYSE Arca
SDIV	Global X Superdividend ETF	NYSE Arca
VIGI	Vanguard International Dividend Appreciation ETF	NASDAQ
RING	iShares MSCI Global Gold Miners ETF	NASDAQ
CWI	SPDR MSCI ACWI ex-US ETF	NYSE Arca
IWY	iShares Russell Top 200 Growth ETF	NYSE Arca
ESGU	iShares ESG MSCI USA ETF	NASDAQ
ZROZ	PIMCO 25+ Year Zero Coupon US Treasury Index ETF	NYSE Arca
SPIP	SPDR Portfolio TIPS ETF	NYSE Arca
FNCL	Fidelity MSCI Financials Index ETF	NYSE Arca
ESGE	iShares ESG MSCI EM ETF	NASDAQ
BAB	Invesco Taxable Municipal Bond ETF	NYSE Arca
PZA	Invesco National AMT-Free Municipal Bond ETF	NYSE Arca
MDYG	SPDR S&P 400 Mid Cap Growth ETF	NYSE Arca
RDVY	First Trust Rising Dividend Achievers ETF	NASDAQ
DSI	iShares MSCI KLD 400 Social ETF	NYSE Arca
BSCM	Invesco BulletShares 2022 Corporate Bond ETF	NASDAQ
IXG	iShares Global Financials ETF	NYSE Arca
CIBR	First Trust NASDAQ Cybersecurity ETF	NASDAQ
JHMM	John Hancock Multifactor Mid Cap ETF	NYSE Arca
FCG	First Trust Natural Gas ETF	NYSE Arca
PHB	Invesco Fundamental High Yield Corporate Bond ETF	NYSE Arca
FV	First Trust Dorsey Wright Focus 5 ETF	NASDAQ
BSJL	Invesco Bulletshares 2021 High Yield Corporate Bond ETF	NASDAQ

FNDC	Schwab Fundamental International Small Co. Index ETF	NYSE Arca
DVYE	iShares Emerging Markets Dividend ETF	NYSE Arca
DES	WisdomTree U.S. SmallCap Dividend Fund	NYSE Arca
VONE	Vanguard Russell 1000 ETF	NASDAQ
GNR	SPDR S&P Global Natural Resources ETF	NYSE Arca
FPX	First Trust US Equity Opportunities ETF	NYSE Arca
BSJK	Invesco BulletShares 2020 High Yield Corporate Bond ETF	NASDAQ
PSLV	Sprott Physical Silver Trust	NYSE Arca
SUSA	iShares MSCI USA ESG Select ETF	NYSE Arca
AOM	iShares Core Moderate Allocation ETF	NYSE Arca
IEO	iShares U.S. Oil & Gas Exploration & Production ETF	CboeBZX
XMMO	Invesco S&P MidCap Momentum ETF	NYSE Arca
PPA	Invesco Aerospace & Defense ETF	NYSE Arca

Ticker	ETP Name	Exchange
NUSI	Nationwide Risk-Managed Income ETF	NYSE Arca
COMT	iShares Commodities Select Strategy ETF	NASDAQ
PDEC	Innovator S&P 500 Power Buffer ETF - December	CboeBZX
EBND	SPDR Bloomberg Barclays Emerging Markets Local Bond ETF	NYSE Arca
CMF	iShares California Muni Bond ETF	NYSE Arca
VOOV	Vanguard S&P 500 Value ETF	NYSE Arca
IGE	iShares North American Natural Resources ETF	CboeBZX
FDL	First Trust Morningstar Dividend Leaders Index Fund	NYSE Arca
PXF	Invesco FTSE RAFI Developed Markets ex-U.S. ETF	NYSE Arca
PFFD	Global X U.S. Preferred ETF	CboeBZX
ROBO	ROBO Global Robotics & Automation Index ETF	NYSE Arca
IBDL	iShares iBonds Dec 2020 Term Corporate ETF	NYSE Arca
IDLY	Invesco S&P International Developed Low Volatility ETF	NYSE Arca
FFTY	Innovator IBD 50 ETF	NYSE Arca
SPHB	Invesco S&P 500 High Beta ETF	NYSE Arca
DLS	WisdomTree International SmallCap Dividend Fund	NYSE Arca
LRGF	iShares Edge MSCI Multifactor USA ETF	NYSE Arca
SDOG	ALPS Sector Dividend Dogs ETF	NYSE Arca
QQEW	First Trust Nasdaq-100 Equal Weighted Index Fund	NASDAQ
CQQQ	Invesco China Technology ETF	NYSE Arca
EPOL	iShares MSCI Poland ETF	NYSE Arca
REZ	iShares Residential Real Estate ETF	NYSE Arca
DBA	Invesco DB Agriculture Fund	NYSE Arca
ARKW	ARK Next Generation Internet ETF	NYSE Arca
FSTA	Fidelity MSCI Consumer Staples Index ETF	NYSE Arca
JXI	iShares Global Utilities ETF	NYSE Arca
AOR	iShares Core Growth Allocation ETF	NYSE Arca
MOO	VanEck Vectors Agribusiness ETF	NYSE Arca
IBDM	iShares iBonds Dec 2021 Term Corporate ETF	NYSE Arca

GREK	Global X MSCI Greece ETF	NYSE Arca
PKW	Invesco Buyback Achievers ETF	NASDAQ
QUS	SPDR MSCI USA StrategicFactors ETF	NYSE Arca
XT	iShares Exponential Technologies ETF	NASDAQ
PALL	Aberdeen Standard Physical Palladium Shares ETF	NYSE Arca
GEM	Goldman Sachs ActiveBeta Emerging Markets Equity ETF	NYSE Arca
BBCA	JPMorgan BetaBuilders Canada ETF	CboeBZX
ESGV	Vanguard ESG U.S. Stock ETF	CboeBZX
INDY	iShares India 50 ETF	NASDAQ
FEX	First Trust Large Cap Core AlphaDEX Fund	NASDAQ

Ticker	ETP Name	Exchange
MNA	IQ Merger Arbitrage ETF	NYSE Arca
NFRA	FlexShares STOXX Global Broad Infrastructure Index Fund	NYSE Arca
RPAR	RPAR Risk Parity ETF	NYSE Arca
EWX	SPDR S&P Emerging Markets Small Cap ETF	NYSE Arca
BSJM	Invesco BulletShares 2022 High Yield Corporate Bond ETF	NASDAQ
FEM	First Trust Emerging Markets AlphaDEX Fund	NASDAQ
PTF	Invesco DWA Technology Momentum ETF	NASDAQ
ARKG	ARK Genomic Revolution ETF	CboeBZX
JKH	iShares Morningstar Mid-Cap Growth ETF	NYSE Arca
GBF	iShares Government/Credit Bond ETF	NYSE Arca
SILJ	ETFMG Prime Junior Silver Miners ETF	NYSE Arca
SLY	SPDR S&P 600 Small Cap ETF	NYSE Arca
FTC	First Trust Large Cap Growth AlphaDEX Fund	NASDAQ
FTA	First Trust Large Cap Value AlphaDEX Fund	NASDAQ
QDF	FlexShares Quality Dividend Index Fund	NYSE Arca
IBDN	iShares iBonds Dec 2022 Term Corporate ETF	NYSE Arca
JPUS	JPMorgan Diversified Return U.S. Equity ETF	NYSE Arca
AMZA	InfraCap MLP ETF	NYSE Arca
IBDO	iShares iBonds Dec 2023 Term Corporate ETF	NYSE Arca
SRET	Global X SuperDividend REIT ETF	NASDAQ
VNM	VanEck Vectors Vietnam ETF	CboeBZX
BSCN	Invesco Bulletshares 2023 Corporate Bond ETF	NASDAQ
USSG	Xtrackers MSCI USA ESG Leaders Equity ETF	NYSE Arca
EMRY	iShares Emerging Markets High Yield Bond ETF	CboeBZX
IPAC	iShares Core MSCI Pacific ETF	NYSE Arca
RYU	Invesco S&P 500 Equal Weight Utilities ETF	NYSE Arca
BSCO	Invesco BulletShares 2024 Corporate Bond ETF	NASDAQ
PWV	Invesco Dynamic Large Cap Value ETF	NYSE Arca
ICLN	iShares Global Clean Energy ETF	NASDAQ
SMMV	iShares Edge MSCI Min Vol USA Small-Cap ETF	CboeBZX
FLCO	Franklin Liberty Investment Grade Corporate ETF	NYSE Arca
CLOU	Global X Cloud Computing ETF	NASDAQ

PLW	Invesco 1-30 Laddered Treasury ETF	NASDAQ
100	iShares Global 100 ETF	NYSE Arca
PPH	VanEck Vectors Pharmaceutical ETF	NASDAQ
SPGP	Invesco S&P 500 GARP ETF	NYSE Arca
FINX	Global X FinTech ETF	NASDAQ
KXI	iShares Global Consumer Staples ETF	NYSE Arca
RHS	Invesco S&P 500 Equal Weight Consumer Staples ETF	NYSE Arca

Ticker	ETP Name	Exchange
DIV	Global X SuperDividend US ETF	NYSE Arca
FDIS	Fidelity MSCI Consumer Discretionary Index ETF	NYSE Arca
PFXF	VanEck Vectors Preferred Securities ex Financials ETF	NYSE Arca
IYM	iShares U.S. Basic Materials ETF	NYSE Arca
SIVR	Aberdeen Standard Physical Silver Shares ETF	NYSE Arca
FXG	First Trust Consumer Staples AlphaDEX Fund	NYSE Arca
PICK	iShares MSCI Global Metals & Mining Producers ETF	CboeBZX
TFLO	iShares Treasury Floating Rate Bond ETF	NYSE Arca
IWC	iShares Micro-Cap ETF	NYSE Arca
FENY	Fidelity MSCI Energy Index ETF	NYSE Arca
NUAG	Nuveen Enhanced Yield U.S. Aggregate Bond ETF	NYSE Arca
JKE	iShares Morningstar Large-Cap Growth ETF	NYSE Arca
MXI	iShares Global Materials ETF	NYSE Arca
IBDP	iShares iBonds Dec 2024 Term Corporate ETF	NYSE Arca
LVHD	Legg Mason Low Volatility High Dividend ETF	NASDAQ
DBEH	iM DBi Hedge Strategy ETF	NYSE Arca
FXR	First Trust Industrials/Producer Durables AlphaDEX Fund	NYSE Arca
IYY	iShares Dow Jones U.S. ETF	NYSE Arca
EZM	WisdomTree U.S. MidCap Fund	NYSE Arca
XPH	SPDR S&P Pharmaceuticals ETF	NYSE Arca
DFJ	WisdomTree Japan SmallCap Dividend Fund	NYSE Arca
PCEF	Invesco CEF Income Composite ETF	NYSE Arca
LIT	Global X Lithium & Battery Tech ETF	NYSE Arca
AOK	iShares Core Conservative Allocation ETF	NYSE Arca
ILTB	iShares Core 10+ Year USD Bond ETF	NYSE Arca
IQDF	FlexShares International Quality Dividend Index Fund	NYSE Arca
USMC	Principal U.S. Mega-Cap Multi-Factor Index ETF	NASDAQ
IHE	iShares U.S. Pharmaceuticals ETF	NYSE Arca
FDVV	Fidelity High Dividend ETF	NYSE Arca
FXD	First Trust Consumer Discretionary AlphaDEX Fund	NYSE Arca
FM	iShares MSCI Frontier 100 ETF	NYSE Arca
PTMC	Pacer Trendpilot US Mid Cap ETF	CboeBZX
TDIV	First Trust NASDAQ Technology Dividend Index Fund	NASDAQ
QLTA	iShares Aaa-A Rated Corporate Bond ETF	NYSE Arca
ICVT	iShares Convertible Bond ETF	CboeBZX

SCHK	Schwab 1000 Index ETF	NYSE Arca
SMDV	ProShares Russell 2000 Dividend Growers ETF	CboeBZX
AVUS	Avantis U.S. Equity ETF	NYSE Arca
REGL	ProShares S&P MidCap 400 Dividend Aristocrats ETF	CboeBZX

Ticker	ETP Name	Exchange
FLQL	Franklin LibertyQ U.S. Equity ETF	CboeBZX
IXP	iShares Global Comm Services ETF	NYSE Arca
BBAX	JPMorgan BetaBuilders Developed Asia ex-Japan ETF	CboeBZX
PUI	Invesco DWA Utilities Momentum ETF	NASDAQ
XHE	SPDR S&P Health Care Equipment ETF	NYSE Arca
XSOE	WisdomTree Emerging Markets ex-State-Owned Enterprises Fund	NYSE Arca
HYEM	VanEck Vectors Emerging Markets High Yield Bond ETF	NYSE Arca
FCOM	Fidelity MSCI Communication Services Index ETF	NYSE Arca
CFA	VictoryShares US 500 Volatility Wtd ETF	NASDAQ
RYH	Invesco S&P 500 Equal Weight Health Care ETF	NYSE Arca
DBO	Invesco DB Oil Fund	NYSE Arca
CGW	Invesco S&P Global Water Index ETF	NYSE Arca
BAR	GraniteShares Gold Shares	NYSE Arca
PEY	Invesco High Yield Equity Dividend Achievers ETF	NASDAQ
IBDQ	iShares iBonds Dec 2025 Term Corporate ETF	NYSE Arca
AOA	iShares Core Aggressive Allocation ETF	NYSE Arca
EES	WisdomTree U.S. SmallCap Fund	NYSE Arca
PTNQ	Pacer Trendpilot 100 ETF	CboeBZX
CMBS	iShares CMBS ETF	NYSE Arca
ATMP	Barclays ETN+ Select MLP ETN	CboeBZX
PHO	Invesco Water Resources ETF	NASDAQ
LDUR	PIMCO Enhanced Low Duration Active ETF	NYSE Arca
CFO	VictoryShares US 500 Enhanced Volatility Wtd ETF	NASDAQ
GIGB	Goldman Sachs Access Investment Grade Corporate Bond ETF	NYSE Arca
DTD	WisdomTree U.S. Total Dividend Fund	NYSE Arca
FDLO	Fidelity Low Volatility Factor ETF	NYSE Arca
JO	iPath Series B Bloomberg Coffee Subindex Total Return ETN	NYSE Arca
HDGE	AdvisorShares Ranger Equity Bear ETF	NYSE Arca
JAGG	J.P. Morgan Exchange-Traded Fund Trust	NYSE Arca
LTPZ	PIMCO 15+ Year US TIPS Index ETF	NYSE Arca
SNLN	Highland iBoxx Senior Loan ETF	NASDAQ
SMIN	iShares MSCI India Small Cap ETF	CboeBZX
SHE	SPDR SSGA Gender Diversity Index ETF	NYSE Arca
DWX	SPDR S&P International Dividend ETF	NYSE Arca
FLTR	VanEck Vectors Investment Grade Floating Rate ETF	NYSE Arca
FEP	First Trust Europe AlphaDEX Fund	NASDAQ
GWX	SPDR S&P International Small Cap ETF	NYSE Arca
VSGX	Vanguard ESG International Stock ETF	CboeBZX

ARGT	Global X MSCI Argentina ETF	NYSE Arca

Ticker	ETF Name	Exchange
AMU	ETRACS Alerian MLP Index ETN	NYSE Arca
ENZL	iShares MSCI New Zealand ETF	NASDAQ
IVOO	Vanguard S&P Mid-Cap 400 ETF	NYSE Arca
POCT	Innovator S&P 500 Power Buffer ETF - October	CboeBZX
PSCH	Invesco S&P SmallCap Health Care ETF	NASDAQ
TPYP	Tortoise North American Pipeline Fund	NYSE Arca
AWTM	Aware Ultra-Short Duration Enhanced Income ETF	NYSE Arca
xsw	SPDR S&P Software & Services ETF	NYSE Arca
IVLU	iShares Edge MSCI Intl Value Factor ETF	NYSE Arca
VRIG	Invesco Variable Rate Investment Grade ETF	NASDAQ
ZIV	VelocityShares Daily Inverse VIX Medium-Term ETN	NASDAQ
QAI	IQ Hedge Multi-Strategy Tracker ETF	NYSE Arca
FGD	First Trust Dow Jones Global Select Dividend Index Fund	NYSE Arca
XNTK	SPDR NYSE Technology ETF	NYSE Arca
PNQI	Invesco NASDAQ Internet ETF	NASDAQ
VTC	Vanguard Total Corporate Bond ETF	NASDAQ
EXI	iShares Global Industrials ETF	NYSE Arca
FLTB	Fidelity Limited Term Bond ETF	NYSE Arca
SRVR	Pacer Benchmark Data & Infrastructure Real Estate SCTR ETF	NYSE Arca
EPS	WisdomTree U.S. LargeCap Fund	NYSE Arca
FXC	Invesco CurrencyShares Canadian Dollar Trust	NYSE Arca
REMX	VanEck Vectors Rare Earth/Strategic Metals ETF	NYSE Arca
ULST	SPDR SSgA Ultra Short Term Bond ETF	NYSE Arca
BOCT	Innovator S&P 500 Buffer ETF - October	CboeBZX
SUSL	iShares ESG MSCI USA Leaders ETF	NASDAQ
TILT	FlexShares Morningstar US Market Factor Tilt Index Fund	CboeBZX
EPU	iShares MSCI Peru ETF	NYSE Arca
PWB	Invesco Dynamic Large Cap Growth ETF	NYSE Arca
BSCP	Invesco Bulletshares 2025 Corporate Bond ETF	NASDAQ
PNOV	Innovator S&P 500 Power Buffer ETF - November	CboeBZX
WIP	SPDR FTSE International Government Inflation-Protected Bond ETF	NYSE Arca
BDEC	Innovator S&P 500 Buffer ETF - December	CboeBZX
SCHI	Schwab 5-10 Year Corporate Bond ETF	NYSE Arca
PJP	Invesco Dynamic Pharmaceuticals ETF	NYSE Arca
HDEF	Xtrackers MSCI EAFE High Dividend Yield Equity ETF	NYSE Arca
IHDG	WisdomTree International Hedged Quality Dividend Growth Fund	NYSE Arca
HEWG	iShares Currency Hedged MSCI Germany ETF	NASDAQ
FIDU	Fidelity MSCI Industrials Index ETF	NYSE Arca
IBDR	iShares iBonds Dec 2026 Term Corporate ETF	NYSE Arca

Ticker	ETP Name	Exchange
OUSA	O'Shares FTSE US Quality Dividend ETF	NYSE Arca
FXF	Invesco CurrencyShares Swiss Franc Trust	NYSE Arca
HFXI	IQ 50 Percent Hedged FTSE International ETF	NYSE Arca
FNY	First Trust Mid Cap Growth AlphaDEX Fund	NASDAQ
AVDE	Avantis International Equity ETF	NYSE Arca
FIW	First Trust Water ETF	NYSE Arca
FNX	First Trust Mid Cap Core AlphaDEX Fund	NASDAQ
CLTL	Invesco Treasury Collateral ETf	NYSE Arca
AIA	iShares Asia 50 ETF	NASDAQ
DVOL	First Trust Dorsey Wright Momentum & Low Volatility ETF	NASDAQ
PAUG	Innovator S&P 500 Power Buffer ETF - August	CboeBZX
DIAL	Columbia Diversified Fixed Income Allocation ETF	NYSE Arca
FXZ	First Trust Materials AlphaDEX Fund	NYSE Arca

Appendix B -- Data and Reporting

I. Data Provision. The Commission may request from the Primary Listing Exchanges the below data that is not otherwise publicly available. The requested data shall be collected and transmitted to the Commission in an agreed-upon format, to be provided 30 calendar days following the date of the request, or such other date as agreed upon by the Commission and Primary Listing Exchange. Data collected in connection with a Commission request shall be transmitted to the Commission with a request for confidential treatment under the Freedom of Information Act, 5 U.S.C. § 552, and the Commission's rules and regulations thereunder. This section shall expire at the time the below data becomes available via the National Market System Plan Governing the Consolidated Audit Trail or becomes publicly available.

A. Data set of all orders entered during halts or Trading Pauses

1. Normal or Auction Only orders, Arrivals, Changes, Cancels, # shares, limit/market, side, Limit State side
2. Pipe delimited with field name as first record

B. Data set of order events received during Limit States

C. Summary data on order flow of arrivals and cancellations for each 15-second period for discrete time periods and sample stocks to be determined by the SEC in subsequent data requests. Must indicate side(s) of Limit State.

1. Market/marketable sell orders arrivals and executions
 - a. Count
 - b. Shares
 - c. Shares executed
2. Market/marketable buy orders arrivals and executions
 - a. Count
 - b. Shares
 - c. Shares executed

3. Count arriving, volume arriving and shares executing in limit sell orders above NBO mid-point
4. Count arriving, volume arriving and shares executing in limit sell orders at or below NBBO mid-point (non-marketable)
5. Count arriving, volume arriving and shares executing in limit buy orders at or above NBBO mid-point (non-marketable)
6. Count arriving, volume arriving and shares executing in limit buy orders below NBBO mid-point
7. Count and volume arriving of limit sell orders priced at or above NBBO mid-point plus \$0.05
8. Count and volume arriving of limit buy orders priced at or below NBBO mid-point minus \$0.05
9. Count and volume of (3-8) for cancels
10. Include: ticker, date, time at start, time of Limit State, all data item fields in 1, last sale prior to 15-second period (null if no trades today), range during 15-second period, last trade during 15-second period

II. Reporting

A. Annual Report. No later than March 31, 2020 and annually thereafter, the Operating Committee, in consultation with the Advisory committee, will provide the Commission and make publicly available a report containing key information concerning the Plan's performance during the preceding calendar year which shall include the following items: (1) an update on the Plan's operations; (2) an analysis of any amendments to the Plan implemented during the period covered by the report; and (3) an analysis of potential material emerging issues that may directly impact the operation of the Plan.

1. **Update on the Plan's Operations.** This section of the Annual Report shall analyze the Plan's operations during the covered period, including a discussion of any areas of the Plan's operation that require additional analysis. In particular, this section of the Annual Report shall examine the calibration of the parameters set forth in the Plan (e.g., Price Bands, duration of Limit States, impact of Straddle States, duration of Trading Pauses, and the performance of reopening

procedures following a Trading Pause). This section of the Annual Report also shall consider stock characteristics and variations in market conditions over time, and may include tests that differentiate results for different characteristics, both in isolation and in combination. This section of the Annual Report shall separately analyze the impact and operations of overnight protections implemented during Overnight Protected Hours.

2. **Analysis of Amendments Implemented.** This section of the Annual Report shall provide an analysis of any amendments implemented during the covered period. The analysis shall include a discussion of any such amendment's operation and its impact on the overall operation of the Plan.

3. **Analysis of Emerging Issues.** This section of the Annual Report should vary from year-to-year and will include a discussion and analysis of the Plan's operation during a significant market event that may have occurred during the covered period. This section shall also include any additional analyses performed during the covered period on issues that were raised in previous Annual Reports.

A. Quarterly Data. Thirty days following the end of each calendar quarter, the Operating Committee shall provide the Commission and make publicly available a report ("Monitoring Report") including basic statistics aggregated across primary listing exchanges regarding the Plan's operation during the preceding calendar quarter, as well as data aggregated across primary listing exchanges from the previous 12 quarters beginning with the calendar quarter covered by the first Monitoring Report. The purpose of the Monitoring Report is to identify trends in the performance and impact of the Plan on market activity. The Monitoring Report shall include data on the following events for each month during the preceding calendar quarter:

1. Limit States, Trading Pauses, Straddle States, and Clearly Erroneous Events

a. Definitions. For the purpose of this Section B.1 and B.2

below, the following definitions apply:

1. "Category" means the following categories of securities:

- 1) Tier 1 non-ETP securities > \$3.00
- 2) Tier 1 non-ETP securities $\geq$ \$0.75 and $\leq$ \$3.00
- 3) Tier 1 non-ETP securities < \$0.75
- 4) Tier 1 non-leveraged ETPs > \$3.00
- 5) Tier 1 non-leveraged ETPs $\geq$ \$0.75 and $\leq$ \$3.00
- 6) Tier 1 non-leveraged ETPs < \$0.75
- 7) Tier 1 leveraged ETPs > \$3.00
- 8) Tier 1 leveraged ETPs $\geq$ \$0.75 and $\leq$ \$3.00
- 9) Tier 1 leveraged ETPs < \$0.75
- 10) Tier 2 non-ETPs > \$3.00
- 11) Tier 2 non-ETPs $\geq$ \$0.75 and $\leq$ \$3.00
- 12) Tier 2 non-ETPs < \$0.75
- 13) Tier 2 non-leveraged ETPs > \$3.00
- 14) Tier 2 non-leveraged ETPs $\geq$ \$0.75 and $\leq$ \$3.00
- 15) Tier 2 non-leveraged ETPs < \$0.75
- 16) Tier 2 leveraged ETPs > \$3.00
- 17) Tier 2 leveraged ETPs $\geq$ \$0.75 and $\leq$ \$3.00
- 18) Tier 2 leveraged ETPs < \$0.75

2. "Time of Day" means the following time spans:

- 1) Opening (prior to 9:45 am ET)
- 2) Regular (between 9:45 am ET and 25 minutes prior to the end of core trading hours)
- 3) Closing (the last 25 minutes of core trading hours)
- 4) Within five minutes of a Trading Pause reopen or IPO open

b. Limit States. The Monitoring Report will include:

- 1.** Monthly distribution statistics (mean, median, 25th percentile, and maximum) on the number of Limit States per day, broken out by Category and Time of Day.
- 2.** Monthly distribution statistics (mean, median, 25th percentile, and maximum) on the number of NMS Stocks

that experienced more than one Limit State on a single day, broken out by Category.

3. Monthly distribution statistics (mean, median, 90th percentile, and 99th percentile) on the number of Limit States experienced per day by individual NMS Stocks that had more than one Limit State on a single day, broken out by Category.

4. Monthly distribution statistics (mean, median, 90th percentile, and 99th percentile) on the total length of Limit States experienced per day by individual NMS Stocks that had more than one Limit State on a single day, broken out by Category.

c. Trading Pauses. The Monitoring Report will include:

1. Monthly distribution statistics (mean, median, 25th percentile, and maximum) on the number of Trading Pauses per day, broken out by Category and Time of Day.
2. Monthly distribution statistics (mean, median, 25th percentile, and maximum) on the number of NMS Stocks that experienced more than one Trading Pause on a single day, broken out by Category.
3. Monthly distribution statistics (mean, median, 90th percentile, and maximum) on the number of Trading Pauses per day experienced by individual NMS Stocks having more

than one Trading Pause on a single day, broken out by Category.

d. Straddle States. The Monitoring Report will include:

1. Monthly distribution statistics (mean, median, 25th percentile, and maximum) on the number of Straddle States per day, broken out by Category and Time of Day.
2. Monthly distribution statistics (mean, median, 25th percentile, and maximum) on the number of NMS Stocks that experienced more than one Straddle State on a single day, broken out by Category.
3. Monthly distribution statistics (mean, median, 90th percentile, and 99.9th percentile) on the total time spent in a Straddle State per day for individual NMS Stocks experiencing one or more Straddle States on a single day, broken out by Category.

e. The Monitoring Report will include the number of Clearly Erroneous Events per day for all NMS Stocks that occurred during the time when Price Bands are disseminated by the Processor, broken out by Category and Time of Day.

2. Reopening Data

a. Definitions. For the purpose of this Section B.2, the following definitions apply:

1. "Type of Reopening" means either (1) manual or (2) automated.
2. "Category" means the following categories of securities:

-
- 1) Tier 1 non-ETP securities
 - 2) Tier 1 non-leveraged ETPs
 - 3) Tier 1 leveraged ETPs
 - 4) Tier 2 non-ETP securities
 - 5) Tier 2 non-leveraged ETPs
 - 6) Tier 2 leveraged ETPs
3. "Length of the Trading Pause" means the following durations:
- 1) less than 6 minutes (for manual reopenings) or no extensions of the Trading Pause (for automated reopenings);
 - 2) 6 to 10 minutes (for manual reopenings) or one extension of the Trading Pause (for automated reopenings);
 - 3) more than 10 minutes (for manual reopenings) or more than one

extension of the Trading Pause (for automated reopenings)

- b. The Monitoring Report will include the following monthly data on reopenings:
1. The number of Trading Pauses per month, broken out by
(1) Type of Reopening, (2) Category, and (3) Length of the Trading Pause.
 2. Monthly distribution statistics (mean, median, 90th percentile, and 99th percentile) on the duration of each Trading Pause, broken out by (1) Type of Reopening and (2) Category.
 3. The number of Trading Pauses ending in a:
 - 1) trade;
 - 2) quote; and
 - 3) potential closing auction,broken out by (a) Type of Reopening, (b) Category, and (c) Length of Trading Pause.
 4. For Trading Pauses in NMS Stocks preceded by a Limit Up state, monthly distribution statistics (mean, median, 90th percentile, and 99th percentile) on the percentage price change from the Limit Up pricing that triggered the Trading Pause to the reopening price on exiting the Trading Pause (i.e., the reopening trade or midpoint price), broken out by (1) Category and (2) whether the Trading Pause ended in a trade or (3) in a quote (i.e., the reopening price was a midpoint).

5. For Trading Pauses in NMS Stocks preceded by a Limit Down state, monthly distribution statistics (mean, median, 90th percentile, and 99th percentile) on the percentage price change from the Limit Down pricing that triggered the Trading Pause to the reopening price on exiting the Trading Pause (i.e., the reopening trade or midpoint price), broken out by (1) Category and (2) whether the Trading Pause ended in a trade or (3) in a quote (i.e., the reopening price was a midpoint).
6. For Trading Pauses in NMS Stocks where the reopening process ended in a trade or quote (with resulting reference price equal to the midpoint of that quote), monthly distribution statistics (mean, median, 90th percentile, and 99th percentile) on the percentage price change from the reopening price on exiting the Trading Pause (i.e., the reopening trade or midpoint price) to
 - 1) the highest price of all last sale eligible trades;
 - 2) the lowest price of all last sale eligible trades; and
 - 3) the trade-weighted average price of all last sale eligible trades for the five minutes following the conclusion of the Trading Pause,broken out by (a) Category, (b) whether the Trading Pause was preceded by a Limit Up state or (c) a Limit Down state, and (d) whether the Trading Pause ended in a trade or (e) in a quote (i.e., the reopening price was a midpoint).

3. Overnight Data. The Monitoring Report will include monthly data on overnight protections, such to be determined by the Participants.

C. Reports on Market Events. At the Commission's request, the Operating Committee shall provide the Commission and make publicly available a report analyzing the Plan's operation during a significant market event that (1) materially impacted the trading of more than one security across multiple Trading Centers; and (2) is directly related to or implicating the performance of the Plan. Such report shall be provided to the Commission no later than 30 days following the Commission's request, or at a later date as agreed upon between the Commission and the Operation Committee. The requirement to submit a report under this section may be satisfied by including the required analysis within an Annual Report.

[FR Doc. 2026-11147 Filed 6-3-26; 8:45 am]

BILLING CODE 8011-01-C

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0200]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Rule 15c3-1

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (SEC or "Commission") is submitting to the Office of Management and Budget ("OMB") this request for approval of extension of the previously approved collection of information provided for in Rule 15c3-1 (17 CFR 240.15c3-1) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 15c3-1 requires brokers-dealers to have at all times sufficient liquid assets to meet their current liabilities, particularly the claims of customers. The rule facilitates the monitoring of the financial condition of broker-dealers by

the Commission and the various self-regulatory organizations. It is estimated that broker-dealer respondents registered with the Commission and subject to the collection of information requirements of Rule 15c3-1 incur an aggregate annual time burden of approximately 67,773 hours to comply with this rule and an aggregate annual cost burden of approximately \$133,867.

Rule 15c3-1 does not contain record retention requirements. Compliance with the rule is mandatory. The required records are available only to the examination staff of the Commission and the self-regulatory organization of which the broker-dealer is a member.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202603-3235-022 or email comment to MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov within 30 days of the day after publication of this notice, by July 6, 2026.

Dated: June 2, 2026.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-11209 Filed 6-3-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105594; File No. SR-MIAX-2026-22]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 519C, Mass Cancellation of Trading Interest

June 1, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 19, 2026, Miami International Securities Exchange, LLC ("MIAX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 519C, Mass Cancellation of Trading Interest.

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 Rule 519C, Mass Cancellation of Trading Interest, to adopt a new Selective Liquidity Auto Purge ("SLAP") feature, which provides more granular mass cancellation functionality. Currently, Members³ may submit a mass cancellation request via the MIAX Express Interface ("MEI")⁴ using the Mass Liquidity Cancel Request—Simple and Complex message. The Mass Liquidity Cancel Request message contains a Simple Mass Cancel field which allows the Member to determine the scope of the mass cancel request. For example, populating the Simple Mass Cancel Scope field with an "Y" will instruct the System⁵ to cancel

all Standard quotes⁶ and eQuotes;⁷ populating the field with a "Q" will instruct the System to cancel all Standard quotes only.

The Exchange now proposes to adopt new paragraph (d) to Exchange Rule 519C, to adopt the SLAP feature. The SLAP feature, the use of which is optional, will provide more granular mass cancellation functionality by allowing users to mass cancel specific groups of Standard quotes⁸ as determined by the Member on a quote-by-quote basis. Standard quotes submitted via the MIAX Express Interface may optionally contain one or more SLAP codes from 1 through 8.⁹ Each individual Standard quote can be part of eight (8) unique SLAP groups identified by their SLAP code (numbered 1 through 8).¹⁰

To remove Standard quotes with a SLAP code, a SLAP request is sent to the System containing the MPID,¹¹ underlying, and SLAP code of the Standard quotes to be removed from the System. Following completion of processing the SLAP request all new inbound Standard quotes with matching criteria submitted to the System will be blocked. The System will provide a notification to the requestor upon completion of the SLAP request. A SLAP reset request must be submitted to the System to resume entry of Standard quotes for the same MPID, underlying, and SLAP code. Standard quotes received for the same MPID, underlying, and SLAP code prior to a SLAP reset will be rejected. eQuotes will not be eligible to receive a SLAP code.

To facilitate SLAP processing the Exchange has amended and enhanced existing MIAX Express Interface messages. Specifically, a Member will use the Simple Bulk Quote Message in MEI to send a quote to the System. A new field, "SLAP Codes," has been added to the message, which will allow

the Member to identify the quote with a SLAP Code of 1 through 8, as desired. A Member will use the Mass Liquidity Cancel Request—Simple and Complex message in MEI to remove quotes with the designated SLAP Code. The Simple Mass Cancel field of the Mass Liquidity Cancel Request—Simple and Complex message has been enhanced to include new value "S" to indicate that the Mass Liquidity Cancel Request—Simple and Complex message is a Selective Liquidity Auto Purge ("SLAP request").

The System will notify the Member that the SLAP request has been processed using the existing Mass Liquidity Cancel Response message. Additionally, the Mass Liquidity Cancel Response message has been modified to include new responses specifically related to SLAP requests to provide Members with more specific information regarding the status of their SLAP request should it not be successfully executed.

The Member will submit the existing Liquidity Protection Reset Request message to re-enable the System to process Standard quotes with a SLAP code. The Liquidity Protection Reset Request message has been enhanced to include a value of "S" in the Simple Liquidity Reset field to indicate that the reset is for SLAP. Additionally, the Liquidity Protection Reset Request message includes SLAP Codes field to allow a reset for specific SLAP code groups.

The SLAP code is an additional, optional, field and as such Members may (i) include a SLAP code on a Standard quote; (ii) replace a Standard quote that does not contain a SLAP code to assign a SLAP code; (iii) replace a Standard quote that has a SLAP code to change it to a different SLAP code; or (iv) replace a Standard quote that contains a SLAP code to remove it.

To implement the SLAP feature the Exchange proposes to adopt new paragraph (d) to Rule 519C, Mass Cancellation of Trading Interest, to provide that a Member may use the Selective Liquidity Auto Purge ("SLAP") feature for Standard quotes delivered via the MIAX Express Interface. Standard quotes submitted to the System may optionally contain one or more SLAP codes numbered 1 through 8. When a Member submits a SLAP request, Standard quotes with the corresponding MPID, underlying, and SLAP code will be removed from the System and new inbound Standard quotes with matching criteria will be blocked. The System will provide a notification message to the Member regarding the status of the SLAP request. A Member must submit a SLAP reset

³ The term "Member" means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed "members" under the Exchange Act. See Exchange Rule 100.

⁴ The MIAX Express Interface (MEI) is a messaging interface that MIAX members that are approved as Market Makers use to submit quotes for trading on the MIAX Options Market. See MIAX Express Interface for Quoting and Trading Options, MEI Interface Specification, version 2.10a, 4/8/2024 available online at https://www.miaxglobal.com/sites/default/files/job-files/MIAX_Express_Interface_MEI_v2.10a.pdf.

⁵ The term "System" means the automated trading system used by the Exchange for the trading of securities. See Exchange Rule 100.

⁶ See Section 4.1.9, Mass Liquidity Cancel Request—Simple and Complex, in the MIAX Express Interface for Quoting and Trading Options, MEI Interface Specification, version 2.10a, 4/8/2024 available online at https://www.miaxglobal.com/sites/default/files/job-files/MIAX_Express_Interface_MEI_v2.10a.pdf.

⁷ An eQuote is a quote with a specific time in force that does not automatically cancel and replace a previous Standard quote or eQuote. See Exchange Rule 517(a)(2).

⁸ A Standard quote is a quote submitted by a Market Maker that cancels and replaces the Market Maker's previous Standard quote, if any. See Exchange Rule 517(a)(1).

⁹ A Standard quote may contain multiple SLAP codes.

¹⁰ The Exchange notes that there is no limit on the number of Standard quotes that may be included in a SLAP group.

¹¹ The term "MPID" means unique Market Participant Identifier. See Exchange Rule 519C(a).

request to the System to enable new incoming Standard quotes for the same MPID, underlying, and SLAP code. eQuotes are not eligible to receive a SLAP code.

The Exchange has analyzed its capacity and represents that it has the necessary systems capacity to handle the potential additional message traffic that may arise from the cancellation of quotes as a result of a SLAP request being received.

Implementation

The Exchange proposes to implement this functionality in Q3 of 2026 and will issue a Regulatory Circular notifying market participants of the exact date at least 30 days prior to implementation.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹² in general, and furthers the objectives of Section 6(b)(5) of the Act,¹³ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange also believes the proposed rule change is consistent with the Section 6(b)(5)¹⁴ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed changes remove impediments to and perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest by providing Market Makers with an additional risk management tool. Market Makers on the Exchange connect to the System via the MIAX Express Interface and have a heightened obligation on the Exchange and are required to submit continuous two-sided quotations in a certain number of series in their appointed classes for a certain percentage of time in each trading session,¹⁵ rendering them vulnerable to risk from market conditions. Market Makers are vulnerable to risk from

market events that may cause them to receive executions before they can appropriately adjust their exposure in the market. The proposed rule change should instill additional confidence in Market Makers that submit quotes to the Exchange that there are adequate risk protections in place, and thus should encourage Market Makers to provide liquidity to the Exchange, thereby improving market quality for all participants. The Exchange believes that the proposed risk protection functionality promotes just and equitable principles of trade and helps to perfect the mechanisms of a free and open market and a national market system.

Without adequate risk management tools Market Makers could reduce the size of their quotations which could undermine the quality of the markets available to customers and other market participants. The ability of a Market Maker to engage the SLAP feature is a valuable tool in assisting Market Makers in risk management. The proposed rule change removes impediments to and perfects the mechanism of a free and open market by giving Market Makers greater control over their quotations in the market thereby removing impediments to and helping perfect the mechanisms of a free and open market and national market system and, in general, protecting investors and the public interest. In addition, providing Market Makers with more tools for managing risk will facilitate transactions in securities because, as noted above, the Market Makers will have more confidence that protections are in place that reduce the risks from market events.

The Exchange believes its proposal is not unfairly discriminatory to EEMs as Market Makers have a heightened obligation on the Exchange and are obligated to submit continuous two-sided quotations in a certain number of series in their appointed classes for a certain percentage of time in each trading session,¹⁶ rendering them vulnerable to risk from market conditions. As such it is not unreasonable to provide Market Makers with certain tools to help Market Makers manage their market risk.

The ability of a Market Maker to engage the SLAP feature is a valuable tool in assisting Market Makers in risk management. Without adequate risk management tools Market Makers could reduce the size of their quotations which could undermine the quality of the markets available to customers and other market participants. The proposed

rule change removes impediments to and is designed to perfect the mechanisms of a free and open market by giving Market Makers the ability to further refine their risk protections from an option class level to a specific subset of user defined groups. Accordingly, the SLAP feature is designed to provide Market Makers with greater control over their Standard quotes in the market, thereby removing impediments to and helping to perfect the mechanisms of a free and open market and a national market system and, in general, protecting investors and the public interest.

In addition, providing Market Makers with more tools for managing risk will facilitate transactions in securities because, as noted above, Members will have more confidence that protections are in place that reduce the risks from market events. As a result, the new functionality has the potential to promote just and equitable principles of trade.

The proposed rule change removes impediments to and is designed to perfect the mechanisms of a free and open market by giving Market Makers more granular control over their Standard quotes by allowing Market Makers to create custom groupings of Standard quotes by MPID and underlying, and additional criteria, such as option or side of the market (buy or sell), by assigning up to eight different SLAP codes to each Standard quote. This flexibility allows Market Makers to group specific subsets of their Standard quotes based on their own risk requirements. The ability to group Standard quotes allows for the flexibility to submit cancel requests for a subset of Standard quotes tailored to varying levels of risk tolerance.

The Exchange believes the proposed changes remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest, and promote a fair and orderly market by excluding eQuotes from SLAP functionality. eQuotes are used on the Exchange for specific purposes and have default time in force values which correspond to the specific purpose of the eQuote.

Specifically, the Exchange supports Opening Only eQuotes ("OPG"), Auction or Cancel eQuotes ("AOC"), Immediate or Cancel eQuotes, and Intermarket Sweep eQuotes. An OPG eQuote is a quote that can be submitted by a Market Maker only during the Opening as set forth in Rule 503. An OPG eQuote does not automatically cancel or replace the Market Maker's previous Standard quote or eQuote. OPG eQuotes automatically

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ *Id.*

¹⁵ See Exchange Rule 604(e).

¹⁶ See *supra* note 15.

expire at the end of the Opening Process.¹⁷ An AOC eQuote is a quote submitted by a Market Maker to provide liquidity in a specific Exchange process (such as the Opening Imbalance Process described in Rule 503) with a time in force that corresponds with the duration of that event and will automatically expire at the end of that event. AOC eQuotes are not displayed to any market participant, are not included in the MBBO and therefore are not eligible for trading outside of the event. An AOC eQuote does not automatically cancel or replace the Market Maker's previous Standard quote or eQuote.¹⁸ An immediate or cancel or "IOC" eQuote is an eQuote submitted by a Market Maker that must be matched with another quote or order for an execution in whole or in part upon receipt into the System. Any portion of the IOC eQuote not executed will be immediately canceled. An IOC eQuote does not automatically cancel or replace the Market Maker's previous Standard quote or eQuote. An IOC eQuote is not valid during the opening rotation process described in Rule 503.¹⁹ A Market Maker may submit an intermarket sweep eQuote to the Exchange only if it has simultaneously routed one or more Intermarket Sweep Orders to execute against the full displayed size of any Protected Bid (as defined in Rule 1400(p)), in the case of an intermarket sweep offer to sell, or Protected Offer (as defined in Rule 1400(p)), in the case of an intermarket sweep bid to buy, an option with a price that is superior to the intermarket sweep eQuote. Intermarket sweep eQuotes that are not designated as immediate or cancel will be cancelled by the System if not executed upon receipt. Intermarket sweep eQuotes do not automatically cancel or replace the Market Maker's previous Standard quote or eQuote. An intermarket sweep eQuote is not valid during the opening rotation process described in Rule 503.²⁰ None of the eQuotes discussed above rest on the Book²¹ and therefore do not require the risk protection that is proposed for Standard quotes.

The Exchange notes that the proposed rule change will not relieve Exchange Market Makers of their continuous quoting obligations under Exchange Rule 604²² or any other obligation under the Rules of the Exchange, or any obligations arising under Reg NMS Rule

602.²³ Nor will the proposed rule change prohibit the Exchange from taking disciplinary action against a Market Maker for failing to meet their continuous quoting obligation each trading day.

Additionally, the Exchange notes that the proposed rule change is substantially similar to a rule that is currently operative on the Exchange's affiliate, the MIAX Pearl Options Exchange ("MIAX Pearl").²⁴ MIAX Options has two types of Members; Market Makers²⁵ and Electronic Exchange Members ("EEMs").²⁶ On MIAX Options Market Makers connect to the Exchange via the MIAX Express Interface ("MEI") connection²⁷ which is used to provide quotations²⁸ to the market and Electronic Exchange Members connect to the Exchange using the MIAX FIX Order Interface ("FOI").

Similarly, MIAX Pearl has two types of Members; Market Makers²⁹ and Electronic Exchange Members.³⁰ MIAX Pearl also offers a MIAX Express Order (MEO) Interface³¹ connection and a FIX Order Interface ("FOI") connection to its Members. Similar to this proposal, SLAP functionality is available on MIAX Pearl via the MEO Interface,

²³ 17 CFR 242.602.

²⁴ See MIAX Pearl Options Exchange Rule 519C(e).

²⁵ The term MIAX Options "Market Makers" refers to "Lead Market Makers", "Primary Lead Market Makers" and "Registered Market Makers" on MIAX Options Exchange collectively. See MIAX Options Exchange Rule 100.

²⁶ The term MIAX Options "Electronic Exchange Member" means the holder of a Trading Permit who is not a Market Maker. Electronic Exchange Members are deemed "members" under the Exchange Act. See MIAX Options Exchange Rule 100.

²⁷ See *supra* note 4.

²⁸ The term "quote" or "quotation" means a bid or offer entered by a Market Maker that is firm and may update the Market Maker's previous quote, if any. The Rules of the Exchange provide for the use of different types of quotes, including Standard quotes and eQuotes, as more fully described in MIAX Options Exchange Rule 517. A Market Maker may, at times, choose to have multiple types of quotes active in an individual option. See MIAX Options Exchange Rule 100.

²⁹ The term "Market Maker" or "MM" means a Member registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter VI of the MIAX Pearl Rules. See MIAX Pearl Exchange Rule 100.

³⁰ The term "Electronic Exchange Member" or "EEM" means the holder of a Trading Permit who is a Member representing as agent Public Customer Orders or Non-Customer Orders on the Exchange and those non-Market Maker Members conducting proprietary trading. Electronic Exchange Members are deemed "members" under the Exchange Act. See MIAX Pearl Exchange Rule 100.

³¹ The term "MEO Interface" means a binary order interface used for submitting certain order types (as set forth in MIAX Pearl Rule 516) to the MIAX Pearl System. See MIAX Pearl Exchange Rule 100.

which is analogous to the MEI Interface on MIAX Options. However, on MIAX PEARL, Market Makers and EEMs may connect to the System using either the MEO Interface or the FOI.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change will foster competition by providing Market Makers with an additional risk management tool that will allow Exchange Market Makers to compete for executions and order flow.

Additionally, the Exchange believes that the proposed rule change should promote competition as it is designed to allow Members greater flexibility and control of their risk exposure to protect them from market conditions that may increase their risk exposure in the market. The Exchange does not believe the proposed rule change will impose a burden on intra-market competition as the optional risk protection feature is equally available to all Market Makers on the Exchange.

The Exchange believes that the proposed rule change should promote inter-market competition as the proposal is designed to allow Members greater flexibility and control over their risk exposure in order to protect them from market risk or events that may increase their exposure in the market. Additionally, the proposed rule change should instill additional confidence in Market Makers that submit quotes to the Exchange that there are adequate risk protections in place, and thus should encourage Market Makers to provide liquidity to the Exchange, thereby promoting inter-market competition.

For all the reasons stated, the Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, and believes the proposed change will enhance competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

¹⁷ See Exchange Rule 517(a)(2)(iii).

¹⁸ See Exchange Rule 517(a)(2)(ii).

¹⁹ See Exchange Rule 517(a)(2)(iv).

²⁰ See Exchange Rule 517(a)(2)(v).

²¹ The term "Book" means the electronic book of buy and sell orders and quotes maintained by the System. See Exchange Rule 100.

²² Id.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A) of the Act³² and Rule 19b-4(f)(6)³³ thereunder, the Exchange has designated this proposal as one that effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

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-MIAX-2026-22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-MIAX-2026-22. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from

publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-MIAX-2026-22 and should be submitted on or before June 25, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁴

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-11145 Filed 6-3-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105595; File No. SR-24X-2026-18]

Self-Regulatory Organizations; 24X National Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Limited Liability Agreement of 24X US Holdings LLC in Connection With a Transaction

June 1, 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 27, 2026, 24X National Exchange LLC ("24X" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit 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 limited liability agreement for 24X US Holdings LLC, the parent company of the Exchange, in connection with the issuance of additional Voting Common Units of 24X US Holdings LLC upon the conversion of a convertible promissory note. The proposed rule change is available on the Exchange's website at <https://equities.24exchange.com/regulation> and at the principal office of the Exchange.

³⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 those 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 parts 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 is filing with the Commission a proposed rule change to amend the Fourth Amended and Restated Limited Liability Company Agreement (the "24X US Holdco LLC Agreement") of 24X US Holdings LLC ("24X US Holdco") to include amendments related to the issuance of Voting Common Units of 24X US Holdco to Shinhan Securities Co., Ltd. ("Shinhan") upon the conversion of a convertible promissory note as part of a capital raise (the "Transaction"). The proposed amendments are discussed below.

(a) Shinhan Transaction

On November 24, 2025, 24X issued to Shinhan a convertible promissory note in exchange for certain consideration, and, on April 15, 2026, 24X and Shinhan agreed to convert the convertible promissory note into 840,000 Voting Common Units of 24X US Holdco, subject to the effectiveness of this filing.

The Exchange proposes to amend the 24X US Holdco LLC Agreement to facilitate the Transaction, including authorizing the issuance of additional Voting Common Units. The Voting Common Units are the same type of membership interest (*i.e.*, have the same privileges, preference, duties, liabilities, obligations and rights) as the existing interest held by current Members of 24X US Holdco: 24X Bermuda Holdings LLC ("24X Bermuda Holdco") and Rakuten Securities Holdings, Inc. ("Rakuten"). With the completion of the Transaction, 24X Bermuda Holdco's proportionate ownership of 24X US Holdco would be reduced by approximately 0.78% from 84.41% to approximately 83.75%. Accordingly, 24X Bermuda Holdco will continue to own its ownership interest

³² 15 U.S.C. 78s(b)(3)(A).

³³ 17 CFR 240.19b-4(f)(6).

in 24X US Holdco pursuant to the existing exceptions to the ownership and voting limitation provisions for 24X Bermuda Holdco in the 24X US Holdco LLC Agreement after giving effect to the Transaction and the proposed amendments to the 24X US Holdco LLC Agreement.³ 24X believes that the exceptions to the ownership and voting limitations provisions for 24X Bermuda Holdco remain appropriate because the governance and oversight of the Exchange would not change with the proposed amendments to the 24X US Holdco LLC Agreement.⁴ 24X Bermuda Holdco would remain the Manager of 24X US Holdco, and would continue to have control over decision making for 24X US Holdco.⁵ In addition, with the completion of the Transaction, Rakuten's proportionate ownership of 24X US Holdco would be reduced by approximately 0.82% from 8.50% to approximately 8.43%. Correspondingly, Shinhan would own approximately 7.82% of 24X US Holdco. Accordingly, Shinhan would not exceed any ownership or voting limitations applicable to the Members set forth in the 24X US Holdco LLC Agreement after giving effect to the Transaction and the proposed amendments to the 24X US Holdco LLC Agreement. The proceeds from the Transaction could be used by 24X US Holdco and its subsidiary, the Exchange, for regulation and operation of the Exchange.

(b) Issuance of Additional Voting Common Units

To facilitate the Transaction, the Exchange proposes to amend the 24X US Holdco LLC Agreement to allow 24X US Holdco to issue additional Voting Common Units. The first sentence of paragraph (a) of Section III of the 24X US Holdco LLC Agreement currently states that “[t]he Company⁶ is authorized to issue 12,380,914 Common Units as follows: (1) 11,280,914 Voting Common Units, and (2) 1,100,000 Non-Voting Common Units.” The Exchange proposes to revise this sentence to increase the total number of Common Units that the Company is authorized to issue from 12,380,914 Common Units to 12,465,282 Common Units, by increasing the total number of Voting Common Units from 11,280,914 Voting

Common Units to 11,365,282 Voting Common Units.⁷ Accordingly, the first sentence of paragraph (a) of Section III of the 24X US Holdco LLC Agreement would read as follows: “The Company is authorized to issue 12,465,282 Common Units as follows: (1) 11,365,282 Voting Common Units, and (2) 1,100,000 Non-Voting Common Units.”

(c) Revised Exhibit A of the 24X US Holdco LLC Agreement

The Exchange also proposes to amend *Exhibit A* of the 24X US Holdco LLC Agreement to include the updated ownership interests of 24X Bermuda Holdco, Rakuten and Shinhan. Specifically, the chart in *Exhibit A* would be revised to indicate that (1) 24X Bermuda Holdco would own 83.75% of the Voting Common Units and 9,000,000 Voting Common Units, (2) Rakuten would own 8.43% of the Voting Common Units and 906,335 Voting Common Units, and (3) Shinhan would own 7.82% of the Voting Common Units and 840,000 Voting Common Units. In addition, *Exhibit A* would be revised to indicate that the total number of Voting Common Units is 10,746,335.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act⁸ in general, and furthers the objectives of Section 6(b)(5) of the Exchange Act⁹ 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 mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act¹⁰ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes that the proposed rule change would further the

objectives of Section 6(b)(1) of the Act,¹¹ in particular, in that such amendments enable the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange.

The Exchange believes that the proposed amendments to the 24X US Holdco LLC Agreement related to the Transaction, including the issuance of additional Voting Common Units, are consistent with the Act. Such proposed changes to the 24X US Holdco LLC Agreement would facilitate additional investment and funding into 24X US Holdco resulting from the conversion of the convertible promissory note into Voting Common Units pursuant to the Transaction, and such proceeds could be used by 24X US Holdco and its subsidiary, the Exchange, for the regulation and the operation of the Exchange, which, in turn, would enable the Exchange to be so organized as to have the capacity to carry out the purposes of the Act and to comply with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange, and, in turn, would protect investors and the public interest.

The Exchange also believes that the proposal for the Voting Common Units to be the same type of membership interest as the existing interest held by 24X Bermuda Holdco and Rakuten is consistent with the Act because, as described above, the Voting Common Units would have the same privileges, preference, duties, liabilities, obligations and rights, and be subject to the same voting construct, as ownership interests under the current 24X US Holdco LLC Agreement. This would provide for a governance structure of 24X US Holdco that is consistent with the structure currently in place, which was previously approved by the Commission.¹² As the Voting Common Units are the same type of membership interest as the existing ownership interest of 24X Bermuda Holdco and do not otherwise impact the governance of 24X US Holdco or the Exchange, the Exchange believes that the additional Voting Common Units and related amendments to the 24X US Holdco LLC Agreement associated with the additional Voting Common Units relate solely to the administration of 24X US Holdco and the Transaction, and that such amendments would not impact the governance or operations of the Exchange. Accordingly, the Exchange

³ See Section III(c)(ii)(A) of 24X US Holdco LLC Agreement.

⁴ With the completion of this Transaction, subject to any applicable regulatory requirements, 24X anticipates that Shinhan will participate as an observer on the Board of Managers of 24X Bermuda Holdco.

⁵ See Section IV(a) of 24X US Holdco LLC Agreement.

⁶ “The Company,” as used herein, means 24X US Holdco, unless otherwise noted.

⁷ 24X US Holdco would be authorized to issue 11,365,282 Voting Common Units. 10,746,335 Voting Common Units would be owned by 24X Bermuda Holdco, Rakuten and Shinhan, collectively. The additional 618,947 Voting Common Units would be reserved for use under the 24X US Holdco Equity Incentive Plan.

⁸ 15 U.S.C. 78f.

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ See *id.*

¹¹ 15 U.S.C. 78f(b)(1).

¹² See Securities Exchange Act Rel. No. 101777 (Nov. 27, 2024), 89 FR 97092 (Dec. 6, 2024).

does not believe the issuance of the additional Voting Common Units or the Transaction would in any way restrict the Exchange's ability to be so organized as to have the capacity to carry out the purposes of the Act and to comply with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange, nor does the Exchange believe that the additional Voting Common Units or the Transaction would be unfairly discriminatory. As noted above, the governance and oversight of the Exchange would not change with the proposed amendments to the 24X US Holdco LLC Agreement. 24X Bermuda Holdco would remain the Manager of 24X US Holdco, and would continue to have control over decision making for 24X US Holdco.¹³ Shinhan would not have decision making authority with regard to the governance and operation of the Exchange. For example, Shinhan would not have the right to choose members of the Exchange Board or its officers.¹⁴

As noted above, 24X Bermuda Holdco's proportionate ownership of 24X US Holdco will be reduced by approximately 0.78% as a result of the Transaction, from 84.41% to approximately 83.75%. Accordingly, 24X Bermuda Holdco will continue to own its ownership interest in 24X US Holdco pursuant to the existing exceptions to the ownership and limitation provisions in 24X US Holdco. Correspondingly, Shinhan would own about 7.82% of 24X US Holdco, and Rakuten would own about 8.43% of 24X US Holdco. Accordingly, neither Shinhan nor Rakuten would exceed any ownership or voting limitations applicable to the Members set forth in the 24X US Holdco LLC Agreement after giving effect to the Transaction and the proposed amendments to the 24X US Holdco LLC Agreement.

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 Exchange Act. The Exchange believes that the proposed rule change regarding the Transaction will enhance the diversity of ownership of the Exchange. Upon the issuance of the Voting Common Units pursuant to the Transaction, the ownership of 24X US Holdco will be distributed among more holders. In

addition, the Exchange believes that, by providing the additional funding for the Exchange, the Transaction will allow for enhanced competition in the equities markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to 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) of the Act¹⁵ and Rule 19b-4(f)(6)¹⁶ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)¹⁷ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁸ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the operative delay would permit the Exchange to amend the Holdco LLC Agreement to allow for the Voting Common Units in order to facilitate the closing of the Transaction. The Exchange also states that waiver of the 30-day operative delay would allow the Transaction to move forward, thereby allowing additional funding to 24X US Holdco and its subsidiary, the Exchange. For these reasons, and because the proposal raises no new or novel legal or regulatory issues, the Commission finds that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission waives the 30-day

operative delay and designates the proposed rule change to be operative upon filing.¹⁹

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-24X-2026-18 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-24X-2026-18. 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-24X-2026-18 and should be submitted on or before June 25, 2026.

¹⁹ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹³ See Section IV(a) of 24X US Holdco LLC Agreement.

¹⁴ See, e.g., Sections 6.1 and 8.1 of the Exchange LLC Agreement.

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4. 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.

¹⁷ 17 CFR 240.19b-4(f)(6).

¹⁸ 17 CFR 240.19b-4(f)(6)(iii).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–11146 Filed 6–3–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0313]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Rule 203–2 & Form ADV–W

Upon Written Request, Copies Available

From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (SEC or “Commission”) is submitting to the Office of Management and Budget (OMB) this request for extension of the proposed collection of information

The title for the collection of information is “Rule 203–2 (17 CFR 275.203–2) and Form ADV–W (17 CFR 279.2) under the Investment Advisers Act of 1940 (15 U.S.C. 80b).” Rule 203–2 under the Investment Advisers Act of 1940 establishes procedures for an investment adviser to withdraw its registration or pending registration with the Commission. Rule 203–2 requires every person withdrawing from investment adviser registration with the Commission to file Form ADV–W electronically on the Investment Adviser Registration Depository (“IARD”). The purpose of the information collection is to notify the Commission and the public when an investment adviser withdraws its pending or approved SEC registration. Typically, an investment adviser files a Form ADV–W when it ceases doing business or when it is ineligible to remain registered with the Commission.

The potential respondents to this information collection are all investment advisers that are registered with the Commission or have applications pending with the Commission. The Commission has estimated that compliance with the requirement to complete Form ADV–W imposes a total burden of approximately 0.75 hours (45 minutes) for an adviser filing for full withdrawal and approximately 0.25 hours (15 minutes)

for an adviser filing for partial withdrawal. Based on historical filings, the Commission estimates that there are approximately 880 respondents annually filing for full withdrawal and approximately 673 respondents annually filing for partial withdrawal. Based on these estimates, the total estimated annual burden would be 828.25 hours ((880 respondents × .75 hours) + (673 respondents × .25 hours)).

Rule 203–2 and Form ADV–W require recordkeeping or records retention—an adviser must keep a copy of its filed ADV–W in its records and the Commission record retention schedule is Job. No. N1–266–91–1–43a. The collection of information requirements under the rule and form are mandatory. The information collected pursuant to the rule and Form ADV–W are filings with the Commission. These filings are not kept confidential.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202603-3235-021 or email comment to MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov within 30 days of the day after publication of this notice, by July 6, 2026.

Dated: June 2, 2026.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–11208 Filed 6–3–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105593; File No. SR–NSCC–2026–008]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change To Enhance NSCC’s Clearing Fund Methodology

June 1, 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 26, 2026, National Securities Clearing Corporation (“NSCC”) 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. 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 would modify the NSCC Rules & Procedures (“NSCC Rules”) ³ to enhance NSCC’s Clearing Fund methodology to address certain risks presented by exchange-traded products (“ETPs”).

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

Background

(i) Overview of the NSCC Clearing Fund

NSCC is a clearing agency that provides clearing, settlement, risk management, and central counterparty (“CCP”) services for trades involving equity securities, corporate and municipal debt, ETPs,⁴ and unit investment trusts. NSCC manages its credit exposure to its Members by determining the appropriate Required Fund Deposit to the Clearing Fund for each Member and by monitoring the sufficiency of such deposits, as provided for in the NSCC Rules.⁵

NSCC Procedure XV describes NSCC’s Clearing Fund formula and methodology. NSCC calculates and

³ Capitalized terms not defined herein shall have the meaning assigned to such terms in the NSCC Rules, available at www.dtcc.com/legal/rules-and-procedures.

⁴ ETPs cleared by NSCC include exchange-traded funds (“ETFs”) and exchange-traded notes (“ETNs”). ETFs are securities that are traded on an exchange and track underlying securities, indexes or other financial instruments, including equities, corporate and municipal bonds and treasury instruments. ETNs are unsecured debt obligations of financial institutions that trade on a securities exchange.

⁵ See NSCC Rule 4 (Clearing Fund) and Procedure XV (Clearing Fund Formula and Methodology), *supra* note 3.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

²⁰ 17 CFR 200.30–3(a)(12).

collects Clearing Fund from its Members (*i.e.*, a Required Fund Deposit) on a daily basis using a risk-based margin methodology. The objective of a Member's Required Fund Deposit is to mitigate potential losses to NSCC associated with liquidating a Member's portfolio in the event NSCC ceases to act for that Member (hereinafter referred to as a "default").⁶ Required Fund Deposits operate, individually, as the Member's margin, and the aggregate of all such Members' deposits is referred to, collectively, as the Clearing Fund, which operates as NSCC's default fund. NSCC would access the Clearing Fund should a defaulting Member's own Required Fund Deposit be insufficient to satisfy losses to NSCC caused by the liquidation of that Member's portfolio.

Each Member's Required Fund Deposit amount consists of a number of applicable components, each of which is calculated to address specific risks faced by NSCC, as identified within the NSCC Rules. The major components of NSCC's Clearing Fund charges include, but are not limited to: (i) volatility charges for securities based on asset type and liquidity profile ("Volatility Charge"); (ii) mark-to-market charges; (iii) fail charges; (iv) a charge for Family-Issued Securities to mitigate wrong-way risk; (v) a charge to mitigate day over day margin differentials; (vi) a coverage component; (vii) a margin liquidity adjustment component; (viii) a backtesting charge; and (ix) an excess capital premium charge. The primary component of NSCC's Clearing Fund is the Volatility Charge, which is designed to measure market price volatility of each Member's start of day ("SOD") portfolio.

(ii) Volatility Charge Component of the Clearing Fund

The Volatility Charge of each Member's Required Fund Deposit is designed to measure the market price volatility of the SOD portfolio and is calculated for Members' Net Unsettled Positions⁷ and Net Balance Order Unsettled Positions⁸ (hereinafter,

collectively referred to as "Net Unsettled Positions"). The Volatility Charge is designed to capture the market price risk⁹ associated with each Member's portfolio at a 99th percentile level of confidence. The Volatility Charge component usually comprises the largest portion of a Member's Required Fund Deposit.

NSCC has two methodologies for calculating the Volatility Charge. For the majority of equity Net Unsettled Positions, NSCC calculates the Volatility Charge as the sum of (1) the greater of (a) the larger of two separate calculations that utilize a parametric Value-at-Risk ("VaR") model¹⁰ and (b) a portfolio margin floor calculation ("Margin Floor") based on the market values of the long and short positions in the portfolio¹¹ and (2) a gap risk measure calculation ("Gap Risk Charge") based on the concentration threshold of the two largest non-diversified positions in a portfolio (collectively, the "VaR Charge").¹² NSCC also excludes certain equity Net Unsettled Positions from the calculation of the VaR Charge and instead applies a haircut-based volatility charge that is calculated by multiplying the absolute value of those Net Unsettled Positions by a percentage.¹³

Fat Tail Adjustment Factor. Under NSCC's current parametric VaR model methodology, NSCC supplements its assumption of a normal return distribution for equity portfolios with a factor that utilizes the degrees of freedom ("DOF") derived from a family of Student's t-distributions, which are more representative of the historically observed return distributions in the equities markets (the "Fat Tail Adjustment Factor").¹⁴ NSCC estimates

periodically the DOF factor of the empirical t-distribution in the model by using daily return data from an industry standard index over a historical window of no shorter than 12 months. NSCC then computes a multiplication factor that represents the magnitude of increase of t-distribution-based parametric VaR from the normal-based parametric VaR. This multiplication factor is then applied to parametric VaR.

Bid-Ask Spread Charge. In calculating estimations of volatility for the Core Parametric Estimation, NSCC also includes an additional charge designed to cover the risk presented by the variation of bid-ask spreads over time and varying market conditions ("Bid-Ask Spread Charge"). The Bid-Ask Spread Charge is measured by multiplying the gross market value of each Net Unsettled Position by a basis point charge.¹⁵ The applicable basis point charge is based on the following groups/classifications: (i) large and medium capitalization equities; (ii) small capitalization equities; (iii) micro-capitalization equities; and (iv) ETPs. NSCC reviews the basis point charges at least annually.

Gap Risk Charge. In addition to the Core Parametric Estimation and the Margin Floor, NSCC calculates a Gap Risk Charge, which is designed to address a pronounced form of idiosyncratic risk from unexpected, large, gap-like price movements of a stock due to company-specific events. The Gap Risk Charge is added, if applicable, to the parametric VaR to determine the VaR Charge.¹⁶

The Gap Risk Charge is assessed if the sum of the gross market values of the two largest non-diversified Net Unsettled Positions in a Member's portfolio represents a percentage designated by NSCC of the gross market value of the entire portfolio (the "Concentration Threshold"), currently set at a value that is no greater than 30 percent. The amount of the Gap Risk Charge is determined by adding the sum of (1) the product of (A) the gross market value of the largest non-diversified Net Unsettled Position and (B) a "gap risk haircut" determined by NSCC of not

⁹ Market price risk refers to the risk that volatility in the market causes the price of a security to change between the execution of a trade and settlement of that trade. This risk is also referred to herein as market risk and volatility risk.

¹⁰ The parametric VaR calculation utilizes (i) an exponentially-weighted moving average ("EWMA") estimation and (ii) an evenly-weighted estimation that is directly compared to the EWMA parameter. The greater of these two separate calculations produces a single core parametric result ("Core Parametric Estimation").

¹¹ The Margin Floor is then compared to the Core Parametric Estimation to determine the parametric VaR (*i.e.*, the parametric VaR is the highest among the Core Parametric Estimation and the Margin Floor).

¹² See Procedure XV, Sections I(A)(1)(a)(i) and I(A)(2)(a)(i) of the NSCC Rules, *supra* note 3.

¹³ See Procedure XV, Sections I(A)(1)(a)(ii) and I(A)(2)(a)(ii) of the NSCC Rules, *supra* note 3.

¹⁴ In 2014, the Commission issued a notice of no objection to an advance notice filing by NSCC to make certain enhancements to its parametric VaR model by supplementing the assumption of normal distribution underlying the current model with a family of Student's t-distributions. The Fat Tail

Adjustment Factor is not currently described in the NSCC Rules. See Securities Exchange Act Release No. 72260 (May 27, 2014), 79 FR 31360 (June 2, 2014) (SR-NSCC-2014-802). The Fat Tail Adjustment Factor is described in NSCC's internal methodology and risk model documentation and in the externally available NSCC Risk Margin Component Guide, posted on the DTCC website at www.dtcclearing.com/products-and-services/equities-clearing/nscc-risk-management.html.

¹⁵ See Procedure XV, Sections I(A)(1)(a)(i) and I(A)(2)(a)(i) of the NSCC Rules, *supra* note 3.

¹⁶ See Procedure XV, Sections I(A)(1)(a)(i) and I(A)(2)(a)(i) of the NSCC Rules, *supra* note 3.

⁶ The NSCC Rules identify when NSCC may cease to act for a Member and the types of actions NSCC may take. See NSCC Rule 46 (Restrictions on Access to Services), *supra* note 3.

⁷ Net Unsettled Positions are defined in the NSCC Rules as a Member's net of unsettled Regular Way, When-Issued and When-Distributed positions in CNS Securities that have not yet passed Settlement Date and net positions in CNS Securities that did not settle on Settlement Date. See Definitions and Descriptions in NSCC Rule 1, *supra* note 3.

⁸ Net Balance Order Unsettled Positions are defined as a Member's net of unsettled Regular Way, When-Issued and When-Distributed positions in Balance Order Securities that have not yet passed Settlement Date. See Definitions and Descriptions in NSCC Rule 1, *supra* note 3.

less than five percent and (2) the product of (A) the gross market value of the second largest non-diversified Net Unsettled Position and (B) a gap risk haircut, no larger than the gap risk haircut applied to the largest Net Unsettled Position (but not less than 2.5 percent). The Concentration Threshold and the gap risk haircuts are determined by NSCC from time to time and are calibrated based on backtesting and impact analysis during a time period of not less than the previous 12 months.¹⁷

Additionally, NSCC excludes ETF¹⁸ positions from the calculation if the positions have characteristics that indicate that they are less prone to the effects of gap risk events. Such characteristics include whether the ETF positions track to an index that is linked to a broad-based market index, contain a diversified underlying basket, are unleveraged, or track to an asset class that is less prone to gap risk.¹⁹

Proposed Changes to the NSCC Rules

NSCC proposes to amend the NSCC Rules to (i) enhance its Gap Risk Charge methodology to address certain risks presented by ETFs; (ii) enhance the Bid-Ask Spread Charge by applying more granular basis point charges for different sub-categories of ETPs; and (iii) describe the use of the Fat Tail Adjustment Factor in the parametric VaR calculation. The proposed changes are described in detail below.

¹⁷ See *id.*

¹⁸ As noted above, ETFs are securities that are traded on an exchange and that track underlying securities, indexes or other financial instruments, including equities, corporate and municipal bonds and treasury instruments. Unlike mutual funds, ETFs are created with the assistance of certain financial institutions called authorized participants ("APs"), often banks, that are given the ability to create and redeem ETF shares directly from the ETF issuer. To create ETF shares, an AP can either deliver a pre-specified bundle of securities underlying the ETFs (*i.e.*, an "in-kind basket") in exchange for ETF shares or provide cash equal to the value of the cost of purchasing underlying securities for the ETF shares. To redeem ETF shares, an AP would do the opposite—deliver ETF shares to the ETF issuer in exchange for an in-kind basket of underlying securities or cash equal to the value of the underlying securities. NSCC supports the creation and redemption of ETFs on both a "cash-only" and "in-kind" basis. "Cash-only" creations and redemptions represent an exchange of ETF shares for cash rather than for the component securities and other assets in the trading basket. "In-kind" ETF creations and redemptions represent an exchange of ETF shares for the component securities and other assets in the trading basket. See NSCC Rule 7 (Comparison and Trade Recording Operation (Including Special Representative/Index Receipt Agent)) and Procedure II (Trade Comparison and Recording Service), Section F concerning the ETF creation/redemption process, *supra* note 3.

¹⁹ See Securities Exchange Act Release No. 98086 (Aug. 8, 2023), 88 FR 55100 (Aug. 14, 2023) (SR-NSCC-2022-015).

(i) Proposed Enhancements to the Gap Risk Charge

NSCC proposes to enhance its methodology for the Gap Risk Charge by introducing a mapping and decomposition process for ETFs that is designed to more accurately isolate and address the risk exposures of the underlying ETF holdings. The proposed rule change would allow NSCC to (i) map certain leveraged or inverse equity ETFs²⁰ to a related non-leveraged ETF with in-kind baskets with adjustment of the corresponding leverage/inverse factor; (ii) decompose equity ETFs eligible for in-kind baskets, including the mapped ETFs from (i), into their underlying components; and (iii) map single stock ETFs to their corresponding single stock positions with adjustments for any corresponding leverage/inverse factor, so that NSCC can net indirect and direct exposures within a Member's portfolio.

NSCC proposes to modify Sections I(A)(1)(a)(i)(III) and I(A)(2)(a)(i)(III) of Procedure XV to describe the proposed enhancements to the Gap Risk Charge. First, NSCC would revise the NSCC Rules to provide that the enhanced Gap Risk Charge would be assessed based on the sum of the gross market values of the two largest non-diversified "net positions" within a Member's portfolio, rather than the Net Unsettled Positions. The proposed rule change would further provide that, for purposes of determining "net positions" for the Gap Risk Charge calculation, NSCC would start with Net Unsettled Positions and then apply a mapping and decomposition process for ETF Net Unsettled Positions to isolate the risk exposures of the underlying ETF holdings, which is described in further detail below. The proposed changes are intended to reflect the application of the proposed mapping and decomposition process in determining the net position used to (i) determine whether positions in the portfolio exceed the Concentration Threshold and (ii) calculate the resultant Gap Risk Charge.

²⁰ A "leveraged" ETF is an ETF that seeks to deliver multiples of the daily performance of the index or benchmark it tracks. For example, a 2x (or two times) leveraged ETF seeks to deliver double the daily performance of the index or benchmark that it tracks. An "inverse" ETF seeks to deliver the opposite of the daily performance of the index or benchmark it tracks. To accomplish their objectives, leveraged and inverse ETFs may pursue a range of investment strategies through the use of swaps, futures contracts, and other derivative instruments. See U.S. Securities and Exchange Commission, Commission Investor Bulletin, *Leveraged and Inverse ETFs: Specialized Products with Extra Risks for Buy-and-Hold Investors*, Office of Investor Education and Advocacy (Aug. 29, 2023), available at <https://sec.gov/investor/pubs/leveragedetfs-alert.htm>.

Second, NSCC would amend the NSCC Rules to describe the proposed mapping and decomposition process, which would enable the Gap Risk Charge to account for both direct exposure and indirect exposure for applicable equities. Specifically, the proposed rule change would provide that (i) equity ETFs eligible for in-kind baskets may be decomposed into positions in their underlying components; (ii) leveraged or inverse equity ETFs may be mapped to a related non-leveraged ETF with in-kind baskets, which may then be decomposed into positions in their underlying components; and (iii) single stock ETFs may be mapped to their corresponding single stock positions.

Third, NSCC would amend the NSCC Rules to provide that NSCC would then net all positions, whether they have direct exposure from the Net Unsettled Positions within the original portfolio or indirect exposures from the ETF mapping and decomposition process, to establish the "net positions" for the Gap Risk Charge calculation. Accordingly, the Gap Risk Charge would then be determined by adding the sum of the product of the gross market value of the two largest non-diversified net positions (as derived by the mapping and decomposition process) and corresponding gap risk haircuts established by NSCC, if the sum of the gross market values of the two largest non-diversified net positions in the portfolio represent a percentage designated by NSCC of the gross market value of the entire liquid equity portfolio, minus the exempted equity ETFs.

In addition, NSCC would modify its existing procedures for determining which ETFs would be excluded from the Gap Risk Charge calculation by moving those procedures from a footnote into the body of the NSCC Rules and clarifying that the characteristics that are described to determine the exclusions (*e.g.*, whether the ETF positions track to an index that is linked to a broad-based market index, contain a diversified underlying basket, are unleveraged, or track to an asset class that is less prone to gap risk) are not exclusive and may be subject to modification by NSCC.

NSCC believes the proposed changes would improve the design of its current Gap Risk Charge methodology, which does not fully account for idiosyncratic risks presented by the underlying holdings of ETFs and broadly exempts diversified ETFs from the charge entirely without considering potential idiosyncratic risks. The proposed changes would enhance the Gap Risk

Charge to address security exposures embedded in single-stock ETFs and those ETFs currently exempted from the Gap Risk Charge, which may contribute to the concentration risk of single name equities presented by such ETFs in a Member's portfolio. The proposed mapping and decomposition process is designed to enable NSCC to address unique risks presented by equity-based ETFs. By mapping leveraged and inverse equity ETFs to related non-leveraged ETFs with in-kind baskets, decomposing in-kind baskets into their underlying components, and mapping single stock ETFs to their corresponding single stock positions, and then netting and aggregating the resulting positions, NSCC would be able to better assess and address the underlying security exposures embedded within single-stock ETFs and those ETFs currently exempted from the Gap Risk Charge. NSCC therefore believes that the proposed change would result in more accurate and appropriate Gap Risk Charges for Member portfolios.

(ii) Proposed Enhancements to the Bid-Ask Spread Charge

NSCC also proposes to enhance its Bid-Ask Spread Charge by applying more granular basis point charges for different sub-categories of ETPs. Specifically, NSCC proposes to revise Sections I(A)(1)(a)(i)I and I(A)(2)(a)(i)I of Procedure XV of the NSCC Rules to provide that NSCC would apply different basis point charges within the ETP risk group based on an ETP's inclusion in additional sub-categories determined by NSCC, which would be based on factors such as capitalization or asset class.²¹

As discussed above, the Bid-Ask Spread Charge is calculated by multiplying the gross market value of each Net Unsettled Position by an applicable basis point charge, which is determined based on the following groups/classifications: (i) large and medium capitalization equities; (ii) small capitalization equities; (iii) micro-capitalization equities; and (iv) ETPs.²² NSCC currently applies one standard basis point charge for all ETPs, which assumes that all ETPs share similar liquidity and bid-ask spread haircuts.

The proposed rule change would enhance the current design of the Bid-Ask Spread Charge by improving the granularity of the basis point charges

used within the ETP risk group to account for different asset classes and market capitalizations of ETPs. As a result, NSCC believes that the proposed change would result in more accurate and representative Bid-Ask Spread Charges for the liquidity profile of different types of ETPs.

(iii) Proposed Clarifications Related to the Fat Tail Adjustment Factor

Finally, NSCC proposes to modify the NSCC Rules to include a description of the Fat Tail Adjustment Factor used in its parametric VaR calculations and to provide additional clarification that NSCC may apply different parameter values to more accurately calibrate for the tail risk of different Member portfolio types. Specifically, NSCC proposes to modify Sections I(A)(1)(a)(i)I and I(A)(2)(a)(i)I of Procedure XV, which currently state that the volatility component calculation of the VaR Charge shall be made utilizing such assumptions and based on such historical data as NSCC deems reasonable and shall cover such range of historical volatility as NSCC from time to time deems appropriate, to include that such assumptions and historical data would also account for the tail risk of Member portfolio types.

As discussed above, NSCC currently applies one Fat Tail Adjustment Factor for all portfolios based on an industry standard index as a proxy for tail risk calibration. While the current Fat Tail Adjustment Factor is conservative from a risk perspective, the current approach does not reflect the complexity of all Member portfolios, which include long and short positions, diverse securities, and dynamic compositions. As a result, NSCC may calibrate tail risk using actual member portfolio residuals for better accuracy. NSCC believes that calibrating the Fat Tail Adjustment Factors based on considerations of portfolio characteristics such as portfolio size would result in more accurate estimations of risk and associated margin requirements.

The proposed rule change would improve Members understanding of the use of the Fat Tail Adjustment Factor in NSCC's parametric VaR calculations and clarify that Fat Tail Adjustment Factor parameters may be calibrated from time to time to ensure that NSCC is appropriately addressing tail risk for various Member portfolio types.

(iv) Anticipated Impact on Members

NSCC conducted an impact analysis of portfolios over the period January 2025 to February 2026 ("Impact Study"). If the proposed rule change had been in place during the Impact

Study period, the analysis showed that the proposed changes would have resulted in an overall increase of approximately \$60 million across NSCC Members, which is less than 1 percent of the total VaR Charge.

With respect to the Gap Risk Charge, the Impact Study showed an average daily increase in the overall Gap Risk Charge of approximately \$223 million (from \$727 million to approximately \$950 million), which was mostly attributable to changes in portfolio concentration profile due to the netting of indirect and direct security exposures. With respect to the Bid-Ask Spread Charge, the Impact Study showed an average daily increase in the overall Bid-Ask Spread Charge of approximately \$6 million (from \$96 million to approximately \$102 million). Finally, for the Fat Tail Adjustment Factor calibration, the Impact Study showed an average daily reduction in the VaR Charge of approximately \$168 million (from \$5.49 billion to approximately \$5.32 billion).

NSCC notes that individual Member-level impacts would vary based on the composition and size of each Member's portfolio. With respect to the Gap Risk Charge, the Impact Study results for the top 20 largest daily average notional impacts by account showed an increase in the Gap Risk Charge ranging from approximately \$4.4 million to \$23.4 million, with 15 of those accounts seeing an average impact of less than \$10 million. The percentage impact for the top 20 largest accounts ranged from approximately 110 to 750 percent increases in the Gap Risk Charge; however, there was also one Member account that would have seen Gap Risk Charges imposed that had not previously incurred such charges. As noted above, these larger impacts are mostly attributable to changes in portfolio concentration profiles due to the netting of indirect and direct security exposures, which were not previously captured in the Gap Risk Charge on these portfolios.

For the Bid-Ask Spread Charge, the Impact Study results for the top 20 largest daily average notional impacts by account showed a reduction in the charge of approximately \$75,000 to \$100,000 for two Member accounts and increases ranging from approximately \$82,000 to \$752,000 for the rest of the top 20 accounts, with half of those accounts seeing an increase of less than \$150,000. From a percentage impact perspective, all but three of the most impacted accounts saw an increase in the Bid-Ask Spread Charge of 50 percent or less.

²¹ Examples of such sub-categories may include but are not limited to: (i) large and mid-capitalization ETPs; (ii) small and micro capitalization ETPs; (iii) cryptocurrency ETPs; and (iv) fixed income ETPs.

²² See Procedure XV, Sections I(A)(1)(a)(i)I and I(A)(2)(a)(i)I of the NSCC Rules, *supra* note 3.

For the Fat Tail Adjustment Factor calibration, the Impact Study results for the top 20 largest daily average notional impacts by account showed reductions in the parametric VaR ranging from approximately \$2.6 to \$13 million. Meanwhile, the top 20 percentage impacts fall between the range of 3.3 to 3.7 percent of reduction.

NSCC will perform individual client outreach by sharing impact studies for all Members and conducting targeted outreach for Members that are most significantly impacted by the proposed rule change.

Implementation Timeframe

NSCC expects to implement the proposed rule change by no later than October 30, 2026. NSCC would announce the effective date of the proposed changes by an Important Notice posted to NSCC's website.

2. Statutory Basis

NSCC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. Specifically, NSCC believes that the proposed changes are consistent with Section 17A(b)(3)(F) of the Act²³ and Rules 17ad–22(e)(4) and (6) thereunder²⁴ for the reasons set forth below.

Section 17A(b)(3)(F) of Act²⁵ requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and, in general, to protect investors and the public interest. The proposed rule change would improve risk management at NSCC by enhancing its Clearing Fund calculations, specifically as they relate to the Gap Risk Charge, Bid-Ask Spread Charge, and Fat Tail Adjustment Factor. First, the proposed rule change would improve the design of NSCC's Gap Risk Charge methodology by more accurately isolating and addressing the risk exposures of underlying ETF holdings, such as security exposures embedded in single-stock ETFs and those ETFs currently exempted from the Gap Risk Charge, which may contribute to the concentration risk presented by such ETFs in a Member's portfolio. Second, the proposed rule change would enhance the Bid-Ask Spread Charge by

improving the granularity of the basis point charges used within the ETP risk group to account for different asset classes and market capitalizations, resulting in more accurate and representative Bid-Ask Spread Charges for the liquidity profile of different types of ETPs. Third, the proposed rule change would improve Members understanding of the use of the Fat Tail Adjustment Factor in NSCC's parametric VaR calculations and clarify that Fat Tail Adjustment Factor parameters may be calibrated from time to time to ensure that NSCC is appropriately addressing tail risk for various Member portfolio types. NSCC uses the margin and Clearing Fund it collects to mitigate potential losses to NSCC (and through loss allocation, to its Members) associated with liquidating a defaulting Member's portfolio and to continue to effect the prompt and accurate clearance and settlement of securities transactions in the event of a Member default. As a result, NSCC believes the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds which are in the custody or control of NSCC or for which it is responsible and, in general, to protect investors and the public interest in accordance with the requirements of Section 17A(b)(3)(F) of Act.

Rule 17ad–22(e)(6)(i)²⁶ under the Act requires that each covered clearing agency that provides CCP services establish, implement, maintain, and enforce written policies and procedures reasonably designed to establish a risk-based margin system that, among other things, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market. As discussed above, the proposed rule change would improve the design of NSCC's Gap Risk Charge methodology by more accurately isolating and addressing the risk exposures of underlying ETF holdings, including security exposures embedded in single-stock ETFs and those ETFs currently exempted from the Gap Risk Charge. The proposed rule change also would enhance the Bid-Ask Spread Charge by improving the granularity of the basis point charges used within the ETP risk group to account for different asset classes and market capitalizations of ETPs, resulting in more accurate and representative Bid-Ask Spread charges as applied to different types of ETPs. In addition, the proposed rule change

would describe the use of the Fat Tail Adjustment Factor in NSCC's parametric VaR calculations and clarify that Fat Tail Adjustment Factor parameters may be calibrated from time to time to ensure that NSCC is appropriately addressing tail risk for various Member portfolio types. As a result, NSCC believes that the proposed changes are reasonably designed to allow NSCC to consider, and produce margin levels commensurate with, the risks and particular attributes of relevant products, portfolios, and markets in accordance with Rule 17ad–22(e)(6)(i) under the Act.

Rule 17ad–22(e)(4)(i)²⁷ under the Act requires that each covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence. As described above, the proposed rule change is generally designed to enhance NSCC's Clearing Fund calculations by (i) improving the design of NSCC's Gap Risk Charge to more accurately isolate and address the risk exposures of underlying ETF holdings; (ii) improving the design of the Bid-Ask Spread Charge to include more granularity in the basis point charges used within the ETP risk group to account for different asset classes and market capitalizations of ETPs; and (iii) providing additional clarity regarding the Fat Tail Adjustment Factor parameter, which may be calibrated from time to time to ensure that NSCC is appropriately addressing tail risk for various Member portfolio types. NSCC believes that these changes are reasonably designed to enable NSCC to better identify, measure, monitor, and manage its credit exposures to participants and to maintain sufficient resources to cover those credit exposures fully with a high degree of confidence, consistent with the requirements of Rule 17ad–22(e)(4)(i) under the Act.

For the reasons set forth above, NSCC believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act²⁸ and Rules 17ad–22(e)(4) and (6) thereunder.²⁹

²³ 15 U.S.C. 78q–1(b)(3)(F).

²⁴ 17 CFR 240.17ad–22(e)(4) and (6).

²⁵ 15 U.S.C. 78q–(b)(3)(F).

²⁶ 17 CFR 240.17ad–22(e)(6)(i).

²⁷ 17 CFR 240.17ad–22(e)(4)(i).

²⁸ 15 U.S.C. 78q–1(b)(3)(F).

²⁹ 17 CFR 240.17ad–22(e)(4) and (6).

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act³⁰ requires that the rules of a clearing agency do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. NSCC believes that the proposed changes could have an impact on competition because they may result in larger Clearing Fund charges for Members, specifically with respect to the Gap Risk Charge and Bid-Ask Spread Charge components of the Clearing Fund. However, NSCC believes any impact or burden on competition that may result from the proposed rule change would be necessary and appropriate in furtherance of the purposes of the Act, for the reasons described below.

NSCC believes the proposed rule change is necessary and appropriate to improve the design of its current Gap Risk Charge methodology, which does not fully account for idiosyncratic risks presented by the underlying holdings of ETFs and broadly exempts diversified ETFs from the charge entirely without considering potential idiosyncratic risks. The proposed changes would enhance the Gap Risk Charge to address security exposures embedded in single-stock ETFs and those ETFs currently exempted from the Gap Risk Charge, which may contribute to the concentration risk presented by such ETFs in a Member's portfolio. NSCC also believes the proposed rule change is necessary and appropriate to enhance its Bid-Ask Spread Charge methodology by improving the granularity of the basis point charges used within the ETP risk group to account for risks presented by different asset classes and market capitalizations of ETPs. NSCC believes that the proposed changes would result in more accurate and appropriate Clearing Fund requirements that address certain risks presented by ETFs and ETPs in its Members' cleared portfolios.

NSCC believes that it has designed the proposed changes in an appropriate way in order to meet compliance with its obligations under the Act. Specifically, the proposal would improve the risk-based margining methodology that NSCC employs to set margin requirements and better limit NSCC's credit exposures to its Members. As discussed above, NSCC uses the margin and Clearing Fund it collects to mitigate potential losses to NSCC (and through loss allocation, to its Members) associated with liquidating a defaulting

Member's portfolio and to continue to effect the prompt and accurate clearance and settlement of securities transactions in the event of a Member default. Therefore, as described above, NSCC believes the proposed changes are necessary and appropriate in furtherance of NSCC's obligations under the Act, specifically Section 17A(b)(3)(F) of the Act³¹ and Rules 17ad-22(e)(4) and (6) thereunder.³²

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC has not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b-4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b-4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, available at www.sec.gov/rules-regulations/how-submit-comment. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at tradingandmarkets@sec.gov or 202-551-5777.

NSCC reserves the right not to respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NSCC-2026-008 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-NSCC-2026-008. 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-regulations/self-regulatory-organization-rulemaking>). Copies of the filing will be available for inspection and copying at the principal office of NSCC and on DTCC's website (www.dtcc.com/legal/sec-rule-filings). Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR-NSCC-2026-008 and should be submitted on or before June 25, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³³

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-11144 Filed 6-3-26; 8:45 am]

BILLING CODE 8011-01-P

³⁰ 15 U.S.C. 78q-1(b)(3)(I).

³¹ 15 U.S.C. 78q-1(b)(3)(F).

³² 17 CFR 240.17ad-22(e)(4) and (6).

³³ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION**[OMB Control No. 3235-0514]****Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Rule 8c-1***Upon Written Request, Copies Available*

From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street, NE, Washington, DC 20549-2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for approval of extension of the previously approved collection of information provided for in Rule 8c-1 (17 CFR 240.8c-1), under the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a *et seq.*).

Rule 8c-1 generally prohibits a broker-dealer from using its customers' securities as collateral to finance its own trading, speculating, or underwriting transactions. More specifically, Rule 8c-1 states three main principles: (1) a broker-dealer is prohibited from commingling the securities of different customers as collateral for a loan without the consent of each customer; (2) a broker-dealer cannot commingle customers' securities with its own securities under the same pledge; and (3) a broker-dealer can only pledge its customers' securities to the extent that customers are in debt to the broker-dealer. Additionally, Rule 8c-1 requires broker-dealers to make certain written notifications to pledgees in connection with such use of customer securities as collateral.¹

The information required by Rule 8c-1 is necessary for the execution of the Commission's mandate under the Exchange Act to prevent broker-dealers from hypothecating or arranging for the hypothecation of any securities carried for the account of any customer under certain circumstances. In addition, the information required by Rule 8c-1 provides important investor protections.

There are approximately 54 respondents as of the end of 2025 (*i.e.*, broker-dealers that conducted business with the public, filed Part II of the FOCUS Report, did not claim an exemption from the Reserve Formula computation, and reported that they had a bank loan during at least one quarter

of the current year). Each respondent makes an estimated 45 annual responses, for an aggregate total of approximately 2,430 responses per year.² Each response takes approximately 0.5 hours to complete. Therefore, the total third-party disclosure burden per year is approximately 1,215 hours.³

The retention period for the recordkeeping requirement under Rule 8c-1 is three years. The recordkeeping requirement under Rule 8c-1 is mandatory to ensure that broker-dealers do not commingle their securities or use them to finance the broker-dealers' proprietary business. This rule does not involve the collection of confidential or personal identifiable information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202603-3235-023 or email comment to MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov within 30 days of the day after publication of this notice, by July 6, 2026.

Dated: June 2, 2026.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-11211 Filed 6-3-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION**[Release No. 34-105590; File No. SR-NASDAQ-2026-047]****Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Provide for a Momentary Handoff, Upon the Exchange Commencing Trading of NMS Stocks and Exchange Traded Products**

June 1, 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 26, 2026, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed

² 54 respondents × 45 annual responses = 2,430 aggregate total of annual responses.

³ 2,430 responses × 0.5 hours = 1,215 hours.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's rules to provide for a momentary handoff, upon the Exchange commencing trading of NMS stocks and exchange traded products 23 hours per day, five days per week, to facilitate the transition between Day and Night Sessions on the Exchange.

The text of the proposed rule change is set forth below; proposed new language is italicized; deleted text is in brackets.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings>, and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**1. Purpose**

The purpose of the proposed rule change is to amend the Exchange's Rulebook to provide for a momentary handoff between the Exchange's new Day and Night Sessions once the Exchange begins to trade NMS stocks and exchange traded products ("ETPs") on a 23 hours per day, five days per week basis ("23/5").

Background and Overview

On April 15, 2026, the SEC approved a proposal that the Exchange submitted to trade NMS stocks and ETPs on a 23/

¹ See Exchange Act Release No. 2690 (November 15, 1940); Exchange Act Release No. 9428 (December 29, 1971).

5 basis.³ As set forth in the Approval Order, the Exchange will conduct 23/5 trading in two sessions: a “Day” Session, which comprises all existing trading hours of the Exchange, from 4:00 a.m. ET until 8:00 p.m. ET,⁴ and a newly established “Night” Session, which will run from 9:00 p.m. ET until 4:00 a.m. ET.⁵ Additionally, in coordination with other exchanges offering similar extended trading hours, the Exchange will also pause trading between 8:00 p.m. ET and 9:00 p.m. ET to perform maintenance, testing, and to facilitate the transition to the existing trading day to the new trading day, which will commence at 9:00 p.m. ET (the “Day-to-Night Pause”).⁶ At the conclusion of the Day Session at 8:00 p.m. ET, Nasdaq will cancel all orders then outstanding.⁷ Nasdaq will launch the operation of its 23/5 market upon the availability of the Securities Information Processor (“SIP”) to operate during the Night Session.⁸

³ See Securities Exchange Act Release No. 34–105199 (April 10, 2026), 91 FR 20222 (April 15, 2026) (the “Approval Order”).

⁴ The new Day Session will consolidate and encompass three daily trading sessions that occur on Nasdaq during each weekday from Monday through Friday. In particular, the Day Session will encompass the following. First, it will include the Pre-Market Hours session that Nasdaq currently conducts from 4:00AM to 9:30AM ET. See Rule Equity 1, Section 1(a)(9). Second, commencing at 9:30AM with the execution of the Nasdaq Opening Cross, the Day Session will include Nasdaq’s Regular Market Hours trading session, which runs until 4:00PM. See *id.* Third, commencing at 4:00PM with the execution of the Nasdaq Closing Cross, the Day Session will include the Post-Market Hours trading session, which runs from 4:00 p.m. until 8:00 p.m. See *id.*

⁵ During weekdays, between the hours of 8:00 p.m.–4:00 a.m. ET, the Exchange at present is closed to trading as it is during all weekend hours. Going forward, however, the Night Session will run between 9:00 p.m.–4:00 a.m. ET during the weekdays, commencing each week with a Night Session that will begin at 9:00 p.m. ET on Sundays.

⁶ Between 8:00 p.m. and 9:00 p.m. ET on each weekday, the Exchange will pause trading on its market to conduct maintenance, testing, and to process those corporate actions, such as mergers, stock splits, and dividends, that will become effective the following trading day. The pause will also allow for market participants to process and clear trades before proceeding to a new trading day. See Equity 1, Rule 1(a)(19).

⁷ See Rule 4120(a)(10)(B).

⁸ See Equity 1, Section 1(19) (defining the term “Night Session” and further providing that (1) the Exchange shall not commence operation of the Night Session unless the Equity Data Plans (1) have established a mechanism to collect, consolidate, process and disseminate quotation and transaction information at all times during the Night Session that is equivalent to the mechanism established for Exchange trading hours during Regular Market Hours, and (2) have provided the Exchange with notification that they are prepared to collect, consolidate, process and disseminate quotation and transaction information to accommodate the Night Session; (2) that prior to commencing operation during the Night Session, the Exchange will file a proposed rule change pursuant to Section 19(b) of the Exchange Act and the rules thereunder to amend its rules confirming that the Exchange is

The Exchange intends for the transition from the Night Session to the Day Session to be as seamless as possible, but to ensure that the transition is orderly, it will be necessary for trading to be in abeyance momentarily during that transition. Specifically, this new proposed handoff (the “Night-to-Day Handoff”) will enable the Exchange to avoid reporting overlapping quoting information to the SIP during the transition between sessions.

Unlike the Day-to-Night Pause, the Exchange expects that the Night-to-Day Handoff will be short and of *de minimis* duration. The Exchange will publish a more specific estimate of the duration of the Night-to-Day Handoff in a Nasdaq Trader Alert prior to the launch of 23/5 trading on Nasdaq.

To effectuate the Night-to-Day Handoff, the Exchange proposes to amend Rule 4120(a)(10)(C) to state that it will cancel all open orders outstanding in the Night Session “just prior to” rather than “as of” 4:00 a.m. ET.⁹ As set forth in Rule 4752(b), the Exchange will continue to accept new orders again when the Exchange commences the Day Session at 4:00 a.m. ET.

The Exchange also proposes to amend Rule 4756(a)(3) to state that orders for the Night Session may be entered into the System (or previously entered orders cancelled or modified) from 9:00 p.m. ET until “just prior to” 4:00 a.m. ET in accordance with the hours of operation for the Night Session. Similarly, with respect to entry of quotes by Nasdaq Market Makers, the Exchange proposes to provide that during the Night Session, Nasdaq Market Makers and Nasdaq ECNs can enter quotes into the System from 9:00 p.m. ET to “just prior to” 4:00 a.m. ET.¹⁰ For orders with a Time-in-Force¹¹ of “Night,” these orders will deactivate “just prior to” the

able to comply with its obligations under the Exchange Act and the rules thereunder during the Night Session and that such Equity Data Plans are prepared to collect, consolidate, process and disseminate quotation and transaction information at all times during the Night Session (“Night Session Proposed Rule Change”); and (3) that if the Night Session Proposed Rule Change is not filed within 18 months of the SEC’s approval of this proposed rule change, the Exchange will promptly file a proposed rule change to remove the rules that apply to the Night Session). See *id.*

⁹ See proposed Rule 4120(a)(10)(C).

¹⁰ See proposed Rule 4756(b).

¹¹ The “Time-in-Force” assigned to an Order means the period of time that the Nasdaq Market Center will hold the Order for potential execution. Participants specify an Order’s Time-in-Force by designating a time at which the Order will become active and a time at which the Order will cease to be active. See Rule 4702.

conclusion of the Night Session at 4:00 a.m. ET, rather than at 4:00 a.m. ET.¹²

The Exchange proposes to implement this proposal at the same time as when the Exchange commences trading on a 23/5 basis.¹³

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁴ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁵ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

It is consistent with the Act for the Exchange to conduct a momentary handoff just prior to the end of the Night Session, at 4:00 a.m. ET, and prior to the commencement of the Day Session, at 4:00 a.m. ET, because such a handoff will help ensure that the Exchange does not unintentionally submit overlapping data to the SIP as it transitions from the Night to the Day Session.

As with the transition from the Nasdaq Closing Cross and Regular Market Hours to Post-Market Hours Trading, the transition from Night to Day Sessions may not be instantaneous and may require a few moments to wrap up one trading session before commencing the next one. Nasdaq notes that the rules of the New York Stock Exchange provide for it to open at or “as close to the beginning of Core Trading Hours as possible.”¹⁶

This approach reflects the technical and functional separation of the two systems underlying its two 23/5 trading Sessions and ensures that the transition between trading Sessions occurs in a manner consistent with the Act’s goals of ensuring market integrity, investor protection, and fair and orderly trading.

Lastly, the proposal would reduce potential investor and market participant confusion about the Exchange’s transition between trading Sessions, and the time at which Night Session orders will be canceled in preparation for the commencement of

¹² The Exchange further proposes to amend subparagraph (2) of Rule 4703, which states that “an Order with a Time in Force of ‘System Hours Day’ or ‘SDAY’ designated for participation in the Night Session will deactivate at 4:00 a.m.,” so that it instead deactivates “just prior to 4:00 a.m.” See proposed Rule 4703(a)(2).

¹³ See n.9, *supra*.

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(5).

¹⁶ See NYSE Rule 7.35A(a) (providing for Designated Market Makers to ensure that registered securities open as close to the beginning of NYSE’s core trading hours as possible”).

the Day Session. The proposal would address this confusion by clarifying that the transition from Night to Day Session will not be instantaneous, and that a momentary handoff from one Session to the other may be needed during which time outstanding orders from the Night Session will be canceled just prior to 4:00 a.m. ET.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal to conduct a momentary handoff between its Night and Day Trading Sessions is intended to nor will it adversely impact competition. The duration of the Night-to-Day handoff will be momentary, applicable to all participants, and should not impact participants' ability to compete vis-à-vis one another. To the extent that the proposal does have any adverse competitive impact on participants, the Exchange believes that this impact will be minimal, both because the handoff itself will be of a *de minimis* duration and because the Exchange expects that equity volumes on the Exchange at or around 4:00 a.m. ET will be lower than at other times of the trading day. Moreover, any such impact would be justified by the need to minimize the risks of a disorderly transition occurring between the Exchange's Night and Day Sessions.

The Exchange operates in a highly competitive market in which market Participants can readily choose between competing venues if, as a result of the proposal, they deem participation in the Exchange's market to no longer be desirable or if they do not wish to trade at or around the transition from the Night to the Day Session. Competitors to the Exchange are free to develop or modify the functionality and structure of their markets so that these markets either do not require a handoff at all at or around 4:00 a.m. ET, or require one of a shorter duration. Accordingly, the Exchange believes that the degree to which its proposal imposes any burden on competition is limited.

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)(iii) of the Act¹⁷ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁸

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 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-2026-047 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-2026-047. 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/>

¹⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁸ 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 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.

[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-2026-047 and should be submitted on or before June 25, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-11142 Filed 6-3-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0202]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Rule 15c2-11

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. § 3501 *et seq.*), the Securities and Exchange Commission (SEC or "Commission") is submitting to the Office of Management and Budget (OMB) this request for an extension of the proposed collection of information provided for in Rule 15c2-11 (17 CFR 240.15c2-11) ("Rule"), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 15c2-11 governs the publication of quotations for securities in a quotation medium other than a national securities exchange (*i.e.*, over the counter ("OTC") securities). The Rule is designed to prevent broker-dealers from publishing or submitting quotations for OTC securities that may facilitate a fraudulent or manipulative scheme. Subject to certain exceptions, the Rule prohibits broker-dealers from publishing any quotation for a security or, directly or indirectly, submitting any quotation for publication, in a quotation medium unless they have reviewed specified information concerning the issuer.

¹⁹ 17 CFR 200.30-3(a)(12).

Based on the current structure of the market, the Commission staff believes that the recordkeeping and review requirements under Rule 15c2-11 apply to 196 broker-dealers, one qualified interdealer quotation system (“QIDQS”), and one registered national securities association (“RNSA”). Based on information provided by the Financial Industry Regulatory Authority, Inc. (“FINRA”), the Commission staff understands that in the 2024 calendar year, 266 Form 211 applications were filed to initiate the publication or submission of quotations of OTC securities: 76 of these Forms 211 concerned OTC securities of prospectus issuers, Regulation A (“Reg. A”) issuers, and reporting issuers; 163 concerned OTC securities of “exempt foreign private issuers”; and 27 concerned OTC securities of “catch-all issuers.” The collection of information that is submitted to FINRA for review and approval is currently not available to the public from FINRA. Commission staff estimates that the total annual burden of the information collection requirements prescribed in the Rule is 1,771,343 hours.

The required **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published. One comment was received. The comment requested additional information and was not related to the collection requirement itself or to the estimated burdens.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202604-3235-013 or email comment to MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov within 30 days of the day after publication of this notice, by July 6, 2026.

Dated: June 2, 2026.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-11210 Filed 6-3-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105591; File No. SR-CboeBZX-2026-027]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To List and Trade Shares of the BondBloxx Private Credit Trust Under BZX Rule 14.11(f), Trust Issued Receipts

June 1, 2026.

On April 6, 2026, Cboe BZX Exchange, Inc. (“BZX”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) ¹ and Rule 19b-4 thereunder, ² a proposed rule change to list and trade shares of the BondBloxx Private Credit Trust under BZX Rule 14.11(f), Trust Issued Receipts. The proposed rule change was published for comment in the **Federal Register** on April 22, 2026. ³

Section 19(b)(2) of the Act ⁴ provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is June 6, 2026. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the issues raised therein. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act, ⁵ designates July 21, 2026, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to

disapprove, the proposed rule change (File No. SR-CboeBZX-2026-027).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority. ⁶

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-11143 Filed 6-3-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105589; File No. SR-NYSEAMER-2026-44]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the NYSE American Options Fee Schedule Regarding Fees and Rebates Applicable to Manual Transactions

June 1, 2026.

Pursuant to Section 19(b)(1) ¹ of the Securities Exchange Act of 1934 (“Act”) ² and Rule 19b-4 thereunder, ³ notice is hereby given that, on May 19, 2026, NYSE American LLC (“NYSE American” or the “Exchange”) filed with the Securities and Exchange Commission (the “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 change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the NYSE American Options Fee Schedule (“Fee Schedule”) regarding fees and rebates applicable to Manual transactions. The proposed rule change is available on the Exchange’s website at www.nyse.com 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 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 those statements may be examined at

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 105274 (Apr. 20, 2026), 91 FR 21527. The Commission has received no comments regarding the proposed rule change.

⁴ 15 U.S.C. 78s(b)(2).

⁵ *Id.*

⁶ 17 CFR 200.30-3(a)(31).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 parts 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 purpose of this filing is to amend the Fee Schedule to modify fees and rebates applicable to Manual transactions. Specifically, the Exchange proposes to (1) amend fees applicable to Manual transactions in non-Penny issues executed by e-Specialists, Market Makers, and Specialists (collectively, "Market Makers"), and (2) establish a rebate payable to Floor Broker orders that trade with a Market Maker order on the Trading Floor. The Exchange proposes the fee change to be effective May 19, 2026.⁴

The Exchange proposes to amend Section I.A. of the Fee Schedule, which sets forth rates for Electronic and Manual transactions, in both Penny and non-Penny issues. Currently, a \$0.50 per contract fee applies to Market Makers' Manual transactions in non-Penny issues (except for Manual transactions in MXEA, MXEF, MXUSA, MXWLD, and MXACW). The Exchange proposes to increase this fee to \$1.00 per contract.

The Exchange also proposes to establish a rebate of \$0.20 per contract payable to Floor Broker orders that trade with Market Maker orders on the Trading Floor. For Floor Brokers that participate in the FB Prepay Program, the proposed rebate would apply in lieu of any rebates earned through the Manual Billable Rebate Program as provided in Section III. E. of the Fee Schedule. The Exchange proposes to add new text to Section III.E. of the Fee Schedule describing the proposed rebate.

The Exchange believes that the proposed rebate would continue to incentivize Floor Brokers to participate

on the Trading Floor, including when the counterparty to such trading is a Market Maker. In addition, although the proposed change to the Market Maker fee for Manual transactions in non-Penny issues would increase the fee for such executions, the Exchange believes the proposed change, taken together with the proposed Floor Broker rebate would, on balance, not discourage Market Makers from continuing to participate in transactions on the Trading Floor, thereby promoting trading opportunities and competition on the Trading Floor to the benefit of all market participants. The Exchange also notes that the amount of the proposed fee for Market Maker Manual transactions in non-Penny issues is within the range of fees currently in place for transactions by Market Makers (and other market participants) in non-Penny issues.⁵

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,⁷ in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Rule Change Is Reasonable

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."⁸

There are currently 18 registered options exchanges competing for order

flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.⁹ Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in March 2026, the Exchange had 9.86% market share of executed volume of multiply-listed equity and ETF options trades.¹⁰ In such a low-concentrated and highly competitive market, no single options exchange possesses significant pricing power in the execution of options order flow. Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules.

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees.

The Exchange believes that the proposed rebate would incentivize Floor Brokers to direct additional Manual orders to the Exchange, thereby creating more trading opportunities on the Trading Floor for all market participants, including Market Makers. The Exchange thus believes that, despite the proposed change to increase the fee applicable to Market Makers' Manual transactions in non-Penny issues, Market Makers would not be discouraged from continuing to quote and trade actively on the Exchange. The Exchange also believes that the amount of the proposed fee for Market Maker Manual transactions in non-Penny issues is reasonable, as it remains within the range of fees set forth in the Fee Schedule for transactions by Market Makers in non-Penny issues and more closely aligns with the fee applicable to electronic transactions by Market Makers in non-Penny issues.

⁴ The Exchange previously filed to amend the Fee Schedule on January 2, 2026 (SR-NYSEAMER-2026-01), then withdrew such filing and amended the Fee Schedule on January 16, 2026 (SR-NYSEAMER-2026-04), then withdrew such filing and amended the Fee Schedule on January 28, 2026 (SR-NYSEAMER-2026-08), then withdrew such filing and amended the Fee Schedule on March 10, 2026 (SR-NYSEAMER-2026-19), then withdrew such filing and amended the Fee Schedule on April 22, 2026 (SR-NYSEAMER-2026-32), and then withdrew such filing and amended the Fee Schedule on May 6, 2026 (SR-NYSEAMER-2026-38), which latter filing the Exchange withdrew on May 19, 2026. The Exchange notes that previous versions of this filing proposed changes to a complex order surcharge that are not included in this filing.

⁵ See, e.g., Fee Schedule, Section I.A., Rates for Options transactions (providing for \$0.85 fee for Broker-Dealer, Firm, Non-NYSE American Options Market Maker, and Professional Customer electronic transactions in non-Penny issues and \$0.95 fee for Market Maker electronic transactions in non-Penny issues (inclusive of Marketing Charges applicable to such transactions)).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4) and (5).

⁸ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (S7-10-04) ("Reg NMS Adopting Release").

⁹ The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: <https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics>.

¹⁰ Based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of equity-based ETF options, see *id.*, the Exchange's market share in equity-based options increased from 6.83% for the month of March 2025 to 9.86% for the month of March 2026.

The Exchange believes that the proposed changes are reasonably designed to incent Floor Brokers (and other participants on the Trading Floor) to increase the number of Manual orders sent to the Exchange. Any increase in trading volume would create more trading opportunities for all market participants and would in turn attract additional order flow to the Exchange, further contributing to a deeper, more liquid market to the benefit of all market participants. The Exchange also notes that the proposed rebate is similar in structure to incentive programs for Floor Brokers offered by competing options exchanges.¹¹

The Exchange further believes the proposed change is reasonable because it is designed to offset costs associated with the proposed Floor Broker rebate. To the extent this purpose is achieved, the Exchange believes that the proposed change would not disincentivize Market Maker activity on the Trading Floor because increased order flow from Floor Brokers seeking to earn the proposed rebate would result in more opportunities to trade for all market participants. In addition, the Exchange notes that market participants are free to conduct transactions on competing venues instead if they believe other markets offer more favorable fees and credits.

To the extent the proposed rule change continues to attract greater volume and liquidity by encouraging Floor Brokers to increase their options volume on the Exchange in an effort to earn the proposed rebate, the Exchange believes the proposed changes would improve the Exchange's overall competitiveness and strengthen its market quality for all market participants. Against the backdrop of the competitive environment in which the Exchange operates, the proposed rule change is a reasonable attempt by the Exchange to increase the depth of its market and improve its market share relative to its competitors.

The Proposed Rule Change Is an Equitable Allocation of Credits and Fees

The Exchange believes the proposed rule change is an equitable allocation of its fees and credits because the proposed rebate is based on the amount and type of business transacted on the Exchange, and Floor Brokers can try to earn the proposed rebate, or not. The Exchange also believes that the proposed change to the fee applicable to Market Maker Manual transactions in non-Penny issues is equitable because it is designed to balance costs associated with encouraging increased execution opportunities on the Trading Floor, and an increase in such orders would in turn enhance trading opportunities for all market participants. In addition, the proposed fee is within the range of fees currently applicable to transactions by Market Makers and other market participants in non-Penny issues. The Exchange also believes that the proposed rebate to Floor Brokers is an equitable allocation of fees and credits because it is intended to support Floor Brokers' role in facilitating the execution of Manual orders, which function benefits all market participants on the Trading Floor.

Moreover, the proposal is designed to incent participation on the Trading Floor in an effort to make the Exchange a primary execution venue and to attract more Manual transactions to the Exchange. To the extent that the proposed change attracts more Floor Broker orders to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for, among other things, order execution. Thus, the Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more order flow to the Exchange thereby improving market-wide quality and price discovery.

The Proposed Rule Change Is Not Unfairly Discriminatory

The Exchange believes it is not unfairly discriminatory to modify the fee applicable to Market Maker Manual transactions in non-Penny issues because the proposed change would apply to all Market Maker orders equally, and as discussed above, the Exchange believes it is not unfairly discriminatory to incent order flow to the Exchange, which would enhance liquidity on the Exchange to the benefit of all market participants. The Exchange also believes that the proposed rebate payable to Floor Brokers for a Manual order that trades with a Market Maker order on the Trading Floor is not

unfairly discriminatory because it would be available to all similarly situated market participants on an equal and non-discriminatory basis. The Exchange further believes that the proposed rebate available to Floor Brokers is not unfairly discriminatory to other market participants because it is intended to encourage the role performed by Floor Brokers in facilitating the execution of orders via open outcry, a function which the Exchange wishes to support for the benefit of all market participants. In addition, although the proposed change would increase the fee applicable to Market Maker Manual transactions in non-Penny issues, the Exchange notes that the amount of the proposed fee is within the range of fees currently applicable to transactions by Market Makers and other market participants in non-Penny issues and believes that Market Makers would not be discouraged from continuing to participate actively on the Trading Floor and would benefit from increased Manual order flow, including from Floor Brokers seeking to earn the proposed rebate, as a result of the proposed change. To the extent that this increased order flow attracts order flow from other market participants to the Trading Floor, the proposed rule change would improve market quality and promote additional trading opportunities for all market participants on the Exchange.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all market participants. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes "more efficient pricing

¹¹ See, e.g., BOX Exchange Fee Schedule, Section V. Manual Transaction Fees, available at <https://boxexchange.com/assets/BOX-Fee-Schedule-as-of-January-22-2026.pdf> (offering Floor Brokers that submit QOO and FOO Orders a \$0.20 per contract enhanced rebate for executions that trade with a Floor Market Maker, in lieu of lesser per contract rebates also available to Floor Brokers); MIAX Sapphire Options Exchange, Section 1) c) Trading Floor Transactions, available at https://www.miaxglobal.com/sites/default/files/fee-schedule-files/MIAX_Sapphire_Fee_Schedule_01212026_b.pdf (providing for the "Floor Broker Breakup Credit," a \$0.20 credit applicable to Floor Brokers that submit a QFO or cQFO for executions that trade with a Floor Market Maker, instead of the \$0.10 Floor Broker rebate otherwise available).

of individual stocks for all types of orders, large and small.”¹²

Intramarket Competition. The proposed change is designed to attract additional order flow to the Exchange. The Exchange believes that the proposed change to Market Maker fees for Manual transactions in non-Penny issues, and the proposed rebate payable to the Floor Broker orders that trade against Market Maker orders on the Trading Floor would encourage Floor Broker Manual order flow and would not disincentivize Market Maker activity on the Trading Floor. Greater liquidity benefits all market participants on the Exchange and increased order flow would increase opportunities for execution of other trading interest. The proposed changes would apply and be available to all similarly situated market participants that execute Manual transactions on the Trading Floor, and, accordingly, the proposed changes would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily favor one of the other 17 competing options exchanges if they deem the Exchange’s fee levels to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. Based on publicly available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.¹³ Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in March 2026, the Exchange had 9.86% market share of executed volume of multiply-listed equity and ETF options trades.¹⁴

The Exchange believes that the proposed rule change reflects this competitive environment because it modifies the Exchange’s fees in a manner designed to continue to incent

participants on the Trading Floor to direct trading interest to the Exchange, to provide liquidity and to attract additional order flow. To the extent that Floor Brokers are encouraged to utilize the Exchange as a primary trading venue for all transactions, all Exchange market participants stand to benefit from the improved market quality and increased opportunities for price improvement. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)¹⁵ of the Act and subparagraph (f)(2) of Rule 19b-4¹⁶ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such 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)¹⁷ 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:

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(f)(2).

¹⁷ 15 U.S.C. 78s(b)(2)(B).

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-NYSEAMER-2026-44 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-NYSEAMER-2026-44. 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-NYSEAMER-2026-44 and should be submitted on or before June 25, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-11141 Filed 6-3-26; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21581 and #21582; TEXAS Disaster Number TX-20081]

**Administrative Declaration
Amendment of a Disaster for the State
of Texas**

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Administrative declaration of disaster for the State of Texas dated May 7, 2026.

Incident: Severe Storms and Tornadoes.

DATES: Issued on June 1, 2026.

Incident Period: April 24, 2026 through May 1, 2026.

¹⁸ 17 CFR 200.30-3(a)(12).

¹² See Reg NMS Adopting Release, *supra* note 8, at 37499.

¹³ The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: <https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics>.

¹⁴ Based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of equity-based ETF options, *see id.*, the Exchange’s market share in equity-based options increased from 6.83% for the month of March 2025 to 9.86% for the month of March 2026.

Physical Loan Application Deadline
Date: July 6, 2026.

Economic Injury (EIDL) Loan
Application Deadline Date: February 8, 2027.

ADDRESSES: Visit the MySBA Loan Portal at <https://lending.sba.gov> to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Sharon Henderson, Office of Disaster Recovery and Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

SUPPLEMENTARY INFORMATION: The notice of an Administrative declaration for the State of Texas, dated May 7, 2026 is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Cameron.

Contiguous Counties:

Texas: Hidalgo, Willacy.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority:13 CFR 123.(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2026-11176 Filed 6-3-26; 8:45 am]

BILLING CODE 8026-09-P

DEPARTMENT OF STATE

[Public Notice: 13029]

Notice of Meeting of the Cultural Property Advisory Committee; Proposals To Extend Bilateral Cultural Property Agreements With Albania and Nigeria; and Notice of Receipt of a Request From Romania Under the Convention on Cultural Property Implementation Act of 1983

SUMMARY: The Under Secretary of State for Public Diplomacy calls a meeting of the Cultural Property Advisory Committee in accordance with the Convention on Cultural Property Implementation Act (19 U.S.C. 2601-2613) (“the Act”). The Committee will review a request from Romania for assistance protecting its cultural property and proposed extensions of bilateral cultural property agreements with Albania and Nigeria. In addition, the Committee will review the effectiveness of other cultural property agreements and emergency actions currently in force, pursuant to 19 U.S.C. 2605(g). A portion of this meeting will be closed to the public pursuant to 5 U.S.C. 552b(c)(9)(B) and 19 U.S.C. 2605(h).

DATES: The Committee will meet from July 14-16, 2026, from 8:30 a.m. to 5:00 p.m. (EDT).

Participation: The public may participate in, or observe, the virtual open session on July 14, 2026, from 2:00 p.m. to 3:00 p.m. (EDT). More information below.

ADDRESSES: The Committee will meet virtually. The public will participate via videoconference.

FOR FURTHER INFORMATION CONTACT: For all information, use the following: the Cultural Heritage Center, Bureau of Educational and Cultural Affairs: (771) 204-6071; (culprop@state.gov). For the meeting and the proposed extension of the Albania Agreement, contact Andrew Zonderman at the email address above and include “July Committee Meeting” or “Albania,” as appropriate, in the subject line; for the proposed extension of the Nigeria Agreement, contact Evan Binkley at the email address above and include “Nigeria” in the subject line; for the request from Romania, contact Anashya Srinivasan at the email address above and include “Romania” in the subject line.

SUPPLEMENTARY INFORMATION:

Proposed Agreement Extensions: Pursuant to the authority vested in the Under Secretary of State for Public Diplomacy, and pursuant to 19 U.S.C. 2602(f)(1), an extension of the following two bilateral cultural property agreements is hereby proposed:

- the Memorandum of Understanding Between the United States of America and the Republic of Albania Concerning the Imposition of Import Restrictions on Categories of Archaeological and Ethnological Material of Albania
- the Memorandum of Understanding Between the Government of the United States of America and the Government of the Federal Republic of Nigeria Concerning the Imposition of Import Restrictions on Categories of Archaeological and Ethnological Material of Nigeria

Copies of these agreements, their respective Designated Lists of categories of material currently restricted from import into the United States, and related information can be found at the Cultural Heritage Center website: <https://www.state.gov/current-agreements-and-import-restrictions/>.

New Requests: The Government of Romania submitted a request to the Government of the United States on October 3, 2024, under the Convention on Cultural Property Implementation Act of 1983, for assistance in protecting its cultural property. The Cultural Heritage Center website will provide additional information on the request,

including categories of material that may be included in import restrictions: <https://www.state.gov/cultural-property-advisory-committee-meeting-july-14-16-2026/>. This notice is published pursuant to authority vested in the Under Secretary of State for Public Diplomacy and pursuant to 19 U.S.C. 2602(f)(1).

The Open Session: The public can observe the virtual open session on July 14, 2026, from 2:00 p.m. to 3:00 p.m. (EDT). Registered participants may provide oral comments during this session. The Department provides specific instructions on how to observe or provide oral comments at the open session at <https://www.state.gov/cultural-property-advisory-committee-meeting-july-14-16-2026/>. The remaining portions of the Committee meeting will be closed to the public in accordance with 19 U.S.C. 2605(h) and 5 U.S.C. 552b(c)(9)(B).

Oral Comments: Register to speak at the open session by sending an email with your name and organizational affiliation, as well as any requests for reasonable accommodation, by July 5, 2026. Those who submit written comments in advance of the meeting are not required to make an oral comment during the open session. The Committee will review written comments if received by 11:59 p.m. (EDT) on July 5, 2026. Written comments may be submitted in two ways, depending on whether they contain confidential information:

General Comments: For general comments, use <https://www.regulations.gov>, enter the docket [DOS-2026-0628], and follow the prompts.

Comments should relate specifically to the determinations specified in the Act at 19 U.S.C. 2602(a)(1). Written comments submitted via www.regulations.gov are not private and are posted at <https://www.regulations.gov>. Because written comments cannot be edited to remove any personally identifying or contact information, we caution against including any such information in an electronic submission without appropriate permission to disclose that information (including trade secrets and commercial or financial information that is privileged or confidential within the meaning of 19 U.S.C. 2605(i)(1)). We request that any party soliciting or aggregating written comments from other persons inform those persons that the Department will not edit their comments to remove any identifying or contact information and that they therefore should not include any such information in their comments that they do not want publicly disclosed.

Confidential Comments: For comments that contain privileged or confidential information (within the meaning of 19 U.S.C. 2605(i)(1)), please email submissions to culprop@state.gov. Include “Romania,” “Albania,” “Nigeria”, and/or “Continuing Review” in the subject line.

Andrew L. Zonderman,

Designated Federal Officer, Cultural Property Advisory Committee, Bureau of Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 2026–11197 Filed 6–3–26; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36933]

Northeast Texas Railway Company—Acquisition of a Line of Railroad Owned by Northeast Texas Rural Rail Transportation District and Change of Operators Exemption—Northeast Texas Connector, LLC

Northeast Texas Railway Company (NETX), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate approximately 65.59 miles of rail line owned by the Northeast Texas Rural Rail Transportation District between milepost 555.0 in Greenville, Tex., and milepost 489.41 in Winfield, Tex. (the Line). The verified notice states that the current operator of the Line is Northeast Texas Connector, LLC (NETC).

This transaction is related to a concurrently filed verified notice of exemption in *TNW Corp.—Continuance in Control Exemption—Northeast Texas Railway*, Docket No. FD 36934, in which TNW Corporation seeks to continue in control of NETX upon NETX’s becoming a Class III rail carrier.

According to the verified notice, NETX and the Northeast Texas Rural Rail Transportation District are in the process of finalizing an agreement pursuant to which NETX will lease the underlying right-of-way, acquire the track and track material, and operate the Line as a common carrier, replacing Northeast Texas Connector, LLC (NETC), as the common carrier service provider on the Line. The verified notice indicates that NETC does not object to the proposed transaction by which it would be replaced by NETX as operator on the Line. NETX certifies that the agreement governing the proposed transaction does not impose or include an interchange commitment. NETX further certifies that its projected annual revenues will not exceed \$5 million and will not result in NETX’s becoming a

Class I or Class II rail carrier. Under 49 CFR 1150.32(b), a change in operator requires that notice be given to shippers. NETX provides a list of all known shippers that use or could potentially use the Line and certifies that they have been served.

The earliest this transaction may be consummated is June 18, 2026. NETX states that it expects to consummate its acquisition of, and commence common carrier operations over, the Line after that date.

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 June 11, 2026 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36933, 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 NETX’s representative, Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave. NW, Suite 1300 South, Washington, DC 20004.

According to NETX, 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: June 1, 2026.

By the Board, Scott M. Zimmerman, Acting Chief Counsel, Office of Chief Counsel.

Stefan Rice,

Clearance Clerk.

[FR Doc. 2026–11156 Filed 6–3–26; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36934]

TNW Corporation—Continuance in Control Exemption—Northeast Texas Railway Company

TNW Corporation (TNW), a non-carrier, has filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to continue in control of Northeast Texas Railway Company (NETX), upon NETX’s becoming a Class III rail carrier.

TNW currently controls three Class III carriers.¹

This transaction is related to a concurrently filed verified notice of exemption in *Northeast Texas Railway—Acquisition of a Line of Railroad Owned by Northeast Texas Rural Rail Transportation District & Change of Operators Exemption—Northeast Texas Connector, LLC*, Docket No. FD 36933, in which NETX seeks to acquire and operate approximately 65.59 miles of rail line owned by the Northeast Texas Rural Rail Transportation District between milepost 555.0 in Greenville, Tex., and milepost 489.41 in Winfield, Tex., replacing Northeast Texas Connector, LLC, as the common carrier service provider on that line.²

TNW represents that: (1) the rail line to be operated by NETX does not connect with any of the railroads in TNW’s corporate family; (2) the control of NETX is not part of a series of anticipated transactions that would result in such a connection; and (3) the transaction does not involve a Class I rail carrier. The proposed transaction is therefore exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

The earliest this transaction may be consummated is June 18, 2026, the effective date of the exemption (30 days after the verified notice was filed).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 49 U.S.C. 11324 and 11325 that involve only Class III rail carriers. Accordingly, because this transaction involves Class III rail carriers only, the Board may not impose labor protective conditions here.

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 June 11, 2026 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36934, must be filed with the Surface Transportation Board either via e-filing on the Board’s website or in

¹ Those carriers are Texas North Western Railway Company; Texas, Gonzales & Northern Railway Company; and Texas Rock Crusher Railway Company.

² NETX will lease the underlying right-of-way and acquire the track and track material.

writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on TNW's representative, Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave. NW, Suite 1300 South, Washington, DC 20004.

According to TNW, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at www.stb.gov.

Decided: June 1, 2026.

By the Board, Scott M. Zimmerman, Acting Chief Counsel, Office of Chief Counsel.

Zantori Dickerson,
Clearance Clerk.

[FR Doc. 2026–11139 Filed 6–3–26; 8:45 am]

BILLING CODE 4915–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Determination and Request for Comments Concerning Action Pursuant to Section 301: Brazil's Acts, Policies, and Practices Related to Digital Trade and Electronic Payment Services; Unfair, Preferential Tariffs; Anti-Corruption Enforcement; Intellectual Property Protection; Ethanol Market Access; and Illegal Deforestation

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Notice of determination and request for comments.

SUMMARY: The United States Trade Representative (Trade Representative) has determined that certain of Brazil's acts, policies, and practices at issue in this investigation are actionable under Section 301(b) and Section 304(a) of the Trade Act of 1974, as amended (Trade Act). The Trade Representative is proposing action, including tariffs on articles of Brazil and certain exemptions, and invites comments from the public.

DATES: To be assured of consideration, the following schedule applies:

June 1, 2026: Comment period opens.

June 22, 2026: To be assured of consideration, submit requests to appear at the hearing, along with a summary of testimony, by this date.

July 1, 2026: Due date for written comments.

July 6, 2026: USTR will hold a public hearing in the main hearing room of the U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. If necessary, the hearing may continue on the next business day.

ADDRESSES: Submit documents in response to this notice, including written comments, through the online USTR portal at: <https://comments.ustr.gov/s/>. The docket number for comments is USTR–2026–0331. The docket number for requests to appear at the public hearing on the proposed tariff actions is USTR–2026–0397.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Philip Butler and Megan Grimball, Chairs of the Section 301 Committee; or Megan Paster, Assistant General Counsel, at (202) 395–5725.

SUPPLEMENTARY INFORMATION:

I. Background

At the specific direction of the President, on July 15, 2025, the Trade Representative initiated an investigation into Brazil's acts, policies, and practices related to digital trade and electronic payment services; unfair, preferential tariffs; anti-corruption enforcement; intellectual property protection; ethanol market access; and illegal deforestation. The notice of initiation solicited written comments on:

Digital Trade and Electronic Payment Services

- The acts, policies, or practices of Brazil that may undermine the competitiveness of U.S. companies engaged in digital trade or electronic payment services.
- The extent to which Brazil's acts, policies, or practices discriminate against or unfairly disadvantage U.S. companies engaged in digital trade or electronic payment services.

Unfair, Preferential Tariffs

- The acts, policies, or practices of Brazil which accord lower, preferential tariff treatment only to certain large trading partners in specific sectors, including sectors in which these trading partners are globally competitive.
- The extent to which Brazil's acts, policies, or practices discriminate against or unfairly disadvantage U.S. exports and economic output.

Anti-Corruption Enforcement

- The extent to which Brazil's enforcement of anti-corruption measures is not sufficient.
- The extent to which Brazil's lack of enforcement of anti-corruption measures disadvantages U.S. companies engaged in trade and investment in Brazil.

Intellectual Property Protection

- The acts, policies, or practices of Brazil that deny adequate and effective

protection and enforcement of intellectual property rights.

- The extent to which Brazil's acts, policies, or practices discriminate against or unfairly disadvantage American workers whose livelihoods are tied to American innovation- and creativity-driven sectors.
- Other acts, policies, or practices of Brazil relating to the protection or enforcement of intellectual property rights that may discriminate against or unfairly disadvantage U.S. businesses.

Ethanol Market Access

- The extent to which Brazil's tariff rates or any related regulations on ethanol discriminate against or unfairly disadvantage U.S. ethanol producers.
- Other acts, policies, or practices of Brazil that may discriminate against or unfairly disadvantage U.S. producers of ethanol, biofuels, or related products.

Illegal Deforestation

- The extent to which Brazil has laws and regulations to effectively address illegal deforestation, use of illegally deforested land for agricultural production, and illegal logging taking place in its territory.
- The extent to which Brazil is effectively enforcing laws and regulations to address illegal deforestation, using illegally deforested land for agricultural production, and permitting illegal logging in its territory.
- The extent to which farmers are producing agricultural products on illegally deforested land in Brazil and exporting those products, directly or through downstream agricultural products, to the United States or other markets.
- The extent to which Brazilian products, including lumber and wooden furniture, are being made with timber harvested illegally and are being exported to the United States or other markets.
- Other acts, policies, or practices of Brazil related to illegal deforestation that may discriminate against or unfairly disadvantage U.S. businesses.

General

- Whether there are any other acts, policies, and practices of Brazil related to the production of goods and services referenced in this notice that discriminate against or unfairly disadvantage U.S. businesses.
- Whether Brazil's acts, policies, and practices identified in this initiation notice are unreasonable or discriminatory.
- Whether Brazil's acts, policies, and practices identified in this initiation notice burden or restrict U.S. commerce,

and if so, the nature and level of the burden or restriction. This would include economic assessments of the burden or restriction on U.S. commerce.

- Whether Brazil's acts, policies, and practices identified in this initiation notice are actionable under Section 301(b) of the Trade Act, and what action, if any, should be taken, including tariff and non-tariff actions.

Interested persons submitted over 295 comments and rebuttal comments. Some of these comments were non-responsive or contained irrelevant information. Other comments did not address actionability of any of the specific issues raised in the Notice of Initiation, but requested either specific application or exemptions from tariffs for certain products or categories of products. USTR has included responses to major comments that did address actionability in Section III below. In addition, USTR and the Section 301 Committee convened a public hearing on September 3, 2025, during which witnesses provided testimony and responded to questions. The public submissions are available at <https://https://comments.ustr.gov/s/in> docket number USTR-2025-0043, and a transcript of the hearing is available on USTR's website.

On July 15, 2025, the Trade Representative requested consultations with the Government of Brazil pursuant to Section 303(a) of the Trade Act (19 U.S.C. 2413(a)). Consultations were held on April 15 and 16, 2026.

II. Determination of Actionability

Based on information obtained during the investigation and in consultation with the Section 301 Committee, the Trade Representative has determined under sections 301(b) and 304(a) of the Trade Act that certain of Brazil's acts, policies, and practices related to digital trade and electronic payment services; unfair, preferential tariffs; anti-corruption enforcement; intellectual property protection; ethanol market access; and illegal deforestation are unreasonable or discriminatory and burden or restrict U.S. commerce and thus are actionable.

A. Brazil's Acts, Policies, and Practices With Respect to Digital Trade and Electronic Payment Services Are Actionable

The Trade Representative has determined that certain of Brazil's acts, policies, and practices with respect to digital trade and electronic payment services at issue in this investigation are

unreasonable and burden or restrict U.S. commerce.¹

First, Brazilian courts have issued secret orders directing U.S. social media companies, including X, Meta, and Google, to take down certain political content and to suspend the profiles of U.S. residents, sometimes globally, and prohibiting the platforms from disclosing these orders to profile owners. Brazilian courts have also subjected U.S. social media companies to substantial, daily non-compliance fines or required them to cease operations in Brazil in the event of non-compliance. For example, Rumble, a video-sharing platform, has been suspended in Brazil since February 2025 after it refused to censor a U.S. resident pursuant to a secret Brazilian court order and later elected to publicly defend that user's free-speech rights. Similarly, Brazilian courts prohibited X from operating in Brazil from August to October 2024 after the company refused to take down content created by a Brazilian journalist living in the United States and appoint a local representative. In addition to imposing significant daily fines on X for failing to comply with this take-down order, a Brazilian court froze X's bank accounts, financial assets, motor vehicle and real estate assets; blocked aircraft registered to the company from entering or leaving Brazil; prevented Brazil's central bank from sending X financial assets abroad; and blocked payment-processing platforms from processing payments for X. In 2023 and 2024, Brazilian courts ordered removal and demonetization of numerous accounts and channels related to a popular Brazilian podcaster who lives in Florida. In 2025, Brazilian courts allowed the unblocking of this podcaster's accounts only on the condition that allegedly offensive content remain inaccessible. Meta's transparency reports indicate that from July to December 2025, Brazil ordered it to restrict more content than it has restricted during any comparable period since 2016, including approximately 9,800 items in compliance with orders from local courts and through legal take-down actions related to civil, criminal, and electoral proceedings. Exacerbating this situation is the Brazilian Supreme Court's decision of June 26, 2025, declaring partially unconstitutional Article 19 of Brazil's 2014 internet Civil Rights Framework, which required a

¹ On the facts gathered during this investigation, and at this time, the Trade Representative does not make any findings with respect to actionability of acts, policies, and practices relating to digital trade with respect to the Brazilian Supreme Court's decision of June 26, 2025, or restrictions on the transfer of personal data outside Brazil.

judicial order before civil liability could arise from third-party content.

Brazil's take-down orders are secret in that they are known to the social media company but not the affected individual. These orders have had adverse financial consequences for U.S. companies and persons. For example, access to X in Brazil was restored in October 2024 only upon the company's payment of a \$5 million fine, and many of Brazil's take-down orders threaten significant daily fines in the event of non-compliance. Orders to cease operations in Brazil and block accounts or platforms in Brazil also result in a loss of market opportunities in Brazil for American social media companies and U.S. persons. The Brazilian Supreme Court's decision of June 26, 2025, compounds this situation of uncertainty and risk, and effectively requires companies to choose between potentially incurring substantial liability for user-generated content and preemptively taking down potentially lawful content.

These secret orders by Brazilian courts and harsh penalties for non-compliance are unreasonable because they require U.S. social media companies to take down political content and suspend the profiles of U.S. and Brazilian residents for political speech that is protected in the United States and necessary for vigorous political discourse. These orders also burden or restrict U.S. commerce by exposing U.S. social media companies to financial liability for failing to take down or suspend such materials, by imposing fines, restricting access to assets, accounts, and payment processing systems, and in at least one case, by shutting down a site altogether.

Second, Brazil has unfairly disadvantaged U.S. companies engaged in competing electronic payment services, including by policies that favor its national champion Pix. The Brazilian central bank established the instant payment system Pix in November 2020. Pix connects financial and payment institutions ("participating institutions") with individuals, firms, and government entities to provide instant or scheduled payments, cash withdrawals, payment invoices, and short-term borrowing, among other services. The Brazilian central bank's dual role as regulator and owner/operator of Pix creates a conflict of interest, in the absence of adequate procedural safeguards. The bank has acted as a regulator to disadvantage U.S. electronic payment services providers and preference Pix. For example, the central bank mandates the use of Pix by financial institutions with more than

500,000 accounts and requires that Pix be displayed on participating institutions' main application screen with no less prominence than any other payment or transfer functionality. In addition, the central bank encourages use of Pix over other services by mandating that participating institutions (including institutions that it *requires* to participate in Pix) offer Pix for free to individuals and by capping the fee those institutions may charge businesses for Pix transactions.

The acts, policies, and practices of Brazil related to its preferential treatment of Pix are unfair and discriminatory. It is unfair to require competitors to provide advantages to Pix, such as availability, visibility, and fee caps, and Brazil discriminates against U.S. electronic payment services suppliers by providing those advantages only to Brazil's national champion. The acts, policies, and practices of Brazil related to its preferential treatment of Pix are a burden or restriction on U.S. commerce by imposing costs on U.S. services providers and by forcing U.S. providers to promote their Brazilian competitor, without compensation.

B. Brazil's Acts, Policies, and Practices With Respect to Unfair, Preferential Tariffs Are Actionable

The Trade Representative has determined that Brazil's acts, policies, and practices with respect to unfair, preferential tariffs are unreasonable and burden or restrict U.S. commerce.

Brazil maintains partial-scope preferential trade arrangements with Mexico and India covering sectors in which Mexico and India are advanced, globally competitive producers. Brazil accords lower, preferential tariff treatment to hundreds of Mexican and Indian goods across multiple sectors, such as agricultural products, motor vehicles and parts, minerals, chemicals, and machinery. This preferential treatment covers over a thousand tariff lines for Mexico and hundreds of tariff lines for India at tariff rates that are between 10 and 100 percent lower than Brazil's most-favored-nation (MFN) rate, which applies to U.S. exports in those same sectors.

The discrete sectors covered by Brazil's preferential trade arrangements with Mexico and India are ones in which the United States is also globally competitive and actively exporting to Brazil. Accordingly, Brazil's preferential trade arrangements with Mexico and India particularly undermine the market access of U.S. goods in Brazil. Trade data demonstrate that imports from Mexico and India of covered goods increased after the arrangements were

concluded, both in absolute terms and relative to imports from the United States. For example, Mexican goods' share of global imports under tariff classifications covered by Brazil's arrangement with Mexico rose from 1.7% five years before entry into force (1998) to 3.3% twenty years after entry into force (2023); by contrast, over this period, U.S. goods' share decreased by half from 22% to 11%. Similarly, Indian goods' share of global imports under the tariff classifications covered by Brazil's arrangement with India rose from 3.2% five years before entry into force (2004) to 6.7% fifteen years after entry into force (2024); during this period, U.S. goods' share dropped by four percentage points to 8.2%. Although these trends may reflect other market dynamics and cannot be attributed solely to the preferential trade arrangements, those arrangements were one key factor contributing to the erosion of the market share of U.S. goods in key sectors.

In 2025, Brazil imported approximately \$5.9 billion in goods under tariff classifications covered by its preferential tariff commitments to Mexico and India—\$4.7 billion from Mexico and \$1.3 billion from India. These 2025 imports included approximately \$1.8 billion in motor vehicles and motor vehicle parts from Mexico, relative to \$1.0 billion from the United States, even though U.S. production of motor vehicles and motor vehicle parts is more than twice that of Mexico. Nearly all of Brazil's imports of motor vehicles and parts from Mexico were imported under tariff classifications subject to no tariffs, while Brazil's imports of these products from the United States were imported under tariff classifications subject to MFN rates, almost all of which are between 14% and 35%.

Brazil's trade arrangements with Mexico and India also create incentives to offshore U.S. production by creating a financial advantage to exporting to Brazil from these countries, as opposed to exporting from the United States. This incentive is particularly strong for sectors in which Mexico and India do not impose substantial barriers on the importation of U.S. (or other origin) inputs and manufacturing equipment. So long as production relocated from the United States to Mexico or India is sufficient to meet the rules of origin in Brazil's preferential trade arrangements with Mexico or India, the finished good would qualify as originating from Mexico or India under the relevant arrangement and be eligible for tariff preferences.

Brazil's acts, policies, and practices with respect to preferential tariffs

benefiting Mexico and India are unreasonable or discriminatory because they apply substantially lower tariffs on Mexican and Indian goods for which Mexico and India are advanced, globally competitive producers, and thus particularly disadvantage U.S. exporters. Brazil's acts, policies, and practices burden or restrict U.S. commerce because they result in significantly higher tariffs on competing U.S. goods, and they create a strong incentive to offshore U.S. production to Mexico or India.

Brazil contends that that its preferential trade arrangements with Mexico and India are consistent with World Trade Organization (WTO) rules, including the Enabling Clause. For reasons discussed below in Section III, Brazil's reliance on the Enabling Clause is misplaced. The Enabling Clause effectively carves out developing countries—most of the WTO Membership—from the MFN principle in key respects. Developing Members invoke the Enabling Clause to conclude regional trade agreements with other developing countries that provide tariff reductions without having to provide the same treatment to other WTO Members. But, as explained above, it is fundamentally unfair for Brazil to provide tariff preferences to supposedly developing Members that are, in fact, advanced, globally competitive producers, and thus compete with an artificial advantage against U.S. exporters. The Enabling Clause has caused systemic distortions in the global trading system.

C. Brazil's Acts, Policies, and Practices With Respect to Anti-Corruption Enforcement Are Actionable

The Trade Representative has determined that Brazil's acts, policies, and practices with respect to anti-corruption enforcement are unreasonable and burden or restrict U.S. commerce.

Brazil has failed and continues to fail to take sufficient enforcement action to combat bribery and corruption. In an October 2023 report, the Organization for Economic Co-operation and Development (OECD) expressed concerns that Brazil has failed to achieve a sustainable level of foreign bribery enforcement consistent with its economic profile and particularly given the involvement by Brazilian companies in some of the world's largest corruption cases in the last decade. The report highlighted Brazil's failure to investigate and prosecute foreign bribery allegations. In 2023, the OECD noted that Brazil's first and only foreign bribery case brought to criminal trial

was still ongoing despite commencing in 2014.

The report also expressed concern regarding the annulment of all evidence in a leniency agreement with a Brazilian construction company that was negotiated by Brazil's Public Prosecutor's Office as part of Operation Car Wash. This decision, rendered in September 2023 by Brazilian Supreme Court Justice Dias Toffoli, dealt with the largest transnational corruption scheme in history and led to the annulment of more than a hundred cases in Brazil. In 2024, penalties under Operation Car Wash imposed on companies that had confessed to mass corruption were suspended and allowed to be renegotiated. The renegotiation of these leniency agreements has been faulted for progressing without transparency and with serious conflict of interests. Regarding these renegotiations, the Organization of American States found that Brazil's actions "risk undermining the public trust in the use of these agreements and may contribute to a sense of legal uncertainty for legal entities" and questions regarding the fairness of these agreements. In 2025, Transparency International characterized the annulment of these cases as Brazil's most serious breach of the OECD's Anti-Bribery Convention.

Despite condemnation from intergovernmental organizations for its backsliding in anti-corruption enforcement, Brazil has taken few steps to reverse course and its efforts to fight corruption remain weak. In January 2026, Transparency International issued a statement indicating that its Brazil chapter had been subject to increasing harassment from the Brazilian government following the organization's calls for greater transparency in Brazil's public infrastructure sector. The OECD also recently reported that companies have a general distrust towards the Brazilian government and a general fear of being associated with the public sector. Additionally, the OECD reported that Brazil ranked below the OECD average on many public integrity indicators.

Brazil's judicial proceedings involving anti-corruption enforcement continue to move too slowly. Following Supreme Court Justice Toffoli's 2023 decision to set aside evidence in Operation Car Wash, Brazil's Public Prosecutor's Office, along with the Sao Paulo Public Prosecutor's Office and the National Association of Prosecutors, challenged the decision in court, highlighting many alleged inconsistencies in the decision. The challenge is still pending at the Brazilian Supreme Court.

In 2024, Brazil scored a 34 out of 100 on Transparency International's Corruption Perceptions Index (CPI), its lowest score since 2012, placing it well below the global average of 43, and positioning it at 107 out of 180 countries. In 2025, Brazil's CPI score remained low at 35 out of 100. Corruption in Brazil is not new, but with its recent actions, Brazil has moved farther away from global norms relating to fighting bribery and corruption.

The acts, policies, and practices of Brazil with respect to anti-corruption enforcement are unreasonable because Brazil's insufficient enforcement of its anti-corruption measures falls well short of global norms, including as reflected in its own laws. The acts, policies, and practices burden or restrict U.S. commerce because they allow corrupt companies to operate in Brazil with impunity while U.S. companies, which are subject to significant requirements and potential liability for foreign corrupt practices, are therefore disadvantaged in seeking trade and investment opportunities in Brazil.

D. Brazil's Acts, Policies, and Practices With Respect to Intellectual Property Protection Are Actionable

The Trade Representative has determined that Brazil's acts, policies, and practices with respect to intellectual property protection and enforcement are unreasonable and burden or restrict U.S. commerce.

In USTR's Special 301 Reports—prepared annually pursuant to Section 182 of the Trade Act to identify countries that deny adequate and effective intellectual property protections or fair and equitable market access to U.S. persons who rely on intellectual property protection—Brazil has been on the Watch List since 2007. Brazil's inclusion on this list reflects the longstanding and serious nature of the intellectual property issues U.S. companies have endured in Brazil.

Consistent with the findings in the 2026 Special 301 Report, these issues include Brazil's failure to sufficiently enforce its criminal laws and customs regulations to address the importation and trafficking of counterfeit goods. For example, Brazil lacks deterrent-level penalties authorized by statute or issued by its courts, has insufficient numbers of customs officers posted at border points, and fails to prosecute offenses in a timely manner. Although customs enforcement data shows some increase in seizures through periodic campaigns, Brazil has reportedly failed to carry out systemic and consistent inspections. Counterfeit goods have surged in Brazil through smuggling and a significant

increase in small parcels entering Brazil. Local manufacturing and finishing of counterfeit goods have also increased.

Brazil has also failed to address the unreasonable length of time its authorities take to examine patent applications, particularly biopharmaceutical patents. Although Brazil reports efforts to decrease the average patent pendency in some fields, the overall average pendency for biopharmaceutical patent applications and its impact on effective patent term remain areas of serious concern. According to data from the World Intellectual Property Organization (WIPO) published in 2025, Brazilian authorities take an average of 38.4 months to examine a patent application, as compared to 29.5 months for U.S. authorities or 21.5 months for the "IP5" (United States, the EU, Japan, Korea, and China). Put differently, patent pendency in Brazil is 30% and 18% longer than in the United States and the IP5, respectively. For biopharmaceutical patents, the average pendency is at least 54 to 63.6 months from the date of filing (according to Brazil's data on relevant art units), and may be long as 109.7 months from the filing date of the application (according to some stakeholders).

Brazil has also failed to carry out consistent and continuous anti-piracy measures. Although Brazil conducts some enforcement campaigns against online piracy with enforcement officials in other countries, piracy remains widespread, warranting consistent and continuous enforcement operations throughout the year. Moreover, Brazil has not joined the WIPO Performances and Phonograms Treaty (WPPT) and WIPO Copyright Treaty (WCT), collectively known as the WIPO internet Treaties, which are aimed at preventing unauthorized access to creative works online. As a result, piracy of copyrighted content remains a significant barrier to the adoption of legitimate content distribution channels.

Brazil's failure to effectively enforce its criminal laws and customs regulations against counterfeit goods—including a lack of deterrent-level penalties and insufficient numbers of customs officers posted at border points—undermines investments of U.S. businesses that rely on creativity and innovation, thereby depriving them of fair commercial opportunities in the Brazilian market. Furthermore, Brazil's lack of deterrent-level penalties for counterfeiting enables these illegal practices to continue with insignificant consequences. With respect to patent pendency, Brazil's delays can harm innovators by negatively affecting patent

value and reducing the effective patent term, and these harms are compounded by Brazil's lack of a patent-term-extension mechanism to compensate patent-holders for these unreasonably delays. Because the lack of consistent and continuous enforcement inhibits adoption of legitimate content distribution channels, Brazil's failure to combat piracy also harms American workers whose livelihoods are tied to America's innovation- and creativity-driven sectors.

The acts, policies, and practices of Brazil with respect to intellectual property protection and enforcement are unreasonable because Brazil has failed to address longstanding and serious issues long set out in USTR's Special 301 reports, including its failure to sufficiently address counterfeiting, patent pendency, and piracy. The acts, policies, and practices burden or restrict U.S. commerce because they harm American workers whose livelihoods are tied to America's innovation- and creativity-driven sectors by depriving them of fair commercial opportunities.

E. Brazil's Acts, Policies, and Practices With Respect to Ethanol Market Access Are Actionable

The Trade Representative has determined that Brazil's acts, policies, and practices with respect to ethanol market access are unreasonable and burden or restrict U.S. commerce.

Brazil has discontinued its previously balanced tariff treatment and failed to reciprocate U.S. tariff treatment of ethanol. In 2010, Brazil took steps to facilitate bilateral trade in ethanol by suspending a 20% tariff on imports of ethanol. In a similar spirit of promoting bilateral ethanol trade, the United States allowed the "blender" tax credit for U.S. ethanol producers and the \$0.54/gallon surcharge on ethanol imports to expire the following year. Bilateral trade in ethanol subsequently flourished, with U.S. exports of ethanol to Brazil steadily increasing until Brazil abruptly departed from this reciprocal treatment in 2017. At that time, Brazil instituted a duty-free tariff rate quota (TRQ) of 600 million liters, with imports above that amount subject to a 20% tariff. This came after a successful lobbying campaign by the Brazilian sugarcane and ethanol industries, which claimed that ethanol imports jeopardized domestic Brazilian ethanol production. Since then, Brazilian tariffs on ethanol have fluctuated, but have been set at 18% since February of 2023. Brazil has the ability to evaluate and change its ethanol tariff on a monthly basis, which further contributes to uncertainty in the market. Brazil has therefore abandoned

bilateral cooperation to promote ethanol trade, choosing instead to establish non-reciprocal and unfair conditions for trade in this critical product.

These actions by Brazil have denied fair and equitable market opportunities for U.S. ethanol producers. Imports of U.S. ethanol into Brazil have generally declined since Brazil reinstated its tariff on ethanol. In 2025, U.S. exports to Brazil totaled \$96 million, an 87% decrease from the peak export value of \$761 million in 2018. Additionally, in 2024, U.S. ethanol import market share in Brazil had fallen to 54%, from a high of nearly 100% in 2018. At the same time, Brazilian ethanol exporters have continued to benefit from relatively open U.S. market access. In 2024, U.S. imports of ethanol from Brazil amounted to approximately \$203 million dollars, while U.S. exports of ethanol to Brazil that same year amounted to only \$53 million.

In markets that did not impose similar barriers to Brazil, by contrast, U.S. exports have grown. In 2016 and 2017, prior to Brazil's imposition of tariffs, U.S. exports to Brazil and Canada were comparable. For example, in 2017, the United States exported 430 million gallons of ethanol to Brazil and 326 million gallons to Canada. After Brazil's reimposition of tariffs in 2017, U.S. exports to Canada continued to grow (reaching 698 million gallons in 2024) while exports to Brazil declined (dropping to 28 million gallons in 2024).

The acts, policies, and practices of Brazil with respect to ethanol market access are unreasonable because Brazil has abandoned bilateral cooperation to promote ethanol trade and Brazil has instead established non-reciprocal and unfair conditions for trade, which denies fair and equitable market opportunities for U.S. ethanol producers. The acts, policies, and practices burden or restrict U.S. commerce because U.S. ethanol exports are increasingly unable to compete in the Brazilian marketplace given Brazil's high tariffs, while Brazil exports a significantly greater value of ethanol to the United States.

F. Brazil's Acts, Policies, and Practices With Respect to Illegal Deforestation Are Actionable

The Trade Representative has determined that Brazil's acts, policies, and practices with respect to illegal deforestation are unreasonable and burden or restrict U.S. commerce.

Despite having a legal framework for combatting illegal deforestation, Brazil has historically failed to effectively enforce this legal framework, and illegal deforestation persists. For example,

under Brazil's Forest Code (Law No. 12,651/2012), rural properties are required to register on the Rural Environmental Registry and provide detailed information that facilitates verification and traceability of legal-origin products. However, these entries are not adequately audited for fraud and false information, such as by frequently cross-checking information provided with satellite data. Brazil's improved enforcement of the Forest Code and other environmental laws, policies, and regulations designed to combat illegal deforestation, as well as its investment in the technology that would facilitate more frequent and effective auditing, have not been sufficient. Reports indicate that, because of the prevalence of fraud in the timber sector, official documents are not sufficient to show that Amazonian timber was harvested legally. One 2024 study that analyzed protected areas throughout the Brazilian Amazon found that Brazil's policies failed to adequately prevent land grabbing, illegal ranching, and deforestation.

Deforestation often proceeds in three stages: (1) primary forest is logged or otherwise deforested to be converted to pastureland for cattle; (2) once that pastureland is "degraded" the land is converted into a productive field, for crops such as soy and corn; and (3) having lost previous pastureland and desiring to continue expanding production, cattle ranchers cut down more primary forest.

Deforestation, both legal and illegal, is closely linked to the production of certain timber and agricultural products. Estimates indicate that the conversion of land from primary forest to agricultural production accounts for over 90% of the deforestation (legal and illegal) in Brazil since 2001, and between 2018 and 2022, cattle ranching drove 78% of commodity-attributed deforestation. In addition, crops, such as soybeans and corn, are commonly planted on degraded pasture land, allowing those crops to benefit from the initial deforestation.

Without effective enforcement of environmental laws, loggers and sawmills may more easily launder illegally harvested timber in global supply chains, while ranchers may launder cattle ranching on illegally deforested land by transferring them to legitimate slaughterhouses. Corruption is also an issue, as loggers and ranchers are known to bribe government officials to obtain necessary approvals and documentation and to pass inspections and audits.

In addition, there is evidence that some sub-central levels of government

are taking steps to eliminate or roll back tax and other public- and private-sector incentives designed to discourage deforestation. For example, the state of Mato Grosso, which covers territory in the Amazon and Cerrado biomes, is attempting to eliminate tax benefits previously available for companies that signed voluntary agreements designed to combat deforestation (e.g., the Soy Moratorium). This action has already had a chilling effect, as large multinational companies have recently begun withdrawing from the Soy Moratorium, which may weaken the agreement's impact on deforestation rates. As Brazil has failed to enforce—and even at times rolled back—its environmental laws, deforestation has become systemic, reaching a 15-year high in 2021. Deforestation also occurs across all biomes, and illegal deforestation is known to be particularly problematic in the Amazon and Atlantic Forest biomes. Reports indicate that, between 2023 and 2024, some 91% of deforestation in the Amazon was illegal. In the Cerrado biome, where there are more relaxed legal limits on maintaining forested land, estimates indicate that 51% of land clearing was illegal between 2023 and 2024.

While it is difficult to determine exact estimates of the share of Brazil's agricultural production that is grown on illegally deforested land, one 2021 study estimated that Brazil lost 18 million hectares of forest due to agro-conversion between 2013 and 2019, of which 95% was likely illegal. It is easier and less expensive to produce agricultural products on the degraded and previously deforested pastureland. This contributes to more Brazilian agricultural products competing in global markets, which leads to lower prices for those agricultural products. One study estimated that Brazil exported \$19 billion in forest risk commodities in 2019.

Illegally sourced timber products contribute to distorted global prices, resulting in the devaluation of U.S. wood products. In general, illegally sourced timber is estimated to reduce the value of legally sourced timber prices by 7% to 16%.

Brazil's acts, policies, and practices with respect to illegal deforestation are unreasonable because they fail to effectively enforce Brazil's own laws, do not apply basic checks to ensure consistency with those laws, and promote unfair competition of Brazilian agricultural and wood products with goods produced without those practices. Brazil's acts, policies, and practices burden or restrict U.S. commerce because U.S. producers are forced to

compete with artificially lower-cost Brazilian agricultural products. When agricultural and timber products produced on illegally deforested land enter the United States and global markets, this undermines the competitiveness of U.S. products, resulting in lost revenues and sales for U.S. producers and exporters.

III. Responses to Significant Comments

As discussed above, the Trade Representative has determined that certain of Brazil's acts, policies, and practices are unreasonable or discriminatory and burden or restrict U.S. commerce, and thus are actionable. Below, USTR responds to comments on the actionability findings that raise significant issues.

A. Responses to Significant Comments on Digital Trade and Electronic Payment Services

USTR received several comments regarding this issue area. Numerous commenters expressed concern with actions by Brazilian courts triggering aggressive take down of content and issuance of orders that require U.S. companies to remove content not just in Brazil, but worldwide, including in the United States. Commenters noted legal uncertainty, operational and compliance risks, and potential market access barriers for U.S.-based technology companies due to take-down orders by Brazilian courts and the Brazilian Supreme Court's decision to declare unconstitutional Brazil's statutory requirement of a judicial order before internet service providers could be held liable for user-generated content.

A number of commenters characterized Brazil's regulation of digital trade as motivated by public interest and an attempt to address online hate speech, misinformation, and violence. Other commenters noted that the liability imposed under the Brazilian Supreme Court's June 2025 decision has guardrails to limit the breadth of liability and that the decision is valid only until new legislation is enacted. However, these comments did not deny the existence of secret orders from Brazilian courts directing the take-down of political content and suspension of profiles of U.S. residents, nor did they dispute the global nature of certain orders issued by Brazilian courts.

With respect to electronic payment services, many commenters noted that the Pix payment network had successfully expanded access to banks and digital payment methods. However, several commenters noted that the Brazilian central bank faced a conflict of

interest in serving as both the regulator and owner/operator of Pix. One commenter detailed how this conflict of interest was inconsistent with various global norms and best practices on good governance. Another commenter described what the commenter viewed as discriminatory regulations Brazil had implemented to favor Pix. Although several commenters described their satisfaction with the Pix service or pointed to Pix's status within Brazil's central bank and compliance with Brazilian law, such comments do not negate concerns regarding the conflict of interest or preferential treatment afforded to Pix by the Brazilian government.

Considering the public comments and the advice of the Section 301 Committee, the Trade Representative has determined that certain of Brazil's acts, policies, and practices with respect to digital trade and electronic payment services at issue in this investigation are unreasonable and burden or restrict U.S. commerce.

B. Responses to Significant Comments on Unfair, Preferential Tariffs

USTR received several comments regarding this issue area. Certain comments contended that Brazil's preferential trade arrangements with Mexico and India are consistent with WTO rules, including the Enabling Clause that permits certain trade arrangements between developing country WTO Members. Even assuming the consistency of Brazil's preferential trade arrangements with the Enabling Clause, that does not change the fact that the discrete sectors covered by Brazil's preferential trade arrangements with Mexico and India are among those trading partners' most advanced and globally competitive or are those in which the United States is also globally competitive and actively exporting to Brazil.

Certain comments contended that Brazil's tariffs on goods of Mexico and India are not unfair or preferential because the average effective tariff rate applied to U.S. exports is lower than that applied to exports from Mexico and India, on account of various duty suspension or reduction programs. The United States has received no data supporting this disparity, but even assuming such data exist, the disparity would not account for the non-automatic nature of duty suspensions and reductions (which are available only if goods meet legal and regulatory criteria and in some cases receive advance approval from Brazilian authorities), which stands in contrast to the lower applied duties available

automatically and with certainty to Mexican and Indian goods (without additional application procedures or approvals).

Comparing average effective tariff rates is also inapposite, as that rate will reflect the product or sectoral composition of imports from the exporting country. No comments have suggested that within tariff lines covered by Brazil's preferential trade arrangements, U.S. exports to Brazil enjoy lower effective tariff rates on account of Brazil's duty suspension or reduction programs.

Considering the public comments and the advice of the Section 301 Committee, the Trade Representative has determined that Brazil's acts, policies, and practices with respect to unfair, preferential tariffs are unreasonable and burden or restrict U.S. commerce.

C. Responses to Significant Comments on Anti-Corruption Enforcement

USTR received limited comments regarding this issue area. Comments described Brazil's legal regime to combat corruption as comprehensive and transparent, pointing to a number of existing laws and regulations, as well as Brazil's attempts to update those measures. Comments also suggested that Brazil's enforcement of this anti-corruption regime was robust, pointing to the number of proceedings initiated in recent years and Brazil's role in global anti-corruption efforts. The existence of these laws and regulations and even their robust enforcement in certain instances does not refute the evidence in other instances that Brazil's acts, policies, and practices with respect to anti-corruption enforcement are unreasonable and burden or restrict U.S. commerce.

Considering the public comments and the advice of the Section 301 Committee, the Trade Representative has determined that Brazil's acts, policies, and practices with respect to anti-corruption enforcement are unreasonable and burden or restrict U.S. commerce.

D. Responses to Significant Comments on Intellectual Property Protection

USTR received several comments regarding this issue area. Several comments noted the lack of certain intellectual property protection mechanisms within the Brazilian system, such as patent term adjustments, particularly for biopharmaceutical products. These commenters expressed that the lack of such mechanisms denies fair and equitable opportunities for American

biopharmaceutical innovators and in turn undermines the ability of American biopharmaceutical innovators to compete fairly in the Brazilian market.

Other commenters expressed that additional intellectual property protection mechanisms could delay generic competition, keep medicine prices high, and strain public health programs, especially in developing countries with limited healthcare funding. One commenter also questioned whether patent holders suffer financial harm due to long-term patent application pendency.

Commenters also acknowledged Brazil's effort and record of decreasing the average patent application pendency, but reported that the average patent examination timeline for such products remained above average. Regarding piracy and counterfeit-related crimes, commenters noted Brazil had increased enforcement activities conducted in Rua 25 de Março, while also noting that there remains room for tougher penalties for counterfeiting.

Considering the public comments and the advice of the Section 301 Committee, the Trade Representative has determined that Brazil's acts, policies, and practices with respect to intellectual property protection are unreasonable and burden or restrict U.S. commerce.

E. Responses to Significant Comments on Ethanol Market Access

USTR received several comments regarding this issue area. With respect to tariffs on ethanol imports, USTR received several comments providing evidence that Brazil's ethanol tariffs were unreasonable and discriminatory and burden and restrict U.S. commerce.

Other comments argued that Brazil's tariff rates are not unreasonable since they are within Brazil's bound rates at the WTO, are lower than the Common External Tariff on ethanol applied by the Southern Common Market (MERCOSUR), and are applied on an MFN basis to countries that do not have a preferential trade agreement with MERCOSUR. Brazil's ethanol tariff is nevertheless unreasonable because of Brazil's unwarranted departure from bilateral cooperation to promote ethanol trade and because of Brazil's establishment of non-reciprocal and unfair conditions for trade in ethanol.

Considering the public comments and the advice of the Section 301 Committee, the Trade Representative has determined that Brazil's acts, policies, and practices with respect to ethanol market access are unreasonable and burden or restrict U.S. commerce.

F. Responses to Significant Comments on Illegal Deforestation

USTR received many comments regarding this issue area. Most comments discussed the laws and regulations in place in Brazil that address illegal deforestation, and many summarized recent actions by the Government of Brazil to improve enforcement of laws intended to combat illegal deforestation. For example, some comments included discussion of recent efforts to strengthen enforcement, including recent technological advances and new regulatory and policy efforts that would combat and deter illegal deforestation. Even so, as historical data indicates, these efforts could be undone by future administrations, and rates of illegal deforestation could again increase. Moreover, these comments do not deny that illegal deforestation in Brazil has occurred and persists, leading to unfair agricultural and wood products production.

Other comments provided evidence that deforestation in Brazil has contributed to Brazil's ability to unfairly increase agricultural output and fraud and corruption remain common along the value chains of particular products and industries, including beef, soy, and Amazonian timber. Several comments also provided evidence regarding the burden or restriction that agricultural products and timber products produced on illegally deforested land place on U.S. commerce.

Many comments included a discussion of why various products, such as beef, soy, corn, sugar, cotton, coffee, eucalyptus wood and derivative products, Amazonian timber and wood products, yerba mate, nuts and dried fruits, carnauba wax, and others, either do or do not contribute to or benefit from illegal deforestation. While discrete products and industries might not contribute substantially to illegal deforestation or otherwise make efforts to minimize contributions to illegal deforestation, the fact remains that Brazil has taken insufficient action at a systemic level to address illegal deforestation or the unfair trade advantage that arises from it, and Brazil's lack of effective enforcement of environmental laws burdens U.S. commerce.

Considering the public comments and the advice of the Section 301 Committee, the Trade Representative has determined that Brazil's acts, policies, and practices with respect to illegal deforestation are unreasonable and burden or restrict U.S. commerce.

IV. Proposed Action To Be Taken in the Investigation

Section 301(b) provides that upon determining that the acts, policies, and practices under investigation are actionable and that action is appropriate, the Trade Representative shall take all appropriate and feasible action authorized under section 301(c), subject to the specific direction, if any, of the President regarding such action, and all other appropriate and feasible action within the power of the President that the President may direct the Trade Representative to take under section 301(b), to obtain the elimination of that act, policy, or practice.

Section 301(c) of the Trade Act authorizes the Trade Representative to take certain actions for purposes of carrying out the provisions of Section 301(b). For example, Section 301(c)(1)(B) authorizes the Trade Representative to “impose duties or other import restrictions” on the goods of the foreign country subject to the investigation. Pursuant to Sections 301(b) and (c), the Trade Representative proposes to determine that action is appropriate and that appropriate action would include applying tariffs of 25% on all goods of Brazil, with exemptions for certain goods, including informational materials, donations, accompanied baggage, all articles and parts of articles subject to section 232 tariffs, and certain products identified in the Annex. The proposed exemptions include raw materials that if subject to the proposed additional tariffs could lead to the unavailability of domestic supply. They also include products that could cause economy-wide disruptions if subject to the proposed additional tariffs; and certain products that cannot be grown or produced in sufficient quantities in the United States or obtained from other sources. Finally, the proposed exemptions include articles for which additional tariffs may not contribute substantially to the elimination of Brazil’s acts, policies, and practices described above.

V. Request for Public Comments

In accordance with section 304(b) of the Trade Act (19 U.S.C. 2414(b)), USTR invites comments from interested persons with respect to the appropriate action to be taken. To be assured of consideration, you must submit written comments on the proposed action by July 1, 2026, in accordance with the instructions in Section VII below.

With respect to the proposed action, USTR invites comments regarding the scope of tariff coverage (including the

proposed excluded products identified in the Annex).

In considering whether certain articles should be subject to additional duties under Section 301, USTR will consider the needs of the U.S. economy. In commenting on the inclusion or removal of particular tariff subheadings subject to the proposed action, USTR requests that comments address specifically whether the products under the tariff subheading are necessary raw materials, are available from alternative sources at reasonable prices or sufficient quantities outside of Brazil; whether additional tariffs would cause serious dislocations in the supply of the products and could cause economy-wide disruptions, or other similar factors; and whether imposing additional tariffs on products under the tariff subheading would be practical or effective in obtaining the elimination of the Brazil’s acts, policies, and practices.

USTR also invites views on the U.S. engagement with Brazil in the context of the ongoing Special 301 review (19 U.S.C. 2242) and the subjects of that engagement.

Additional instructions on how to submit written comments are provided in section VII below.

VI. Hearing Participation

The Section 301 Committee will convene a public hearing on July 6, 2026. To testify at the hearing, you must submit a request to appear using the electronic portal at <https://comments.ustr.gov/s/>, following the instructions in Section VII below. Requests to appear must include a summary of testimony, and may be accompanied by a prehearing submission. USTR will announce details of the hearing at a later time, including the time allocated for each witness to testify and the start time of the hearing. All submissions must be in English. To be assured of consideration, USTR must receive your request to appear and summary of the testimony by June 22, 2026.

VII. Procedures for Written Submissions

You must submit written comments using the appropriate docket on the portal at <https://comments.ustr.gov/s/>. All submissions must be in English. To submit written comments, use the docket on the portal entitled “Request for Comments Concerning Proposed Action Pursuant to the Section 301 Investigation of Brazil’s Acts,

Policies, and Practices Related to Digital Trade and Electronic Payment Services; Unfair, Preferential Tariffs; Anti-Corruption Enforcement;

Intellectual Property Protection; Ethanol Market Access; and Illegal Deforestation”, docket number USTR–2026–0331. Interested persons wishing to provide testimony at the hearing must submit a notification of intent and summary of testimony using the docket entitled “Request to Appear at the Hearing on the Proposed Action Pursuant to the Section 301 Investigation of Brazil’s Acts, Policies, and Practices Related to Digital Trade and Electronic Payment Services; Unfair, Preferential Tariffs; Anti-Corruption Enforcement; Intellectual Property Protection; Ethanol Market Access; and Illegal Deforestation,” docket number USTR–2026–0397. You do not need to establish an account to submit comments. The first screen of each docket allows you to enter identification and contact information. Third party organizations such as law firms, trade associations, or customs brokers, should identify the full legal name of the organization they represent, and identify the primary point of contact for the submission. Information fields are optional; however, your comment or request may not be considered if insufficient information is provided.

Fields with a gray Business Confidential Information (BCI) notation are for BCI information which will not be made publicly available. Fields with a green (Public) notation will be viewable by the public.

After entering the identification and contact information, you can complete the remainder of the comment, or any portion of it by clicking “Next.” You may upload documents at the end of the form and indicate whether USTR should treat the documents as business confidential or public information.

Any page containing BCI must be clearly marked “BUSINESS CONFIDENTIAL” on the top of that page and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is BCI. If you request business confidential treatment, you must certify in writing that disclosure of the information would endanger trade secrets or profitability, and that the information would not customarily be released to the public.

Parties uploading attachments containing BCI also must submit a public version of their comments. If these procedures are not sufficient to protect BCI or otherwise protect business interests, please contact the USTR Section 301 support line at (202) 395–5725 to discuss whether alternative arrangements are possible.

USTR will post attachments uploaded to the docket for public inspection, except for properly designated BCI. You can view submissions on USTR's electronic portal at <https://comments.ustr.gov/s/>.

Jennifer Thornton,

General Counsel, Office of the United States Trade Representative.

Annex

Note: All products that are properly classified in the provisions of the Harmonized Tariff Schedule of the United States (HTSUS) that are listed in this Annex are not covered by the proposed action. The product descriptions that are contained in this Annex are provided for informational purposes only, and are not intended to

delimit in any way the scope of the action. Only items that are properly classified in the listed provisions of the HTSUS are excluded from the proposed action. Any questions regarding the scope of particular HTSUS provisions should be referred to U.S. Customs and Border Protection. In the product descriptions, the abbreviation “nesoi” means “not elsewhere specified or included”.

Notes on certain HTSUS provisions for which only a portion of the provision is covered in this Annex, as provided in the “Scope Limitations” column:

- A subheading marked with “Ex” is defined and limited by the product description.
- A subheading marked with “Aircraft” includes only articles of civil

aircraft (all aircraft other than military aircraft); their engines, parts, and components; their other parts, components, and subassemblies; and ground flight simulators and their parts and components, that otherwise meet the criteria of general note 6 of the HTSUS, regardless of whether a product is entered under a provision for which the rate of duty “Free (C)” appears in the “Special” sub-column.

In addition to the products listed in this Annex, the proposed action does not cover informational materials, donations, accompanied baggage, and all articles and parts of articles that are subject to section 232 tariffs.

HTSUS	Description	Scope limitations
0201.10.05	Bovine carcasses and halves, fresh or chilled, described in general note 15 of the HTSUS.	
0201.10.10	Bovine carcasses and halves, fresh or chilled, described in additional U.S. note 3 to chapter 2 of the HTSUS.	
0201.10.50	Bovine carcasses and halves, fresh or chilled, other than described in general note 15 or additional U.S. note 3 to chapter 2 of the HTSUS.	
0201.20.02	High-quality beef cuts, with bone in, processed, fresh or chilled, described in general note 15 of the HTSUS.	
0201.20.04	Bovine meat cuts (except high-quality beef cuts), with bone in, processed, fresh or chilled, described in general note 15 of the HTSUS.	
0201.20.06	Bovine meat cuts, with bone in, not processed, fresh or chilled, described in general note 15 of the HTSUS.	
0201.20.10	High-quality beef cuts, with bone in, processed, fresh or chilled, described in additional U.S. note 3 to chapter 2 of the HTSUS.	
0201.20.30	Bovine meat cuts (except high-quality beef cuts), with bone in, processed, fresh or chilled, described in additional U.S. note 3 to chapter 2 of the HTSUS.	
0201.20.50	Bovine meat cuts, with bone in, not processed, fresh or chilled, described in additional U.S. note 3 to chapter 2 of the HTSUS.	
0201.20.80	Bovine meat cuts, with bone in, fresh or chilled, not described in general note 15 or additional U.S. note 3 to chapter 2 of the HTSUS.	
0201.30.02	High-quality beef cuts, boneless, processed, fresh or chilled, described in general note 15 of the HTSUS.	
0201.30.04	Bovine meat cuts (except high-quality beef cuts), boneless, processed, fresh or chilled, described in general note 15 of the HTSUS.	
0201.30.06	Bovine meat cuts, boneless, not processed, fresh or chilled, described in general note 15 of the HTSUS.	
0201.30.10	High-quality beef cuts, boneless, processed, fresh or chilled, described in additional U.S. note 3 to chapter 2 of the HTSUS.	
0201.30.30	Bovine meat cuts (except high-quality beef cuts), boneless, processed, fresh or chilled, described in additional U.S. note 3 to chapter 2 of the HTSUS.	
0201.30.50	Bovine meat cuts, boneless, not processed, fresh or chilled, described in additional U.S. note 3 to chapter 2 of the HTSUS.	
0201.30.80	Bovine meat cuts, boneless, fresh or chilled, not described in general note 15 or additional U.S. note 3 to chapter 2 of the HTSUS.	
0202.10.05	Bovine carcasses and halves, frozen, described in general note 15 of the HTSUS.	
0202.10.10	Bovine carcasses and halves, frozen, described in additional U.S. note 3 to chapter 2 of the HTSUS.	
0202.10.50	Bovine carcasses and halves, frozen, other than described in general note 15 or additional U.S. note 3 to chapter 2 of the HTSUS.	
0202.20.02	High-quality beef cuts, with bone in, processed, frozen, described in general note 15 of the HTSUS.	
0202.20.04	Bovine meat cuts (except high-quality beef cuts), with bone in, processed, frozen, described in general note 15 of the HTSUS.	
0202.20.06	Bovine meat cuts, with bone in, not processed, frozen, described in general note 15 of the HTSUS.	
0202.20.10	High-quality beef cuts, with bone in, processed, frozen, described in additional U.S. note 3 to chapter 2 of the HTSUS.	
0202.20.30	Bovine meat cuts (except high-quality beef cuts), with bone in, processed, frozen, described in additional U.S. note 3 to chapter 2 of the HTSUS.	
0202.20.50	Bovine meat cuts, with bone in, not processed, frozen, described in additional U.S. note 3 to chapter 2 of the HTSUS.	
0202.20.80	Bovine meat cuts, with bone in, frozen, not described in general note 15 or additional U.S. note 3 to chapter 2 of the HTSUS.	
0202.30.02	High-quality beef cuts, boneless, processed, frozen, described in general note 15 of the HTSUS.	
0202.30.04	Bovine meat cuts (except high-quality beef cuts), boneless, processed, frozen, described in general note 15 of the HTSUS.	
0202.30.06	Bovine meat cuts, boneless, not processed, frozen, described in general note 15 of the HTSUS.	
0202.30.10	High-quality beef cuts, boneless, processed, frozen, described in additional U.S. note 3 to chapter 2 of the HTSUS.	

HTSUS	Description	Scope limitations
0202.30.30	Bovine meat cuts (except high-quality beef cuts), boneless, processed, frozen, described in additional U.S. note 3 to chapter 2 of the HTSUS.	
0202.30.50	Bovine meat cuts, boneless, not processed, frozen, described in additional U.S. note 3 to chapter 2 of the HTSUS.	
0202.30.80	Bovine meat cuts, boneless, frozen, not described in general note 15 or additional U.S. note 3 to chapter 2 of the HTSUS.	
0206.10.00	Edible offal of bovine animals, fresh or chilled.	
0206.21.00	Tongues of bovine animals, frozen.	
0206.22.00	Livers of bovine animals, frozen.	
0206.29.00	Edible offal of bovine animals, except tongues or livers, frozen.	
0210.20.00	Meat of bovine animals, salted, in brine, dried or smoked.	
0508.00.00	Coral, shells, cuttlebone and similar materials, unworked or simply prepared but not cut to shape; powder and waste thereof.	
0702.00.20	Tomatoes, fresh or chilled, if entered during the period from March 1 to July 14, or the period from September 1 to November 14 in any year.	
0702.00.40	Tomatoes, fresh or chilled, if entered during the period from July 15 to August 31 in any year.	
0702.00.60	Tomatoes, fresh or chilled, if entered during the period from November 15, in any year, to the last day of February of the following year.	
0709.99.05	Jicamas and breadfruit, fresh or chilled.	
0709.99.10	Chayote (<i>Sechium edule</i>), fresh or chilled.	
0710.80.15	Bamboo shoots and water chestnuts (other than Chinese water chestnuts), uncooked or cooked by steaming or boiling in water, frozen.	
0711.90.30	Capers, provisionally preserved but unsuitable in that state for immediate consumption.	
0712.32.00	Dried wood ears (<i>Auricularia</i> spp.), whole, cut, sliced, broken or in powder, but not further prepared.	
0712.34.10	Air dried or sun dried shiitake.	
0712.34.20	Dried (other than air dried or sun dried) shiitake.	
0713.34.20	Dried Bambara beans, shelled, if entered for consumption during the period from May 1 through August 31, inclusive, in any year.	
0713.34.40	Dried Bambara beans, shelled, if entered for consumption outside the above period, or if withdrawn for consumption.	
0714.10.10	Cassava (manioc), frozen, whether or not sliced or in the form of pellets.	
0714.10.20	Cassava (manioc), fresh, chilled or dried, whether or not sliced or in the form of pellets.	
0714.40.10	Taro (<i>Colocasia</i> spp.), fresh or chilled, whether or not sliced or in the form of pellets.	
0714.40.20	Taro (<i>Colocasia</i> spp.), frozen.	
0714.40.50	Taro (<i>Colocasia</i> spp.), dried, in the form of pellets.	
0714.40.60	Taro (<i>Colocasia</i> spp.), dried, whether or not sliced but not in pellets.	
0714.50.10	Yautia (<i>Xanthosoma</i> spp.), fresh or chilled, whether or not sliced or in the form of pellets.	
0714.50.20	Yautia (<i>Xanthosoma</i> spp.), frozen.	
0714.50.60	Yautia (<i>Xanthosoma</i> spp.), dried, whether or not sliced but not in pellets.	
0714.90.42	Other mixtures of Chinese water chestnuts, frozen.	
0714.90.44	Chinese water chestnuts, not mixed, frozen.	
0714.90.46	Frozen dasheens, arrowroot, salep, Jerusalem artichokes, and similar roots and tubers, nesoi.	
0714.90.48	Chinese water chestnuts, dried.	
0714.90.61	Dried dasheens, arrowroot, salep, Jerusalem artichokes, and similar roots and tubers nesoi, whether or not sliced but not in pellets.	
0801.11.00	Coconuts, desiccated.	
0801.12.00	Coconuts, fresh, in the inner shell (endocarp).	
0801.19.01	Coconuts, fresh, not in the inner shell (endocarp).	
0801.21.00	Brazil nuts, fresh or dried, in shell.	
0801.22.00	Brazil nuts, fresh or dried, shelled.	
0801.31.00	Cashew nuts, fresh or dried, in shell.	
0801.32.00	Cashew nuts, fresh or dried, shelled.	
0802.41.00	Chestnuts (<i>Castanea</i> spp.), fresh or dried, in shell.	
0802.42.00	Chestnuts (<i>Castanea</i> spp.), fresh or dried, shelled.	
0802.61.00	Macadamia nuts, in shell.	
0802.62.00	Macadamia nuts, shelled.	
0802.70.10	Kola nuts (<i>Cola</i> spp.), fresh or dried, in shell.	
0802.70.20	Kola nuts (<i>Cola</i> spp.), fresh or dried, shelled.	
0802.80.10	Areca nuts, fresh or dried, in shell.	
0802.80.20	Areca nuts, fresh or dried, shelled.	
0802.91.10	Pignolia pine nuts, fresh or dried, in shell.	
0802.91.90	Pine nuts (other than Pignolia), fresh or dried, in shell.	
0802.92.10	Pignolia pine nuts, fresh or dried, shelled.	
0802.92.90	Pine nuts (other than Pignolia), fresh or dried, shelled.	
0803.10.10	Plantains, fresh.	
0803.10.20	Plantains, dried.	
0803.90.00	Bananas, fresh or dried.	
0804.30.20	Pineapples, fresh or dried, not reduced in size, in bulk.	
0804.30.40	Pineapples, fresh or dried, not reduced in size, in crates or other packages.	
0804.30.60	Pineapples, fresh or dried, reduced in size.	
0804.40.00	Avocados, fresh or dried.	
0804.50.40	Guavas, mangoes and mangosteens, fresh, if entered during the period September 1 through the following May 31, inclusive.	

HTSUS	Description	Scope limitations
0804.50.60	Guavas, mangoes and mangosteens, fresh, if entered during the period June 1 through August 31, inclusive.	Ex.
0804.50.80	Guavas, mangoes and mangosteens, dried.	
0805.10.00	Oranges, fresh or dried.	
0805.50.30	Tahitian limes, Persian limes and other limes of the Citrus latifolia variety, fresh or dried.	
0805.50.40	Limes of the Citrus aurantifolia variety, nesoi, fresh or dried.	
0805.90.01	Etrogs	
0807.20.00	Papayas (papaws), fresh.	
0808.40.20	Quinces, fresh, if entered during the period from April 1 through June 30, inclusive.	
0808.40.40	Quinces, fresh, if entered during the period from July 1 through the following March 31, inclusive.	
0810.50.00	Kiwifruit, fresh.	
0810.60.00	Durians, fresh.	
0810.90.27	Other berries and tamarinds, fresh.	
0810.90.46	Fruit, nesoi, fresh.	
0811.90.10	Bananas and plantains, frozen, in water or containing added sweetening.	
0811.90.25	Cashew apples, mameyes colorados, sapodillas, soursops and sweetsops, frozen, in water or containing added sweetening.	
0811.90.30	Coconut meat, frozen, in water or containing added sweetening.	Ex.
0811.90.40	Papayas, frozen, in water or containing added sweetening.	
0811.90.50	Pineapples, frozen, in water or containing added sweetening.	
0811.90.52	Mangoes, frozen, whether or not previously steamed or boiled.	
0811.90.80	Tropical fruit, nesoi, frozen, whether or not previously steamed or boiled	
0812.90.40	Pineapples, provisionally preserved, but unsuitable in that state for immediate consumption.	
0901.11.00	Coffee, not roasted, not decaffeinated.	
0901.12.00	Coffee, not roasted, decaffeinated.	
0901.21.00	Coffee, roasted, not decaffeinated.	
0901.22.00	Coffee, roasted, decaffeinated.	
0901.90.10	Coffee husks and skins.	
0901.90.20	Coffee substitutes containing coffee.	
0902.10.10	Green tea in immediate packings of a content not exceeding 3 kg, flavored.	
0902.10.90	Green tea in immediate packings of a content not exceeding 3 kg, not flavored.	
0902.20.10	Green tea in immediate packings of a content exceeding 3 kg, flavored.	
0902.20.90	Green tea in immediate packings of a content exceeding 3 kg, not flavored.	
0902.30.00	Black tea (fermented) and partly fermented tea, in immediate packings of a content not exceeding 3 kg.	
0902.40.00	Black tea (fermented) and partly fermented tea, other than in immediate packings of a content not exceeding 3 kg.	
0903.00.00	Maté.	
0904.11.00	Pepper of the genus Piper, neither crushed nor ground.	
0904.12.00	Pepper of the genus Piper, crushed or ground.	
0904.21.20	Paprika, dried, neither crushed nor ground.	
0904.21.40	Anaheim and ancho pepper, dried, neither crushed nor ground.	
0904.21.60	Fruits of the genus Capsicum, other than paprika or anaheim and ancho pepper, dried, neither crushed nor ground.	
0904.21.80	Fruits of the genus Pimenta (including allspice), dried.	
0904.22.20	Paprika, crushed or ground.	
0904.22.40	Anaheim and ancho pepper, crushed or ground.	
0904.22.73	Mixtures of mashed or macerated hot red peppers and salt, nesoi.	
0904.22.76	Fruits of the genus Capsicum, crushed or ground, nesoi.	
0904.22.80	Fruits of the genus Pimenta (including allspice), crushed or ground.	
0905.10.00	Vanilla beans, neither crushed nor ground.	
0905.20.00	Vanilla beans, crushed or ground.	
0906.11.00	Cinnamon (Cinnamomum zeylanicum Blume), neither crushed nor ground.	
0906.19.00	Cinnamon and cinnamon-tree flowers, nesoi, neither crushed nor ground.	
0906.20.00	Cinnamon and cinnamon-tree flowers, crushed or ground.	
0907.10.00	Cloves (whole fruit, cloves and stems), neither crushed nor ground.	
0907.20.00	Cloves (whole fruit, cloves and stems), crushed or ground.	
0908.11.00	Nutmeg, neither crushed nor ground.	
0908.12.00	Nutmeg, crushed or ground.	
0908.21.00	Mace, neither crushed nor ground.	
0908.22.20	Mace, ground, Bombay or wild.	
0908.22.40	Mace, crushed or ground, other than ground Bombay or wild mace.	
0908.31.00	Cardamoms, neither crushed nor ground.	
0908.32.00	Cardamoms, crushed or ground.	
0909.21.00	Seeds of coriander, neither crushed nor ground.	
0909.22.00	Seeds of coriander, crushed or ground.	
0909.31.00	Seeds of cumin, neither crushed nor ground.	
0909.32.00	Seeds of cumin, crushed or ground.	
0909.61.00	Seeds of anise, badian, caraway or fennel; juniper berries; neither crushed nor ground.	
0909.62.00	Seeds of anise, badian, caraway or fennel; juniper berries; crushed or ground.	
0910.11.00	Ginger, neither crushed nor ground.	
0910.12.00	Ginger, crushed or ground.	
0910.20.00	Saffron.	
0910.30.00	Turmeric (curcuma).	
0910.91.00	Mixtures of spices referred to in note 1(b) to chapter 9 of the HTSUS.	

HTSUS	Description	Scope limitations
0910.99.07	Bay leaves, other than crude or not manufactured.	
0910.99.10	Curry.	
0910.99.20	Origanum, crude or not manufactured.	
0910.99.40	Origanum, other than crude or not manufactured.	
0910.99.50	Dill.	
0910.99.60	Spices, nesoi.	
1003.90.40	Barley, not seed, other than for malting purposes.	
1008.30.00	Canary seed.	
1008.40.00	Fonio (<i>Digitaria</i> spp.).	
1008.60.00	Triticale.	
1106.20.90	Flour, meal and powder of sago, or of roots or tubers of heading 0714 (excluding Chinese water chestnuts).	
1106.30.20	Flour, meal and powder of banana and plantain.	
1108.14.00	Cassava (manioc) starch.	
1108.19.00	Starches other than wheat, corn (maize), potato or cassava (manioc) starches.	
1203.00.00	Copra.	
1207.91.00	Poppy seeds, whether or not broken.	
1404.90.90	Date palm branches, <i>Myrtus</i> branches or other vegetable material, for religious purposes only	Ex.
1513.11.00	Coconut (copra) oil and its fractions, crude oil.	
1513.19.00	Coconut (copra) oil and its fractions, other.	
1521.10.00	Vegetable waxes (other than triglycerides), whether or not refined or colored.	
1521.90.20	Bleached beeswax.	
1602.50.05	Offal of bovine animals, prepared or preserved.	
1602.50.07	Corned beef in airtight containers.	
1602.50.08	Offal of bovine animals, cured or pickled, not corned beef, not in airtight containers.	
1602.50.21	Offal of bovine animals, other, in airtight containers.	
1602.50.60	Prepared or preserved meat of bovine animals, not containing cereals or vegetables, nesoi.	
1602.50.90	Prepared or preserved meat of bovine animals, containing cereals or vegetables.	
1801.00.00	Cocoa beans, whole or broken, raw or roasted.	
1802.00.00	Cocoa shells, husks, skins and other cocoa waste.	
1803.10.00	Cocoa paste, not defatted.	
1803.20.00	Cocoa paste, wholly or partly defatted.	
1804.00.00	Cocoa butter, fat and oil.	
1805.00.00	Cocoa powder, not containing added sugar or other sweetening matter.	
1903.00.20	Tapioca and substitutes prepared from starch, of arrowroot, cassava or sago, in the form of flakes, grains, pearls, siftings or in similar forms.	
1903.00.40	Tapioca and substitutes, prepared from starch nesoi, in the form of flakes, grains, pearls, siftings or in similar forms.	
1905.90.10	Bread, pastry, cakes, biscuits and similar baked products, nesoi, and puddings, whether or not containing chocolate, fruit, nuts or confectionery, for religious purposes only.	Ex.
1905.90.90	Bakers' wares, communion wafers, sealing wafers, rice paper and similar products, nesoi, for religious purposes only.	Ex.
2001.90.45	Mangoes, prepared or preserved by vinegar or acetic acid.	
2005.91.60	Bamboo shoots in airtight containers, prepared or preserved otherwise than by vinegar or acetic acid, not frozen, not preserved by sugar.	
2006.00.40	Pineapples, preserved by sugar (drained, glacé or crystallized).	
2007.99.40	Pineapple jam.	
2007.99.50	Guava and mango pastes and purees, being cooked preparations.	
2008.19.15	Coconuts, otherwise prepared or preserved, nesoi.	
2008.20.00	Pineapples, otherwise prepared or preserved, nesoi.	
2008.30.35	Orange pulp.	
2008.91.00	Palm hearts, otherwise prepared or preserved, nesoi.	
2008.99.13	Banana pulp, otherwise prepared or preserved, nesoi.	
2008.99.15	Bananas, other than pulp, otherwise prepared or preserved, nesoi.	
2008.99.21	Acai	Ex.
2008.99.40	Mangoes, otherwise prepared or preserved, nesoi.	
2008.99.45	Papaya pulp, otherwise prepared or preserved, nesoi.	
2008.99.91	Bean cake, bean stick, miso, other fruit, nuts and other edible parts of plants, prepared or preserved.	
2009.11.00	Orange juice, frozen, unfermented and not containing added spirit.	
2009.12.25	Orange juice, not frozen, of a Brix value not exceeding 20, not concentrated and not made from juice having a degree of concentration of 1.5 or more, unfermented.	
2009.12.45	Orange juice, not frozen, of a Brix value not exceeding 20, concentrated, unfermented.	
2009.19.00	Orange juice, not frozen, of a Brix value exceeding 20, unfermented.	
2009.31.60	Citrus juice of any single citrus fruit (other than orange, grapefruit or lime), of a Brix value not exceeding 20, concentrated, unfermented, except for lemon juice.	Ex.
2009.39.20	Lime juice, of a Brix value exceeding 20, fit for beverage purposes, unfermented.	
2009.49.40	Pineapple juice, of a Brix value exceeding 20, concentrated (in degree of concentration greater than 3.5).	
2009.89.70	Coconut water or juice of acai	Ex.
2009.90.40	Coconut water juice blends, not from concentrate, packaged for retail sale	Ex.
2101.11.29	Extracts, essences and concentrates of coffee other than unflavored instant coffee.	
2101.12.90	Preparations nesoi, with a basis of extracts, essences or concentrates or with a basis of coffee.	
2101.20.20	Extracts, essences or concentrates of tea or mate.	
2106.90.48	Orange juice, fortified with vitamins or minerals.	
2106.90.99	Acai preparations for the manufacture of beverages	Ex.

HTSUS	Description	Scope limitations
2202.99.30	Orange juice, fortified with vitamins or minerals, not made from a juice having a degree of concentration of 1.5 or more.	
2202.99.35	Orange juice, fortified with vitamins or minerals, nesoi.	
2504.10.10	Natural graphite, crystalline flake (not including flake dust).	
2504.10.50	Natural graphite in powder or flakes other than crystalline flake.	
2504.90.00	Natural graphite, other than in powder or in flakes.	
2507.00.00	Kaolin and other kaolinic clays, whether or not calcined.	
2510.10.00	Natural calcium phosphates, natural aluminum calcium phosphates, unground.	
2510.20.00	Natural calcium phosphates, natural aluminum calcium phosphates, ground.	
2511.10.10	Natural barium sulfate (barytes), ground.	
2511.10.50	Natural barium sulfate (barytes), not ground.	
2519.10.00	Natural magnesium carbonate (magnesite).	
2519.90.10	Fused magnesia; dead-burned (sintered) magnesia, whether or not containing small quantities of other oxides added before sintering.	
2519.90.20	Caustic calcined magnesite.	
2524.90.00	Asbestos other than crocidolite.	
2525.10.00	Crude mica and mica rifted into sheets or splittings.	
2529.21.00	Fluorspar, containing by weight 97 percent or less of calcium fluoride.	
2529.22.00	Fluorspar, containing by weight more than 97 percent of calcium fluoride.	
2530.20.10	Kieserite.	
2530.20.20	Epsom salts (natural magnesium sulfates).	
2530.90.10	Natural cryolite; natural chiolite.	
2530.90.20	Natural micaceous iron oxides.	
2530.90.80	Other mineral substances, nesoi.	
2601.11.00	Iron ores and concentrates, non-agglomerated.	
2601.12.00	Iron ores and concentrates, agglomerated.	
2602.00.00	Manganese ores and concentrates including ferruginous manganese ores and concentrates with manganese content over 20 percent calculated on the dry weight.	
2603.00.00	Copper ores and concentrates.	
2604.00.00	Nickel ores and concentrates.	
2605.00.00	Cobalt ores and concentrates.	
2606.00.00	Aluminum ores and concentrates.	
2608.00.00	Zinc ores and concentrates.	
2609.00.00	Tin ores and concentrates.	
2610.00.00	Chromium ores and concentrates.	
2611.00.30	Tungsten ores.	
2611.00.60	Tungsten concentrates.	
2612.10.00	Uranium ores and concentrates.	
2612.20.00	Thorium ores and concentrates.	
2613.90.00	Molybdenum ores and concentrates, not roasted.	
2614.00.30	Synthetic rutile.	
2614.00.60	Titanium ores and concentrates, other than synthetic rutile.	
2615.90.30	Synthetic tantalum-niobium concentrates.	
2615.90.60	Niobium, tantalum or vanadium ores and concentrates, nesoi.	
2616.10.00	Silver ores and concentrates.	
2617.10.00	Antimony ores and concentrates.	
2620.30.00	Ash and residues (other than from the manufacture of iron or steel), containing mainly copper.	
2620.99.50	Slag (other than from the manufacture of iron or steel) containing over 40 percent titanium, and which if containing over 2 percent by weight of copper, lead, or zinc is not to be treated for the recovery thereof.	
2701.11.00	Coal, anthracite, whether or not pulverized, but not agglomerated.	
2701.12.00	Coal, bituminous, whether or not pulverized, but not agglomerated.	
2701.19.00	Coal, other than anthracite or bituminous, whether or not pulverized, but not agglomerated.	
2701.20.00	Coal, briquettes, ovoids and similar solid fuels manufactured from coal.	
2702.10.00	Lignite (excluding jet), whether or not pulverized, but not agglomerated.	
2702.20.00	Lignite (excluding jet), agglomerated.	
2703.00.00	Peat (including peat litter), whether or not agglomerated.	
2704.00.00	Coke and semicoke of coal, lignite or peat, whether or not agglomerated; retort carbon.	
2705.00.00	Coal gas, water gas, producer gas and similar gases, other than petroleum gases and other gaseous hydrocarbons.	
2706.00.00	Tars (including reconstituted tars), distilled from coal, lignite or peat, and other mineral tars, whether dehydrated or partially distilled.	
2707.10.00	Benzene, from the distillation of high-temperature coal tar, or in which the weight of the aromatic constituents exceeds that of the nonaromatic constituents.	
2707.20.00	Toluene, from the distillation of high-temperature coal tar, or in which the weight of aromatic constituents exceeds that of the nonaromatic constituents.	
2707.30.00	Xylenes, from the distillation of high-temperature coal tar, or in which the weight of the aromatic constituents exceeds that of the nonaromatic constituents.	
2707.40.00	Naphthalene, from the distillation of high-temperature coal tar, or in which the weight of the aromatic constituents exceeds that of the nonaromatic constituents.	
2707.50.00	Aromatic hydrocarbon mixtures (from the distillation of high-temperature coal tar, or similar products in which the weight of the aromatic constituents exceeds that of the nonaromatic constituents), other than Benzene, Toluene, Xylenes, and Naphthalene, in which 65% or more by volume (including losses) distills at 250 C by the ISO 3405 method (equivalent to the ASTM D 86 method).	

HTSUS	Description	Scope limitations
2707.91.00	Creosote oils, from the distillation of high-temperature coal tar or similar products in which the weight of the aromatic constituents exceeds that of the nonaromatic constituents.	
2707.99.10	Light oil, from the distillation of high-temperature coal tar or similar products in which the weight of the aromatic constituents exceeds that of the nonaromatic constituents.	
2707.99.20	Picolines, from the distillation of high-temperature coal tar or similar products in which the weight of the aromatic constituents exceeds that of the nonaromatic constituents.	
2707.99.40	Carbazole, from the distillation of high-temperature coal tar or similar products in which the weight of the aromatic constituents exceeds that of the nonaromatic constituents, having a purity of 65 percent or more by weight.	
2707.99.51	Phenols, from the distillation of high-temperature coal tar or similar products in which the weight of aromatic constituents exceeds that of nonaromatic constituents, containing more than 50 percent by weight of hydroxybenzene.	
2707.99.55	Metacresol, orthocresol, paracresol, and metaparcresol, from the distillation of high-temperature coal tar or similar products where the weight of the aromatic constituents exceeds that of the nonaromatic constituents, having a purity of 75 percent or more by weight.	
2707.99.59	Phenols, nesoi.	
2707.99.90	Other products of the distillation of high-temperature coal tar and similar products in which the weight of the aromatic constituents exceed that of the nonaromatic constituents, nesoi.	
2708.10.00	Pitch, obtained from coal tar or other mineral tars.	
2708.20.00	Pitch coke, obtained from coal tar or other mineral tars.	
2709.00.10	Petroleum oils and oils from bituminous minerals, crude, testing under 25 degrees A.P.I.	
2709.00.20	Petroleum oils and oils from bituminous minerals, crude, testing 25 degrees A.P.I. or more.	
2710.12.15	Light oil motor fuel from petroleum oils and oils from bituminous minerals (other than crude) and containing by weight 70 percent or more of petroleum oils or oils from bituminous minerals.	
2710.12.18	Light oil motor fuel blending stock from petroleum oils and oils from bituminous minerals (other than crude) containing by weight 70 percent or more from petroleum oils or oils from bituminous minerals.	
2710.12.25	Naphthas (except motor fuel or motor fuel blending stock).	
2710.12.45	Light oil mixtures of hydrocarbons nesoi which contain by weight not over 50 percent of any single hydrocarbon compound.	
2710.12.90	Light oils and preparations, from petroleum oils and oils from bituminous minerals or preparations nesoi containing by weight 70 percent or more of petroleum oils or oils obtained from bituminous minerals.	
2710.19.06	Distillate and residual fuel oils (including blended fuel oils), derived from petroleum or oils from bituminous minerals, testing under 25 degrees A.P.I.	
2710.19.11	Distillate and residual fuel oils (including blended fuel oils), derived from petroleum oils or oils from bituminous minerals, testing 25 degrees A.P.I. or more.	
2710.19.16	Kerosene-type jet fuel, from petroleum oils and oils of bituminous minerals (other than crude) or preparations containing by weight 70 percent or more of petroleum oils or oils obtained from bituminous minerals.	
2710.19.24	Kerosene motor fuel (except kerosene-type jet fuel), from petroleum oils and oils of bituminous minerals (other than crude) or preparations containing by weight 70 percent or more of petroleum oils or oils obtained from bituminous minerals.	
2710.19.25	Kerosene motor fuel blending stock (except kerosene-type jet fuel), from petroleum oils and oils of bituminous minerals (other than crude) or preparations containing by weight 70 percent or more of petroleum oils or oils obtained from bituminous minerals.	
2710.19.26	Kerosene (except kerosene-type jet fuel, kerosene motor fuel, and kerosene motor fuel blending stock), from petroleum oils and oils of bituminous minerals (other than crude) or preparations containing by weight 70 percent or more of petroleum oils or oils obtained from bituminous minerals.	
2710.19.30	Lubricating oils, with or without additives, from petroleum oils and oils of bituminous minerals (other than crude) or preparations containing by weight 70 percent or more of petroleum oils or oils obtained from bituminous minerals.	
2710.19.35	Lubricating greases, containing not over 10 percent by weight of salts of fatty acids of animal or vegetable origin, from petroleum oils and oils of bituminous minerals (other than crude) or preparations containing by weight 70 percent or more of petroleum oils or oils obtained from bituminous minerals.	
2710.19.40	Lubricating greases, containing 10 percent or more by weight of salts of fatty acids of animal or vegetable origin, from petroleum oils and oils of bituminous minerals (other than crude) or preparations containing by weight 70 percent or more of petroleum oils or oils obtained from bituminous minerals.	
2710.19.45	Mixture of hydrocarbons nesoi, which contain by weight not over 50 percent of any single hydrocarbon compound, from petroleum oils and oils of bituminous minerals (other than crude) or preparations containing by weight 70 percent or more of petroleum oils or oils obtained from bituminous minerals.	
2710.19.90	Petroleum oils and oils from bituminous minerals or preparations nesoi containing by weight 70 percent or more of petroleum oils or oils obtained from bituminous minerals.	
2710.20.05	Distillate and residual fuel oils (including blended fuel oils), testing under 25 degrees A.P.I., from petroleum oils and oils of bituminous minerals (other than crude) or preparations nesoi containing by weight 70 percent or more of petroleum oils or oils obtained from bituminous minerals, containing biodiesel, other than waste oils.	
2710.20.10	Distillate and residual fuel oils (including blended fuel oils), testing 25 degrees A.P.I. or more, from petroleum oils and oils of bituminous minerals (other than crude) or preparations nesoi containing by weight 70 percent or more of petroleum oils or oils obtained from bituminous minerals, containing biodiesel, and other than waste oils.	
2710.20.15	Kerosene-type jet fuel, motor fuel or motor fuel blending stock, from petroleum oils and oils of bituminous minerals (other than crude) or preparations nesoi containing by weight 70 percent or more of petroleum oils or oils obtained from bituminous minerals, containing biodiesel, and other than waste oils.	
2710.20.25	Kerosene (except kerosene-type jet fuel, motor fuel or motor fuel blending stock, from petroleum oils and oils of bituminous minerals (other than crude) or preparations nesoi containing by weight 70 percent or more of petroleum oils or oils obtained from bituminous minerals, containing biodiesel, other than waste oils.	

HTSUS	Description	Scope limitations
2710.91.00	Waste oils containing polychlorinated biphenyls (PCBs), polychlorinated terphenyls (PCTs) or polybrominated biphenyls (PBBs).	
2710.99.05	Wastes of distillate and residual fuel oil (including blends) derived from petroleum oil or bituminous minerals, testing under 25 degrees A.P.I.	
2710.99.10	Wastes of distillate and residual fuel oil (including blends) derived from petroleum oil or bituminous minerals, testing 25 degrees A.P.I. or more.	
2710.99.16	Waste motor fuel or motor fuel blending stock.	
2710.99.21	Waste kerosene or naphthas.	
2710.99.31	Waste lubricating oils, with or without additives.	
2710.99.32	Waste lubricating greases, containing not over 10 percent by weight of fatty acids of animal (including marine animal) or vegetable origin.	
2710.99.39	Other wastes of lubricating oils and greases.	
2710.99.45	Waste oil mixtures of hydrocarbons nesoi containing not over 50 percent of any single hydrocarbon compound.	
2710.99.90	Other waste oils.	
2711.11.00	Natural gas, liquefied.	
2711.12.00	Propane, liquefied.	
2711.13.00	Butanes, liquefied.	
2711.14.00	Ethylene, propylene, butylene and butadiene, liquefied.	
2711.19.00	Liquefied petroleum gases and other gaseous hydrocarbons, nesoi.	
2711.21.00	Natural gas, in gaseous state.	
2711.29.00	Petroleum gases and other gaseous hydrocarbons, except natural gas.	
2712.10.00	Petroleum jelly.	
2712.20.00	Paraffin wax (whether or not colored), obtained by synthesis or other process and less than 0.75 percent oil by weight.	
2712.90.10	Montan wax (whether or not colored), obtained by synthesis or other process.	
2712.90.20	Mineral waxes (<i>i.e.</i> , paraffin wax with 0.75 percent or more oil by weight, microcrystalline wax, slack lignite and peat waxes, ozokerite), obtained by synthesis.	
2713.11.00	Coke, petroleum, not calcined.	
2713.12.00	Coke, petroleum coke, calcined.	
2713.20.00	Petroleum bitumen.	
2713.90.00	Residues (except petroleum coke or petroleum bitumen) of petroleum oils or of oils obtained from bituminous materials.	
2714.10.00	Bituminous or oil shale and tar sands.	
2714.90.00	Bitumen and asphalt, natural; asphaltites and asphaltic rocks.	
2715.00.00	Bituminous mixtures based on natural asphalt, natural bitumen, petroleum bitumen, mineral tar or mineral tar pitch.	
2716.00.00	Electrical energy.	
2801.20.00	Iodine.	
2804.29.00	Rare gases, other than argon.	
2804.50.00	Boron; tellurium.	
2804.61.00	Silicon containing by weight not less than 99.99 percent of silicon.	
2804.69.10	Silicon, containing by weight less than 99.99 percent but not less than 99 percent of silicon.	
2804.69.50	Silicon, containing by weight less than 99 percent of silicon.	
2804.80.00	Arsenic.	
2804.90.00	Selenium.	
2805.19.10	Strontium.	
2805.19.20	Barium.	
2805.19.90	Alkali metals, other than strontium and barium.	
2805.30.00	Rare-earth metals, scandium and yttrium, whether or not intermixed or interalloyed.	
2811.11.00	Hydrogen fluoride (Hydrofluoric acid).	
2811.19.10	Arsenic acid.	
2811.29.10	Arsenic trioxide.	
2811.29.20	Selenium dioxide.	
2812.19.00	Other chlorides and chloride oxides.	
2813.90.10	Arsenic sulfides.	
2815.20.00	Potassium hydroxide (Caustic potash).	
2816.10.00	Hydroxide and peroxide of magnesium.	
2816.40.10	Oxides, hydroxides and peroxides of strontium.	
2816.40.20	Oxides, hydroxides and peroxides of barium.	
2817.00.00	Zinc oxide; zinc peroxide.	
2818.10.10	Artificial corundum, crude.	
2818.10.20	Artificial corundum, in grains, or ground, pulverized or refined.	
2818.20.00	Aluminum oxide, other than artificial corundum.	
2820.10.00	Manganese dioxide.	
2821.10.00	Iron oxides and hydroxides.	
2821.20.00	Earth colors containing 70 percent or more by weight of combined iron evaluated as Fe ₂ O ₃ .	
2822.00.00	Cobalt oxides and hydroxides; commercial cobalt oxides.	
2823.00.00	Titanium oxides.	
2825.20.00	Lithium oxide and hydroxide.	
2825.30.00	Vanadium oxides and hydroxides.	
2825.40.00	Nickel oxides and hydroxides.	
2825.50.30	Copper hydroxides.	
2825.60.00	Germanium oxides and zirconium dioxide.	

HTSUS	Description	Scope limitations
2825.80.00	Antimony oxides.	
2825.90.15	Niobium oxide.	
2825.90.20	Tin oxides.	
2825.90.30	Tungsten oxides.	
2825.90.90	Other inorganic bases; other metal oxides, hydroxides and peroxides, nesoi.	
2826.12.00	Fluorides of aluminum.	
2826.30.00	Sodium hexafluoroaluminate (Synthetic cryolite).	
2826.90.90	Other complex fluorine salts, nesoi.	
2827.31.00	Magnesium chloride.	
2827.39.25	Tin chlorides.	
2827.39.45	Barium chloride.	
2827.39.60	Cobalt chlorides.	
2827.39.90	Chlorides, nesoi.	
2827.41.00	Chloride oxides and chloride hydroxides of copper.	
2827.49.50	Chloride oxides and chloride hydroxides other than of copper or of vanadium.	
2827.59.51	Other bromides and bromide oxides, other than ammonium, calcium or zinc.	
2827.60.10	Iodide and iodide oxide of calcium or copper.	
2827.60.51	Iodides and iodide oxides, other than of calcium, copper or potassium.	
2833.21.00	Magnesium sulfate.	
2833.24.00	Nickel sulfate.	
2833.25.00	Copper sulfate.	
2833.27.00	Barium sulfate.	
2833.29.10	Cobalt sulfate.	
2833.29.45	Zinc sulfate.	
2833.29.51	Other sulfates nesoi.	
2834.21.00	Potassium nitrate.	
2834.29.20	Strontium nitrate.	
2834.29.51	Nitrates, nesoi.	
2836.60.00	Barium carbonate.	
2836.91.00	Lithium carbonates.	
2836.92.00	Strontium carbonate.	
2836.99.10	Cobalt carbonates.	
2836.99.50	Carbonates nesoi, and peroxocarbonates (percarbonates).	
2839.19.00	Sodium silicate.	
2841.80.00	Tungstates (wolframates).	
2841.90.20	Ammonium perrhenate.	
2841.90.40	Aluminates.	
2843.29.01	Silver compounds, other than silver nitrate.	
2843.30.00	Gold compounds.	
2843.90.00	Inorganic or organic compounds of precious metals, excluding those of silver and gold; amalgams of precious metals.	
2844.10.10	Natural uranium metal.	
2844.10.20	Natural uranium compounds.	
2844.20.00	Uranium enriched in U235 and plutonium and their compounds; alloys, dispersions, ceramic products and mixtures containing these products.	
2844.30.20	Compounds of uranium depleted in U235.	
2844.30.50	Uranium depleted in U235, thorium; alloys, dispersions, ceramic products and mixtures of these products and their compounds.	
2844.43.00	Other radioactive elements, isotopes, compounds, nesoi; alloys, dispersions, ceramic products and mixtures thereof.	
2845.90.01	Isotopes not in heading 2844 and their compounds other than boron, lithium and helium.	
2846.10.00	Cerium compounds.	
2846.90.20	Mixtures of rare-earth oxides or of rare-earth chlorides.	
2846.90.40	Yttrium bearing materials and compounds containing by weight more than 19 percent but less than 85 percent yttrium oxide equivalent.	
2846.90.80	Compounds, inorganic or organic, of rare-earth metals, of yttrium or of scandium, or of mixtures of these metals, nesoi.	
2849.20.10	Silicon carbide, crude.	
2849.20.20	Silicon carbide, in grains, or ground, pulverized or refined.	
2849.90.30	Tungsten carbide.	
2853.90.10	Phosphor copper containing more than 15 percent by weight of phosphorus, excluding ferrophosphorus.	
2853.90.90	Other phosphides, excluding ferrophosphorous, nesoi.	
2903.19.05	1,2-dichloropropane (propylene dichloride) and dichlorobutanes.	
2903.19.10	Hexachloroethane and tetrachloroethane.	
2903.19.30	Sec-Butyl chloride.	
2903.19.60	Other saturated chlorinated hydrocarbons, nesoi.	
2903.45.10	1,1,1,2-Tetrafluoroethane (HFC-134a) and 1,1,2,2-tetrafluoroethane (HFC-134).	
2903.51.10	2,3,3,3-Tetrafluoropropene (HFO-1234yf), 1,3,3,3-tetrafluoropropene (HFO-1234ze) and (Z)-1,1,1,4,4,4-hexafluoro-2-butene (HFO-1336mzz).	
2903.59.90	Other unsaturated fluorinated derivatives of acyclic hydrocarbons.	
2903.69.90	Other brominated or iodinated derivatives of acyclic hydrocarbons.	
2903.78.00	Other perhalogenated acyclic hydrocarbon derivatives, nesoi.	
2903.79.90	Other halogenated derivatives of acyclic hydrocarbons containing two or more different halogens, nesoi.	

HTSUS	Description	Scope limitations
2903.89.15	Halogenated products derived in whole or in part from benzene or other aromatic hydrocarbons, described in additional U.S. note 3 to section VI of the HTSUS.	
2903.89.20	Halogenated derivatives derived in whole or in part from benzene or other aromatic hydrocarbons, nesoi.	
2903.89.70	Other halogenated derivatives of cyclanic, cyclenic or cycloterpenic hydrocarbons not derived from benzene or other aromatic hydrocarbons.	
2903.92.00	Hexachlorobenzene (ISO) and DDT (clofenotane (INN), (1,1,1-trichloro-2,2-bis(p-chlorophenyl)ethane).	
2904.99.40	Sulfonated, nitrated or nitrosated derivatives of aromatic products described in additional U.S. note 3 to section VI of the HTSUS.	
2905.29.90	Unsaturated monohydric alcohols, other than allyl alcohol or acyclic terpene alcohols.	
2905.39.90	Dihydric alcohols (diols), nesoi.	
2905.59.10	Halogenated, sulfonated, nitrated or nitrosated derivatives of monohydric alcohols.	
2905.59.60	Halogenated, sulfonated, nitrated or nitrosated derivatives of acyclic alcohols, nesoi.	
2906.19.50	Other cyclanic, cyclenic or cycloterpenic alcohols and their halogenated, sulfonated, nitrated or nitrosated derivatives.	
2906.29.60	Other aromatic alcohols and their halogenated, sulfonated, nitrated or nitrosated derivatives.	
2907.29.90	Other polyphenols, nesoi.	
2908.19.60	Other halogenated, sulfonated, nitrated or nitrosated derivatives of phenol or phenol-alcohols.	
2909.19.18	Ethers of acyclic monohydric alcohols and their derivatives, nesoi.	
2909.20.00	Cyclanic, cyclenic or cycloterpenic ethers and their halogenated, sulfonated, nitrated or nitrosated derivatives.	
2909.30.60	Other aromatic ethers and their halogenated, sulfonated, nitrated, or nitrosated derivatives, nesoi.	
2909.49.10	Other aromatic ether-alcohols, their halogenated, sulfonated, nitrated or nitrosated derivatives described in additional U.S. note 3 to section VI of the HTSUS.	
2909.49.15	Aromatic ether-alcohols and their halogenated, sulfonated, nitrated or nitrosated derivatives, nesoi.	
2909.49.20	Nonaromatic glycerol ethers.	
2909.49.60	Other non-aromatic ether-alcohols and their halogenated, sulfonated, nitrated or nitrosated derivatives.	
2909.50.40	Odoriferous or flavoring compounds of ether-phenols, ether-alcohol-phenols and their halogenated, sulfonated, nitrated or nitrosated derivatives.	
2909.50.45	Ether-phenols, ether-alcohol-phenols and their halogenated, sulfonated, nitrated or nitrosated derivatives nesoi, described in additional U.S. note 3 to section VI of the HTSUS.	
2909.50.50	Ether-phenols, ether-alcohol-phenols and their halogenated, sulfonated, nitrated or nitrosated derivatives, nesoi.	
2912.19.50	Acyclic aldehydes without other oxygen function, nesoi.	
2912.49.26	Other aromatic aldehyde-alcohols, aldehyde-ethers, aldehyde-phenols and aldehydes with other oxygen function.	
2914.19.00	Acyclic ketones without other oxygen function, nesoi.	
2914.40.90	Nonaromatic ketone-alcohols and ketone-aldehydes, nesoi.	
2914.50.30	Aromatic ketone-phenols and ketones with other oxygen function.	
2914.50.50	Nonaromatic ketone-phenols and ketones with other oxygen function.	
2914.62.00	Coenzyme Q10 (ubidecarenone (INN).	
2914.69.21	Quinone drugs.	
2914.69.90	Quinones, nesoi.	
2914.79.40	Other halogenated, sulfonated, nitrated or nitrosated derivatives of aromatic ketones and quinones whether or not with other oxygen function.	
2915.29.30	Cobalt acetates.	
2915.39.31	Aromatic esters of acetic acid, described in additional U.S. note 3 to section VI of the HTSUS.	
2915.39.35	Aromatic esters of acetic acid, nesoi.	
2915.39.47	Acetates of polyhydric alcohols or of polyhydric alcohol ethers.	
2915.39.90	Other non-aromatic esters of acetic acid.	
2915.90.10	Fatty acids of animal or vegetable origin, nesoi.	
2915.90.14	Valproic acid.	
2915.90.18	Saturated acyclic monocarboxylic acids, nesoi.	
2915.90.20	Aromatic anhydrides, halides, peroxides and peroxyacids, of saturated acyclic monocarboxylic acids, and their derivatives, nesoi.	
2915.90.50	Nonaromatic anhydrides, halides, peroxides and peroxyacids, of saturated acyclic monocarboxylic acids, and their derivatives, nesoi.	
2916.19.30	Unsaturated acyclic monocarboxylic acids, nesoi.	
2916.19.50	Unsaturated acyclic monocarboxylic acid anhydrides, halides, peroxides, peroxyacids and their derivatives, nesoi.	
2916.20.50	Cyclanic, cyclenic or cycloterpenic monocarboxylic acids, their anhydrides, halides, peroxides, peroxyacids and their derivatives, nesoi.	
2916.31.50	Benzoic acid esters, nesoi.	
2916.39.46	Aromatic monocarboxylic acids, their anhydrides, halides, peroxides, peroxyacids and their derivatives, described in additional U.S. note 3 to section VI of the HTSUS.	
2916.39.79	Other aromatic monocarboxylic acids, their anhydrides, halides, peroxides, peroxyacids and their derivatives.	
2917.13.00	Azelaic acid, sebacic acid, their salts and esters.	
2917.19.10	Ferrous fumarate.	
2917.19.70	Acyclic polycarboxylic acids and their derivatives (excluding plasticizers).	
2917.34.01	Esters of orthophthalic acid, nesoi.	
2917.39.30	Aromatic polycarboxylic acids, their anhydrides, halides, peroxides, peroxyacids and their derivatives nesoi, described in additional U.S. note 3 to section VI of the HTSUS.	
2918.11.51	Salts and esters of lactic acid.	
2918.13.50	Salts and esters of tartaric acid, nesoi.	
2918.16.50	Salts and esters of gluconic acid, nesoi.	
2918.19.60	Malic acid.	

HTSUS	Description	Scope limitations
2918.19.90	Nonaromatic carboxylic acids with alcohol function, without other oxygen function, and their derivatives, nesoi.	
2918.22.10	O-Acetylsalicylic acid (Aspirin).	
2918.22.50	Salts and esters of O-acetylsalicylic acid.	
2918.23.30	Esters of salicylic acid and their salts, described in additional U.S. note 3 to section VI of the HTSUS.	
2918.23.50	Esters of salicylic acid and their salts, nesoi.	
2918.29.20	Gentisic acid; and Hydroxycinnamic acid and its salts.	
2918.29.65	Carboxylic acids with phenol function but without other oxygen function, described in additional U.S. note 3 to section VI of the HTSUS.	
2918.29.75	Other carboxylic acids with phenol function but without other oxygen function and their derivatives (excluding goods of additional U.S. note 3 to section VI of the HTSUS).	
2918.30.25	Aromatic carboxylic acids with aldehyde or ketone function but without other oxygen function and their derivatives described in additional U.S. note 3 to section VI of the HTSUS, nesoi.	
2918.30.30	Aromatic carboxylic acids with aldehyde or ketone function but without other oxygen function, and their derivatives, nesoi.	
2918.30.90	Non-aromatic carboxylic acids with aldehyde or ketone function but without other oxygen function, their anhydrides, halides, peroxides, peroxyacids and their derivatives.	
2918.99.30	Aromatic drugs derived from carboxylic acids with additional oxygen function, and their derivatives, nesoi.	
2918.99.43	Aromatic carboxylic acids with additional oxygen function and their anhydrides, halides, peroxides, peroxyacids and their derivatives, described in additional U.S. note 3 to section VI of the HTSUS, nesoi.	
2918.99.47	Other aromatic carboxylic acids with additional oxygen function and their anhydrides, halides, peroxides, peroxyacids and their derivatives (excluding goods described in additional U.S. note 3 to section VI of the HTSUS).	
2918.99.50	Nonaromatic carboxylic acids with additional oxygen function, and their derivatives, nesoi.	
2919.90.30	Aromatic phosphoric esters and their salts, including lactophosphates, and their derivatives, not used as plasticizers.	
2919.90.50	Nonaromatic phosphoric esters and their salts, including lactophosphates, and their derivatives.	
2920.90.51	Nonaromatic esters of inorganic acids of nonmetals, their salts and derivatives, excluding esters of hydrogen halides, nesoi.	
2921.19.11	Mono- and triethylamines; mono-, di-, and tri(propyl- and butyl-) monoamines; salts of any of the foregoing.	
2921.19.61	N,N-Dialkyl (methyl, ethyl, n-Propyl or Isopropyl)-2-Chloroethylamines and their protonated salts; Acyclic monoamines and their derivatives, nesoi.	
2921.29.00	Acyclic polyamines, their derivatives and salts, other than ethylenediamine or hexamethylenediamine and their salts.	
2921.30.10	Cyclanic, cyclenic or cycloterpenic mono- or polyamines, derivatives and salts, from any aromatic compound described in additional U.S. note 3 to section VI of the HTSUS.	
2921.30.50	Cyclanic, cyclenic or cycloterpenic mono- or polyamines, and their derivatives and salts, derived from any non-aromatic compounds.	
2921.42.90	Other aniline derivatives and their salts.	
2921.46.00	Amphetamine (INN), benzphetamine (INN), dexamphetamine (INN), etilamphetamine (INN), and other specified INNs; salts thereof.	
2921.49.38	Aromatic monoamine antidepressants, tranquilizers and other psychotherapeutic agents.	
2921.49.43	Aromatic monoamine drugs, nesoi.	
2921.49.45	Aromatic monoamines and their derivatives and salts thereof nesoi, described in additional U.S. note 3 to section VI of the HTSUS.	
2921.49.50	Aromatic monoamines and their derivatives and salts thereof, nesoi.	
2921.59.80	Aromatic polyamines and their derivatives and salts thereof nesoi.	
2922.11.00	Monoethanolamine and its salts.	
2922.14.00	Dextropropoxyphene (INN) and its salts.	
2922.19.09	Aromatic amino-alcohols drugs, their ethers and esters, other than those containing more than one kind of oxygen function, and their salts thereof; nesoi.	
2922.19.20	4,4'-Bis(dimethylamino)benzhydrol (Michler's hydrol) and other specified aromatic amino-alcohols, their ethers and esters, and salts thereof.	
2922.19.33	N1-(2-Hydroxyethyl)-2-nitro-1,4-phenylenediamine; N1,N4,N4-tris(2-hydroxyethyl)-2-nitro-1,4-phenylenediamine; and other specified chemicals.	
2922.19.60	Aromatic amino-alcohols, their ethers and esters, other than those containing more than one oxygen function, described in additional U.S. note 3 to section VI of the HTSUS.	
2922.19.70	Other aromatic amino-alcohols, their ethers and esters, other than those containing more than one oxygen function (excluding goods described in additional U.S. note 3 to section VI of the HTSUS).	
2922.19.90	Salts of triethanolamine.	
2922.19.96	Amino-alcohols, other than those containing more than one kind of oxygen function, their ethers and esters and salts thereof, nesoi.	
2922.29.27	Drugs of amino-naphthols and -phenols, their ethers and esters, except those containing more than one oxygen function, and salts thereof, nesoi.	
2922.29.61	Amino-naphthols and other amino-phenols and their derivatives, described in additional U.S. note 3 to section VI of the HTSUS.	
2922.29.81	Amino-naphthols and other amino-phenols, their ethers and esters (not containing more than one oxygen function), and salts thereof, nesoi.	
2922.31.00	Amfepramone (INN), methadone (INN) and normethadone (INN), and salts thereof.	
2922.39.25	Aromatic amino-aldehydes, -ketones and -quinones, other than those with more than one oxygen function, and salts thereof, described in additional U.S. note 3 to section VI of the HTSUS.	
2922.39.45	Aromatic amino-aldehydes, -ketones and -quinones, other than those with more than one oxygen function, and salts thereof, nesoi.	

HTSUS	Description	Scope limitations
2922.39.50	Nonaromatic amino-aldehydes, -ketones and -quinones, other than those with more than one kind of oxygen function, and salts thereof, nesoi.	
2922.41.00	Lysine and its esters and salts thereof.	
2922.42.50	Glutamic acid and its salts, other than monosodium glutamate.	
2922.44.00	Tildine (INN) and its salts.	
2922.49.10	m-Aminobenzoic acid, technical; and other specified aromatic amino-acids and their esters, except those with more than one oxygen function.	
2922.49.26	Aromatic amino-acids drugs and their esters, not containing more than one kind of oxygen function, nesoi.	
2922.49.30	Aromatic amino-acids and their esters, excluding those with more than one oxygen function, and their salts, described in additional U.S. note 3 to section VI of the HTSUS.	
2922.49.37	Aromatic amino-acids and their esters, not containing more than one oxygen function (excluding goods described in additional U.S. note 3 to section VI of the HTSUS), nesoi.	
2922.49.49	Nonaromatic amino-acids, other than those containing more than one oxygen function, other than glycine.	
2922.49.80	Non-aromatic esters of amino-acids, other than those containing more than one oxygen function, and salts thereof.	
2922.50.07	3,4-Diaminophenetole dihydrogen sulfate, 2-nitro-5-[(2,3-dihydroxy)propoxy]-N-methylaniline and other specified aromatic chemicals.	
2922.50.10	Specified aromatic amino-alcohol-phenols, amino-acid-phenols and other amino-compounds with oxygen function.	
2922.50.11	Salts of d(-)-p-Hydroxyphenylglycine ((R)- α -Amino-4-hydroxybenzeneacetic acid).	
2922.50.13	Isoetharine hydrochloride and other specified aromatic drugs of amino-compounds with oxygen function.	
2922.50.14	Other aromatic cardiovascular drugs of amino-compounds with oxygen function.	
2922.50.17	Aromatic dermatological agents and local anesthetics of amino-compounds with oxygen function.	
2922.50.25	Aromatic drugs of amino-compounds with oxygen function, nesoi.	
2922.50.35	Aromatic amino-alcohol-phenols, amino-acid-phenols and other amino-compounds with oxygen function described in additional U.S. note 3 to section VI of the HTSUS.	
2922.50.40	Aromatic amino-alcohol-phenols, amino-acid-phenols and other amino-compounds with oxygen function, nesoi.	
2922.50.50	Nonaromatic amino-alcohol-phenols, amino-acid-phenols and other amino-compounds with oxygen function.	
2923.10.00	Choline and its salts.	
2923.20.20	Lecithins and other phosphoaminolipids, nesoi.	
2923.90.01	Quaternary ammonium salts and hydroxides, whether or not chemically defined, nesoi.	
2924.11.00	Meprobamate (INN).	
2924.19.11	Acyclic amides (including acyclic carbamates).	
2924.19.80	Acyclic amide derivatives and salts thereof; nesoi.	
2924.21.16	Aromatic ureines and their derivatives, nesoi.	
2924.21.50	Nonaromatic ureines and their derivatives; and salts thereof.	
2924.29.01	p-Acetanilide; p-acetoacetatoluidide; 4'-amino-N-methylacetanilide; 2,5-dimethoxyacetanilide; and N-(7-hydroxy-1-naphthyl)acetamide.	
2924.29.03	3,5-Dinitro-o-toluamide.	
2924.29.10	Acetanilide; N-acetylsulfanilyl chloride; aspartame; and 2-methoxy-5-acetamino-N,N-bis(2-acetoxyethyl)aniline.	
2924.29.23	4-Aminoacetanilide; 2-2-oxamidobis[ethyl-3-(3,5-di-tert-butyl-4-hydroxyphenyl)propionate]; and other specified cyclic amide chemicals.	
2924.29.26	3-Aminomethoxybenzanilide.	
2924.29.28	N-[(4-Chlorophenyl)amino]carbonyl]difluorobenzamide; and 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)benzamide (pronamide).	
2924.29.33	3-Hydroxy-2-naphthanilide; 3-hydroxy-2-naphtho-o-toluidide; 3-hydroxy-2-naphtho-o-anisidine; 3-hydroxy-2-naphtho-o-phenetidine; and other.	
2924.29.57	Diethylaminoacetoxylidide (Lidocaine).	
2924.29.62	Other aromatic cyclic amides and derivatives for use as drugs.	
2924.29.71	Aromatic cyclic amides and their derivatives, described in additional U.S. note 3 to section VI of the HTSUS, nesoi.	
2924.29.77	Aromatic cyclic amides (including cyclic carbamates), their derivatives and salts thereof, nesoi.	
2924.29.80	2,2-Dimethylcyclopropylcarboxamide.	
2924.29.95	Other nonaromatic cyclic amides, their derivatives and salts thereof; nesoi.	
2925.12.00	Glutethimide (INN).	
2925.19.42	Other aromatic imides, their derivatives and salts thereof; nesoi.	
2925.19.91	Other non-aromatic imides and their derivatives.	
2925.21.00	Chlordimeform (ISO).	
2925.29.20	Aromatic drugs of imines and their derivatives, nesoi.	
2925.29.60	Aromatic imines, their derivatives and salts thereof (excluding drugs), nesoi.	
2925.29.90	Non-aromatic imines, their derivatives and salts thereof.	
2926.30.10	Fenproporex (INN) and its salts.	
2926.40.00	alpha-Phenylacetoacetonitrile.	
2926.90.14	p-Chlorobenzonitrile and verapamil hydrochloride.	
2926.90.43	Aromatic nitrile-function compounds, nesoi, described in additional U.S. note 3 to section VI of the HTSUS.	
2926.90.48	Aromatic nitrile-function compounds other than those products described in additional U.S. note 3 to section VI of the HTSUS, nesoi.	
2926.90.50	Nonaromatic nitrile-function compounds, nesoi.	
2927.00.40	Diazo-, azo- or azoxy-compounds, nesoi, described in additional U.S. note 3 to section VI of the HTSUS.	
2927.00.50	Other diazo-, azo- or azoxy-compounds, nesoi.	
2928.00.25	Aromatic organic derivatives of hydrazine or of hydroxylamine.	
2928.00.30	Nonaromatic drugs of organic derivatives of hydrazine or of hydroxylamine, other than Methyl ethyl ketoxime.	
2928.00.50	Nonaromatic organic derivatives of hydrazine or of hydroxylamine, nesoi.	

HTSUS	Description	Scope limitations
2929.90.20	Aromatic compounds with other nitrogen function, nesoi.	
2929.90.50	Nonaromatic compounds with other nitrogen functions, except isocyanates.	
2930.20.20	Aromatic compounds of thiocarbamates and dithiocarbamates, excluding pesticides.	
2930.20.90	Other non-aromatic thiocarbamates and dithiocarbamates.	
2930.30.60	Thiuram mono-, di- or tetrasulfides, other than tetramethylthiuram monosulfide.	
2930.90.29	Other aromatic organo-sulfur compounds (excluding pesticides).	
2930.90.49	Nonaromatic organo-sulfur acids, nesoi.	
2930.90.92	Other non-aromatic organo-sulfur compounds.	
2931.49.00	Other non-halogenated organo-phosphorous derivatives.	
2931.53.00	O-(3-chloropropyl) O-[4-nitro-3-(trifluoromethyl)phenyl] methylphosphonothionate.	
2931.90.22	Drugs of aromatic organo-inorganic compounds.	
2931.90.90	Other non-aromatic organo-inorganic compounds.	
2932.14.00	Sucralose.	
2932.19.51	Nonaromatic compounds containing an unfused furan ring (whether or not hydrogenated) in the ring.	
2932.20.20	Aromatic drugs of lactones.	
2932.20.30	Aromatic lactones, nesoi, described in additional U.S. note 3 to section VI of the HTSUS.	
2932.20.50	Nonaromatic lactones.	
2932.99.61	Aromatic heterocyclic compounds with oxygen hetero-atom(s) only, described in additional U.S. note 3 to section VI of the HTSUS, nesoi.	
2932.99.70	Aromatic heterocyclic compounds with oxygen hetero-atom(s) only, nesoi.	
2932.99.90	Nonaromatic heterocyclic compounds with oxygen hetero-atom(s) only, nesoi.	
2933.11.00	Phenazone (Antipyrine) and its derivatives.	
2933.19.35	Aromatic or modified aromatic drugs of heterocyclic compounds with nitrogen hetero-atom(s) only, containing an unfused pyrazole ring.	
2933.19.45	Nonaromatic drugs of heterocyclic compounds with nitrogen hetero-atom(s) only, containing an unfused pyrazole ring.	
2933.19.90	Other compounds (excluding aromatic or modified aromatic compounds and drugs) containing an unfused pyrazole ring (whether or not hydrogenated) in the structure.	
2933.21.00	Hydantoin and its derivatives.	
2933.29.05	1-[1-(4-Chloro-2-(trifluoromethyl)phenyl)imino]-2-propoxyethyl]-1H-imidazole (triflumizole); and Ethylene thiourea.	
2933.29.20	Aromatic or modified aromatic drugs of heterocyclic compounds with nitrogen hetero-atom(s) only, containing an unfused imidazole ring.	
2933.29.35	Aromatic or modified aromatic goods, described in additional U.S. note 3 to section VI of the HTSUS, containing an unfused imidazole ring (whether or not hydrogenated) in structure.	
2933.29.43	Aromatic or modified aromatic goods containing an unfused imidazole ring (whether or not hydrogenated) in the structure (excluding products described in additional U.S. note 3 to section VI of the HTSUS).	
2933.29.45	Nonaromatic drugs of heterocyclic compounds with nitrogen hetero-atom(s) only, containing an unfused imidazole ring, nesoi.	
2933.29.60	Imidazole.	
2933.29.90	Other compounds (excluding drugs, aromatic and modified aromatic compounds) containing an unfused imidazole ring (whether or not hydrogenated).	
2933.33.01	Alfentanil (INN), anileridine (INN), bezitramide (INN), bromazepam (INN), difenoxin (INN), and other specified INNs; salts thereof.	
2933.34.00	Other fentanyl and their derivatives, containing an unfused pyrazole ring.	
2933.35.00	3-Quinuclidinol.	
2933.37.00	N-Phenethyl-4-piperidone (NPP).	
2933.39.08	1-(3-Sulfapropyl)pyridinium hydroxide; N,N-bis(2,2,6,6-tetramethyl-4-piperidiny)-1,6-hexanediamine; and 5 other specified chemicals.	
2933.39.10	Collidines, lutidines and picolines.	
2933.39.20	p-Chloro-2-benzylpyridine and other specified heterocyclic compounds, with nitrogen hetero-atom(s) only, containing an unfused pyridine ring.	
2933.39.21	Fungicides of heterocyclic compounds with nitrogen hetero-atom(s) only, containing an unfused pyridine ring.	
2933.39.23	o-Paraquat dichloride.	
2933.39.25	Herbicides nesoi, of heterocyclic compounds with nitrogen hetero-atom(s) only, containing an unfused pyridine ring.	
2933.39.27	Pesticides nesoi, of heterocyclic compounds with nitrogen hetero-atom(s) only, containing an unfused pyridine ring.	
2933.39.31	Psychotherapeutic agents of heterocyclic compounds with nitrogen hetero-atom(s) only, containing an unfused pyridine ring, nesoi.	
2933.39.41	Drugs containing an unfused pyridine ring (whether or not hydrogenated) in the structure, nesoi.	
2933.39.61	Heterocyclic compounds with nitrogen hetero-atom(s) only, containing an unfused pyridine ring, described in additional U.S. note 3 to section VI of the HTSUS.	
2933.39.92	Heterocyclic compounds with nitrogen hetero-atom(s) only, containing an unfused pyridine ring, nesoi.	
2933.41.00	Levorphenol (INN) and its salts.	
2933.49.08	4,7-Dichloroquinoline.	
2933.49.10	Ethoxyquin (1,2-Dihydro-6-ethoxy-2,4-trimethylquinoline).	
2933.49.15	8-Methylquinoline and Isoquinoline.	
2933.49.17	Ethyl ethyl-6,7,8-trifluoro-1,4-dihydro-4-oxo-3-quinoline carboxylate.	
2933.49.20	5-Chloro-7-iodo-8-quinolinol (Iodochlorhydroxyquin); Decoquinat; Diiodohydroxyquin; and Oxyquinoline sulfate.	
2933.49.26	Drugs containing a quinoline or isoquinoline ring-system (whether or not hydrogenated), not further fused, nesoi.	
2933.49.30	Pesticides of heterocyclic compounds with nitrogen hetero-atom(s) only, containing a quinoline or isoquinoline ring-system, not further fused.	

HTSUS	Description	Scope limitations
2933.49.60	Products described in additional U.S. note 3 to section VI of the HTSUS containing quinoline or isoquinoline ring-system (whether or not hydrogenated), not further fused.	
2933.49.70	Heterocyclic compounds with nitrogen hetero-atom(s) only, containing a quinoline ring-system, not further fused, nesoi.	
2933.52.10	Malonylurea (barbituric acid).	
2933.52.90	Salts of barbituric acid.	
2933.53.00	Allobarbitol (INN), amobarbitol (INN), barbitol (INN), butalbitol (INN), butobarbitol, and other specified INNs; salts thereof.	
2933.54.00	Other derivatives of malonylurea (barbituric acid); salts thereof.	
2933.59.10	Aromatic or modified aromatic herbicides of heterocyclic compounds with nitrogen hetero-atom(s) only, containing a pyrimidine or piperazine ring.	
2933.59.15	Aromatic or modified aromatic pesticides nesoi, of heterocyclic compounds with nitrogen hetero-atom(s) only, containing a pyrimidine or piperazine ring.	
2933.59.18	Nonaromatic pesticides of heterocyclic compounds with nitrogen hetero-atom(s) only, containing a pyrimidine or piperazine ring, nesoi.	
2933.59.21	Antihistamines, including those principally used as antinauseants.	
2933.59.22	Nicarbazin and trimethoprim.	
2933.59.36	Anti-infective agents nesoi, of heterocyclic compounds with nitrogen hetero-atom(s) only, containing a pyrimidine or piperazine ring.	
2933.59.46	Psychotherapeutic agents of heterocyclic compounds with nitrogen hetero-atom(s) only, containing a pyrimidine or piperazine ring, nesoi.	
2933.59.53	Other aromatic or modified aromatic drugs containing a pyrimidine ring (whether or not hydrogenated) or piperazine ring in the structure.	
2933.59.59	Nonaromatic drugs of heterocyclic compounds nesoi, with nitrogen hetero-atom(s) only, containing a pyrimidine or piperazine ring.	
2933.59.70	Aromatic heterocyclic compounds nesoi, with nitrogen hetero-atom(s) only, containing a pyrimidine or piperazine ring, described in additional U.S. note 3 to section VI of the HTSUS.	
2933.59.80	Aromatic or modified aromatic heterocyclic compounds nesoi, with nitrogen hetero-atom(s) only, containing a pyrimidine or piperazine ring.	
2933.59.85	2-Amino-4-chloro-6-methoxypyrimidine; 2-amino-4,6-dimethoxypyrimidine; and 6-methyluracil.	
2933.59.95	Other (excluding aromatic or modified aromatic) compounds containing a pyrimidine ring (whether or not hydrogenated) or piperazine ring in the structure.	
2933.69.60	Other compounds containing an unfused triazine ring (whether or not hydrogenated) in the structure.	
2933.72.00	Clobazam (INN) and methypylon (INN).	
2933.79.08	Aromatic or modified aromatic lactams with nitrogen hetero-atoms only, described in additional U.S. note 3 to section VI of the HTSUS.	
2933.79.15	Aromatic or modified aromatic lactams, nesoi.	
2933.79.85	Aromatic or modified aromatic lactams with nitrogen hetero-atoms only, nesoi.	
2933.91.00	Alprazolam (INN), camazepam (INN), chlordiazepoxide (INN), clonazepam (INN), clorazepate, and other specified INNs; salts thereof.	
2933.99.01	Butyl (R)-2-[4-(5-trifluoromethyl-2-pyridinyloxy)phenoxy]propanoate.	
2933.99.02	2-[4-[(6-Chloro-2-quinoxalinyloxy)phenoxy]propionic acid, ethyl ester; and 1 other specified aromatic chemical.	
2933.99.05	Acridine and indole.	
2933.99.06	α -Butyl- α -(4-chlorophenyl)-1H-1,2,4-triazole-1-propanenitrile (Myclobutanil); and one other specified aromatic chemical.	
2933.99.08	Acetoacetyl-5-aminobenzimidazolone; 1,3,3-Trimethyl-2-methyleneindoline; and two other specified aromatic chemicals.	
2933.99.11	Carbazole.	
2933.99.12	6-Bromo-5-methyl-1H-imidazo-(4,5-b)pyridine; 2-sec-butyl-4-tert-butyl-6-(benzotriazol-2-yl)phenol; 2-methylindoline; and other chemicals specified.	
2933.99.16	o-Diquat dibromide (1,1-Ethylene-2,2'-dipyridylium dibromide).	
2933.99.17	Aromatic or modified aromatic insecticides with nitrogen hetero-atom(s) only, nesoi.	
2933.99.22	Other heterocyclic aromatic or modified aromatic pesticides with nitrogen hetero-atom(s) only, nesoi.	
2933.99.24	Aromatic or modified aromatic photographic chemicals with nitrogen hetero-atom(s) only.	
2933.99.26	Aromatic or modified aromatic antihistamines of heterocyclic compounds with nitrogen hetero-atom(s) only.	
2933.99.42	Acriflavin; Acriflavin hydrochloride; Carbadox; Pyrazinamide.	
2933.99.46	Aromatic or modified aromatic anti-infective agents of heterocyclic compounds with nitrogen hetero-atom(s) only, nesoi.	
2933.99.51	Hydralazine hydrochloride.	
2933.99.53	Aromatic or modified aromatic cardiovascular drugs of heterocyclic compounds with nitrogen hetero-atom(s) only, nesoi.	
2933.99.55	Aromatic or modified aromatic analgesics and certain like affecting chemicals, of heterocyclic compounds with nitrogen hetero-atom(s) only.	
2933.99.58	Droperidol; and Imipramine hydrochloride.	
2933.99.61	Aromatic or modified aromatic psychotherapeutic agents, affecting the central nervous system, of heterocyclic compounds with nitrogen hetero-atom(s) only, nesoi.	
2933.99.65	Aromatic or modified aromatic anticonvulsants, hypnotics and sedatives, of heterocyclic compounds with nitrogen hetero-atom(s) only, nesoi.	
2933.99.70	Aromatic or modified aromatic drugs affecting the central nervous system, of heterocyclic compounds with nitrogen atom(s) only, nesoi.	
2933.99.75	Aromatic or modified aromatic drugs of heterocyclic compounds with nitrogen hetero-atom(s) only, nesoi.	
2933.99.79	Aromatic or modified aromatic compounds with nitrogen hetero-atom(s) only, described in additional U.S. note 3 to section VI of the HTSUS.	

HTSUS	Description	Scope limitations
2933.99.82	Aromatic or modified aromatic compounds with nitrogen hetero-atom(s) only, excluding products described in additional U.S. note 3 to section VI of the HTSUS, nesoi.	
2933.99.85	3-Amino-1,2,4-triazole.	
2933.99.89	Hexamethyleneimine.	
2933.99.90	Nonaromatic drugs of heterocyclic compounds with nitrogen hetero-atom(s) only, nesoi.	
2933.99.97	Nonaromatic heterocyclic compounds with nitrogen hetero-atom(s) only, nesoi.	
2934.10.10	Aromatic or modified aromatic heterocyclic compounds containing an unfused thiazole ring, described in additional U.S. note 3 to section VI of the HTSUS.	
2934.10.20	Aromatic or modified aromatic heterocyclic compounds, nesoi, containing an unfused thiazole ring.	
2934.10.90	Other (excluding aromatic or modified aromatic) compounds containing an unfused thiazole ring (whether or not hydrogenated) in the structure.	
2934.20.40	Heterocyclic compounds containing a benzothiazole ring-system, not further fused, described in additional U.S. note 3 to section VI of the HTSUS.	
2934.20.80	Other compounds containing a benzothiazole ring system (whether or not hydrogenated), not further fused.	
2934.30.23	Antidepressants, tranquilizers and other psychotherapeutic agents containing a phenothiazine ring-system, not further fused.	
2934.30.27	Other drugs containing a phenothiazine ring system (whether or not hydrogenated), not further fused, nesoi.	
2934.30.43	Products described in additional U.S. note 3 to section VI of the HTSUS containing a phenothiazine ring system (whether or not hydrogenated), not further fused.	
2934.30.50	Heterocyclic compounds containing a phenothiazine ring-system (whether or not hydrogenated), not further fused, nesoi.	
2934.91.00	Aminorex (INN), brotizolam (INN), clotiazepam (INN), cloxazolam (INN), dextromoramide (INN), and other specified INNs; salts thereof.	
2934.92.00	Other fentanyl and their derivatives, containing an unfused thiazole ring.	
2934.99.01	Mycophenolate mofetil.	
2934.99.03	2-Acetylbenzo(b)thiophene; and 2 other specified aromatic or modified aromatic compounds.	
2934.99.05	5-Amino-3-phenyl-1,2,4-thiadiazole(3-Phenyl-5-amino-1,2,4-thiadiazole); and 3 other specified aromatic or modified aromatic heterocyclic compounds.	
2934.99.06	7-Nitronaphth[1,2]oxadiazole-5-sulfonic acid and its salts.	
2934.99.07	Ethyl 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoate (Fenoxaprop- ethyl).	
2934.99.08	2,5-Diphenyloxazole.	
2934.99.09	1,2-Benzisothiazolin-3-one.	
2934.99.11	2-tert-Butyl-4-(2,4-dichloro-5-isopropoxyphenyl)- Δ^2 -1,3,4-oxadiazolin-5-one; Bentazon; Phosalone.	
2934.99.12	Aromatic or modified aromatic fungicides of other heterocyclic compounds, nesoi.	
2934.99.15	Aromatic or modified aromatic herbicides of other heterocyclic compounds, nesoi.	
2934.99.16	Aromatic or modified aromatic insecticides of other heterocyclic compounds, nesoi.	
2934.99.18	Aromatic or modified aromatic pesticides nesoi, of other heterocyclic compounds, nesoi.	
2934.99.20	Aromatic or modified aromatic photographic chemicals of other heterocyclic compounds, nesoi.	
2934.99.30	Aromatic or modified aromatic drugs of other heterocyclic compounds, nesoi.	
2934.99.39	Aromatic or modified aromatic, other heterocyclic compounds, described in additional U.S. note 3 to section VI of the HTSUS.	
2934.99.44	Aromatic or modified aromatic, other heterocyclic compounds, nesoi.	
2934.99.47	Nonaromatic drugs of other heterocyclic compounds, nesoi.	
2934.99.70	Morpholinoethyl chloride hydrochloride; 2-Methyl-2,5-dioxo-1-oxa-2-phospholan; and (6R-trans)-7-Amino-3-methyl-8-oxo-5-thia-1-azabicyclo[4.2.0]oct-2-ene-2-carboxylic acid.	
2934.99.90	Nonaromatic other heterocyclic compounds, nesoi.	
2935.50.00	Other perfluorooctane sulfonamides.	
2935.90.06	4-Amino-6-chloro-m-benzenedisulfonamide and Methyl-4-aminobenzenesulfonylcarbamate (Asulam).	
2935.90.10	2-Amino-N-Ethylbenzenesulfonanilide etc.	
2935.90.13	(5-[2-Chloro-4-(Trifluoromethyl)phenoxy]-N-(Methylsulfonyl)-2-Nitrobenzamide)(fomesafen); etc.	
2935.90.15	ortho-Toluenesulfonamide.	
2935.90.20	Sulfonamides used as fast color bases and fast color salts.	
2935.90.30	Sulfamethazine.	
2935.90.32	Acetylsulfisoxazole; Sulfacetamide, sodium; and Sulfamethazine, sodium.	
2935.90.33	Sulfathiazole and Sulfathiazole, sodium.	
2935.90.42	Salicylazosulfapyridine (Sulfasalazine); Sulfadiazine; Sulfaguanidine; Sulfamerizine; and Sulfapyridine.	
2935.90.48	Other sulfonamides used as anti-infective agents.	
2935.90.60	Other sulfonamide drugs (excluding anti-infective agents).	
2935.90.75	Other sulfonamides (excluding fast color bases, fast color salts, and drugs) of products described in additional U.S. note 3 to section VI of the HTSUS.	
2935.90.95	Other sulfonamides, excluding fast color bases, fast color salts, and drugs and products described in additional U.S. note 3 to section VI of the HTSUS.	
2936.21.00	Vitamins A and their derivatives, unmixed, natural or synthesized.	
2936.22.00	Vitamin B1 (Thiamine) and its derivatives, unmixed, natural or synthesized.	
2936.23.00	Vitamin B2 (Riboflavin) and its derivatives, unmixed, natural or synthesized.	
2936.24.01	Vitamin B5 (D- or DL-Pantothenic acid) and its derivatives, unmixed, natural or synthesized.	
2936.25.00	Vitamin B6 (Pyridoxine and related compounds with Vitamin B6 activity) and its derivatives, unmixed, natural or synthesized.	
2936.26.00	Vitamin B12 (Cyanocobalamin and related compounds with Vitamin B12 activity) and its derivatives, unmixed, natural or synthesized.	
2936.27.00	Vitamin C (Ascorbic acid) and its derivatives, unmixed, natural or synthesized.	
2936.28.00	Vitamin E (Tocopherols and related compounds with Vitamin E activity) and its derivatives, unmixed, natural or synthesized.	

HTSUS	Description	Scope limitations
2936.29.10	Folic acid and its derivatives, unmixed.	
2936.29.16	Niacin and niacinamide.	
2936.29.20	Aromatic or modified aromatic vitamins and their derivatives, nesoi.	
2936.29.50	Other vitamins and their derivatives, nesoi.	
2936.90.01	Vitamins or provitamins (including natural concentrates) and intermixtures of the foregoing, whether or not in any solvent.	
2937.11.00	Somatotropin, its derivatives and structural analogues.	
2937.12.00	Insulin and its salts.	
2937.19.00	Polypeptide hormones, protein hormones and glycoprotein hormones, their derivatives and structural analogues, nesoi.	
2937.21.00	Cortisone, hydrocortisone, prednisone (Dehydrocortisone) and prednisolone (Dehydrohydrocortisone).	
2937.22.00	Halogenated derivatives of adrenal cortical hormones.	
2937.23.10	Estrogens and progestins obtained directly or indirectly from animal or vegetable materials.	
2937.23.25	Estradiol benzoate; and Estradiol cyclopentylpropionate (estradiol cypionate).	
2937.23.50	Other estrogens and progestins not derived from animal or vegetable materials, nesoi.	
2937.29.10	Desonide; and Nandrolone phenpropionate.	
2937.29.90	Steroidal hormones, their derivatives and structural analogues, nesoi.	
2937.50.00	Prostaglandins, thromboxanes and leukotrienes, their derivatives and structural analogues.	
2937.90.05	Epinephrine.	
2937.90.10	Epinephrine hydrochloride.	
2937.90.20	Catecholamine hormones, their derivatives and structural analogues, nesoi.	
2937.90.40	L-Thyroxine (Levothyroxine), sodium.	
2937.90.45	Amino-acid derivatives of hormones and their derivatives, nesoi.	
2937.90.90	Other hormones, their derivatives and structural analogues, other steroid derivatives and structural analogue used primarily as hormones, nesoi.	
2938.10.00	Rutoside (Rutin) and its derivatives.	
2938.90.00	Glycosides, natural or synthesized, and their salts, ethers, esters, and other derivatives other than rutoside and its derivatives.	
2939.11.00	Concentrates of poppy straw; buprenorphine (INN), codeine, dihydrocodeine (INN), ethylmorphine, and other specified INNs; salts thereof.	
2939.19.10	Papaverine and its salts.	
2939.19.20	Synthetic alkaloids of opium, their derivatives and salts thereof, nesoi.	
2939.19.50	Nonsynthetic alkaloids of opium, their derivatives and salts thereof, nesoi.	
2939.20.00	Alkaloids of cinchona, their derivatives and salts thereof, other than quinine and its salts.	
2939.30.00	Caffeine and its salts.	
2939.41.00	Ephedrine and its salts.	
2939.42.00	Pseudoephedrine (INN) and its salts.	
2939.44.00	Norephedrine and its salts.	
2939.45.00	Levometamfetamine, metamfetamine (INN), metamfetamine racemate and their salts.	
2939.49.03	Alkaloids of ephedra, their derivatives and salts thereof, other than ephedrine, pseudoephedrine, cathine (INN), norephedrine, levometamfetamine and their salts.	
2939.59.00	Theophylline and aminophylline (theophylline-ethylenediamine), their derivatives and salts thereof, nesoi.	
2939.62.00	Ergotamine and its salts.	
2939.63.00	Lysergic acid and its salts.	
2939.69.00	Alkaloids of rye ergot, their derivatives and salts thereof, nesoi.	
2939.72.00	Cocaine, ecgonine; salts, esters and other derivatives thereof.	
2939.79.00	Vegetal alkaloids, natural or reproduced by synthesis, their salts and other derivatives, nesoi.	
2939.80.00	Other alkaloids, natural or reproduced by synthesis, and their salts, ethers, esters and other derivatives, nesoi.	
2940.00.60	Other sugars, nesoi, excluding d-arabinose.	
2941.10.10	Ampicillin and its salts.	
2941.10.20	Penicillin G salts.	
2941.10.30	Carfecillin, sodium; cloxacillin, sodium; dicloxacillin, sodium; flucloxacillin (Floxacillin); and oxacillin, sodium.	
2941.10.50	Penicillins and their derivatives nesoi, with a penicillanic acid structure; salts thereof.	
2941.20.10	Dihydrostreptomycins and its derivatives; salts thereof.	
2941.20.50	Streptomycins and their derivatives; salts thereof, nesoi.	
2941.30.00	Tetracyclines and their derivatives; salts thereof.	
2941.40.00	Chloramphenicol and its derivatives; salts thereof.	
2941.50.00	Erythromycin and its derivatives; salts thereof.	
2941.90.10	Natural antibiotics, nesoi.	
2941.90.30	Antibiotics nesoi, aromatic or modified aromatic, other than natural.	
2941.90.50	Antibiotics nesoi, other than aromatic or modified aromatic antibiotics.	
2942.00.05	Aromatic or modified aromatic drugs of other organic compounds, nesoi.	
2942.00.35	Other aromatic or modified aromatic organic compounds (excluding products described in additional U.S. note 3 to section VI of the HTSUS).	
2942.00.50	Nonaromatic organic compounds, nesoi.	
3001.20.00	Extracts of glands or other organs or of their secretions for organotherapeutic uses.	
3001.90.01	Glands and other organs for organotherapeutic uses, dried, whether or not powdered.	
3002.12.00	Antisera and other blood fractions including human blood plasma and fetal bovine serum (FBS).	
3002.13.00	Immunological products, unmixed, not put up in measured doses or in forms or packings for retail sale.	
3002.14.00	Immunological products, mixed, not put up in measured doses or in forms or packings for retail sale.	
3002.15.00	Immunological products, put up in measured doses or in forms or packings for retail sale.	
3002.41.00	Vaccines for human medicine.	
3002.42.00	Vaccines for veterinary medicine.	

HTSUS	Description	Scope limitations
3002.49.00	Toxins or cultures of micro-organisms (excluding yeasts).	
3002.51.00	Cell therapy products.	
3002.59.00	Other cell cultures, other than cell therapy products.	
3002.90.10	Ferments, excluding yeasts.	
3002.90.52	Human blood; animal blood prepared for therapeutic, prophylactic, or diagnostic uses; antisera; antiallergenic preparations, nesoi and like products.	
3003.10.00	Medicaments, containing penicillins or streptomycins, not in dosage form and not packed for retail.	
3003.20.00	Medicaments containing antibiotics, nesoi, not in dosage form and not packed for retail.	
3003.39.10	Medicaments containing artificial mixtures of natural hormones, but not antibiotics, not in dosage form and not packed for retail.	
3003.39.50	Medicaments containing products of heading 2937, nesoi, but not antibiotics, not in dosage form and not packed for retail.	
3003.41.00	Medicaments containing ephedrine or its salts, not in dosage form and not packed for retail.	
3003.42.00	Medicaments containing pseudoephedrine (INN) or its salts, not in dosage form and not packed for retail.	
3003.49.00	Other medicaments containing alkaloids or derivatives thereof, nesoi, not in dosage form and not packed for retail.	
3003.90.01	Other medicaments (excluding goods of headings 3002, 3005 and 3006) consisting of two or more constituents mixed together for therapeutic or prophylactic uses, not in dosage form and not packed for retail.	
3004.10.10	Medicaments (excluding goods of headings 3002, 3005 and 3006) containing penicillin G salts, in dosage form or packed for retail.	
3004.10.50	Medicaments containing penicillins or streptomycins, nesoi, in dosage form or packed for retail.	
3004.20.00	Medicaments containing antibiotics, nesoi, in dosage form or packed for retail.	
3004.31.00	Medicaments containing insulin, in dosage form or packed for retail.	
3004.32.00	Medicaments containing corticosteroid hormones, in dosage form or packed for retail.	
3004.39.00	Medicaments containing products of heading 2937 nesoi, in dosage form or packed for retail.	
3004.41.00	Medicaments containing ephedrine or its salts, in dosage form or packed for retail.	
3004.42.00	Medicaments containing pseudoephedrine (INN) or its salts, in dosage form or packed for retail.	
3004.49.00	Other medicaments containing alkaloids or derivatives thereof, nesoi, in dosage form or packed for retail.	
3004.50.10	Medicaments containing vitamin B2 synthesized from aromatic or modified aromatic industrial organic compounds, in dosage form or packed for retail.	
3004.50.20	Medicaments containing vitamin B12 synthesized from aromatic or modified aromatic industrial organic compounds, in dosage form or packed for retail.	
3004.50.30	Medicaments containing vitamin E synthesized from aromatic or modified aromatic industrial organic compounds, in dosage form or packed for retail.	
3004.50.40	Medicaments containing vitamins nesoi, synthesized from aromatic or modified aromatic industrial organic compounds, in dosage form or packed for retail.	
3004.50.50	Medicaments containing vitamins or other products of heading 2936, nesoi, in dosage form or packed for retail.	
3004.60.00	Other medicaments containing antimalarial active principles described in subheading note 2 to chapter 30 of the HTSUS, in dosage form or packed for retail.	
3004.90.10	Medicaments containing antigens or hyaluronic acid or its sodium salt, nesoi, in dosage form or packed for retail.	
3004.90.92	Medicaments nesoi, in dosage form or packed for retail.	
3006.30.10	Opacifying preparation for X-ray examination; diagnostic reagents designed to be administered to the patient; containing antigens or antisera.	
3006.30.50	Opacifying preparations for X-ray examinations; diagnostic reagents designed to be administered to the patient, nesoi.	
3006.60.00	Chemical contraceptive preparations based on hormones or spermicides.	
3006.70.00	Gel preparations designed to be used in human or veterinary medicine as a lubricant in surgical operation, physical examinations or as a coupling agent between body and medical instrument.	
3006.93.10	Placebos and blinded clinical trial kits, put up in measured doses, packaged with medicinal preparations.	
3006.93.20	Placebos and blinded clinical trial kits, put up in measured doses, containing over 10 percent by dry weight of sugar.	
3006.93.50	Placebos and blinded clinical trial kits, put up in measured doses, containing ingredients having nutritional value.	
3006.93.60	Placebos and blinded clinical trial kits, put up in measured doses, in liquid form for oral intake.	
3006.93.80	Placebos and blinded clinical trial kits, put up in measured doses, containing other chemicals other than medicaments.	
3101.00.00	Animal or vegetable fertilizers; fertilizers produced by the mixing or chemical treatment of animal or vegetable products.	
3102.10.00	Urea, whether or not in aqueous solution.	
3102.21.00	Ammonium sulfate.	
3102.29.00	Double salts and mixtures of ammonium sulfate and ammonium nitrate.	
3102.30.00	Ammonium nitrate, whether or not in aqueous solution.	
3102.40.00	Mixtures of ammonium nitrate with calcium carbonate or other inorganic nonfertilizing substances.	
3102.50.00	Sodium nitrate.	
3102.60.00	Double salts and mixtures of calcium nitrate and ammonium nitrate.	
3102.80.00	Mixtures of urea and ammonium nitrate in aqueous or ammoniacal solution.	
3102.90.01	Mineral or chemical fertilizers, nitrogenous, nesoi, including mixtures not specified elsewhere in heading 3102.	
3103.11.00	Superphosphates containing by weight 35 percent or more of diphosphorous pentoxide (P ₂ O ₅).	
3103.19.00	Superphosphates nesoi.	
3103.90.01	Mineral or chemical fertilizers, phosphatic.	
3104.20.00	Potassium chloride.	
3104.30.00	Potassium sulfate.	

HTSUS	Description	Scope limitations
3104.90.01	Mineral or chemical fertilizers, potassic, nesoi.	
3105.10.00	Fertilizers of chapter 31 of the HTSUS in tablets or similar forms.	
3105.20.00	Mineral or chemical fertilizers nesoi, containing three fertilizing elements.	
3105.30.00	Diammonium hydrogenorthophosphate (Diammonium phosphate).	
3105.40.00	Ammonium dihydrogenorthophosphate (Monoammonium phosphate), mixtures thereof with diammonium hydrogenorthophosphate (Diammonium phosphate).	
3105.51.00	Mineral or chemical fertilizers nesoi, containing nitrates and phosphates.	
3105.59.00	Mineral or chemical fertilizers nesoi, containing the two fertilizing elements nitrogen and phosphorus.	
3105.60.00	Mineral or chemical fertilizers nesoi, containing 2 fertilizing elements.	
3105.90.00	Mineral or chemical fertilizers containing two or three of the fertilizing elements nitrogen, phosphorus and potassium fertilizers, nesoi.	
3203.00.80	Coloring matter of vegetable or animal origin, nesoi.	
3204.13.80	Basic dyes and preparations based thereon, nesoi.	
3204.17.20	Copper phthalocyanine ([Phthalocyanato(2-)]copper) not ready for use as a pigment.	
3204.18.00	Carotenoid coloring matters and preparations based thereon.	
3206.11.00	Pigments and preparations based on titanium dioxide, containing 80 percent or more by weight of titanium dioxide calculated on the dry matter.	
3206.19.00	Pigments and preparations based on titanium dioxide, nesoi.	
3301.12.00	Essential oils of orange.	
3301.29.51	Essential oils other than those of citrus fruit, nesoi, for religious purposes only	Ex.
3301.90.50	Concentrates of essential oils in fats, in fixed oils, in waxes or the like, obtained by enfleurage or maceration; terpenic by products of the deterpenation of essential oils; aqueous distillates and aqueous solutions of essential oils.	
3402.42.10	Non-ionic organic surface-active agents, aromatic or modified aromatic.	
3402.42.20	Fatty substances of animal, vegetable or microbial origin; non-ionic organic surface-active agents, other than aromatic or modified aromatic.	
3402.42.90	Non-ionic organic surface-active agents, other than fatty substances of animal, vegetable or microbial origin, other than aromatic or modified aromatic.	
3606.90.30	Ferrocenium and other pyrophoric alloys in all forms.	
3808.94.10	Disinfectants, containing any aromatic or modified aromatic disinfectant.	
3808.94.50	Disinfectants not included in subheading note 1 of chapter 38 of the HTSUS, nesoi.	
3818.00.00	Chemical elements doped for use in electronics, in the form of discs, wafers etc., chemical compounds doped for electronic use.	
3824.91.00	Mixtures consisting mainly of methylphosphonate etc..	
3824.99.29	Mixtures containing 5 percent or more by weight of one or more aromatic or modified aromatic substance, nesoi.	
3824.99.49	Mixtures that are in whole or in part of hydrocarbons derived in whole or in part from petroleum, shale oil or natural gas.	
3824.99.55	Mixtures of halogenated hydrocarbons, nesoi.	
3901.90.90	Polymers of ethylene, nesoi, in primary forms, other than elastomeric.	
3902.90.00	Polymers of propylene or of other olefins, nesoi, in primary forms.	
3904.61.00	Polytetrafluoroethylene (PTFE), in primary forms.	
3905.91.10	Copolymers of vinyl esters or other vinyls, in primary forms, containing by weight 50 percent or more of derivatives of vinyl acetate.	
3905.99.80	Polymers of vinyl esters or other vinyl polymers, in primary forms, nesoi.	
3906.90.50	Acrylic polymers (except plastics or elastomers), in primary forms, nesoi.	
3907.10.00	Polyacetals in primary forms.	
3907.21.00	Bis(polyoxyethylene) methylphosphonate.	
3907.70.00	Poly(lactic acid).	
3908.10.00	Polyamide-6, -11, -12, -6,6, -6,9, -6,10 or -6,12 in primary form.	
3911.90.25	Thermoplastic polysulfides, polysulfones and other products specified in note 3 to chapter 39 of the HTSUS, containing aromatic monomer units or derived therefrom.	
3911.90.91	Polysulfides, polysulfones and other products specified in note 3 to chapter 39 of the HTSUS, nesoi.	
3912.31.00	Carboxymethylcellulose and its salts.	
3912.39.00	Cellulose ethers, other than carboxymethylcellulose and its salts, in primary forms.	
3912.90.00	Cellulose and its chemical derivatives, nesoi, in primary forms.	
3913.90.20	Polysaccharides and their derivatives, nesoi, in primary forms.	
3913.90.50	Natural polymers and modified natural polymers, nesoi, in primary forms.	
3914.00.60	Ion-exchangers based on polymers of headings 3901 to 3913, in primary forms, nesoi.	
3917.21.00	Tubes, pipes and hoses, rigid, of polymers of ethylene	Aircraft.
3917.22.00	Tubes, pipes and hoses, rigid, of polymers of propylene	Aircraft.
3917.23.00	Tubes, pipes and hoses, rigid, of polymers of vinyl chloride	Aircraft.
3917.29.00	Tubes, pipes and hoses, rigid, of other plastics nesoi	Aircraft.
3917.31.00	Flexible plastic tubes, pipes and hoses, having a minimum burst pressure of 27.6 MPa	Aircraft.
3917.33.00	Flexible plastic tubes, pipes and hoses, nesoi, with fittings, not reinforced or otherwise combined with other materials.	Aircraft.
3917.39.00	Flexible plastic tubes, pipes and hoses, nesoi	Aircraft.
3917.40.00	Fittings of plastics, for plastic tubes, pipes and hoses, nesoi	Aircraft.
3926.90.45	Gaskets, washers and other seals, of plastics	Aircraft.
3926.90.94	Cards, not punched, suitable for use as, or in making, jacquard cards; Jacquard cards and jacquard heads for power-driven weaving machines, and parts thereof; and transparent sheeting of plastics containing 30 percent or more by weight of lead.	Aircraft.

HTSUS	Description	Scope limitations
3926.90.96	Casing for bicycle derailleur cables; and casing for cable or inner wire for caliper and cantilever brakes, whether or not cut to length; of plastic.	Aircraft.
3926.90.99	Other articles of plastic, nesoi	Aircraft.
4001.10.00	Natural rubber latex, whether or not prevulcanized.	
4001.21.00	Natural rubber smoked sheets.	
4001.22.00	Technically specified natural rubber (TSNR), in primary forms.	
4001.29.00	Natural rubber in primary forms other than latex, smoked sheets or technically specified natural rubber (TSNR).	
4001.30.00	Balata, gutta-percha, guayule, chicle and similar natural rubber gums, in primary forms.	
4008.29.20	Rods and profile shapes of vulcanized, noncellular rubber, other than hard rubber	Aircraft.
4009.12.00	Tubes, pipes and hoses of vulcanized rubber other than hard rubber, not reinforced or combined with other materials, with fittings.	Aircraft.
4009.22.00	Tubes, pipes and hoses of vulcanized rubber other than hard rubber, reinforced or combined only with metal, with fittings.	Aircraft.
4009.32.00	Tubes, pipes and hoses of vulcanized rubber other than hard rubber, reinforced or combined only with textile materials, with fittings.	Aircraft.
4009.42.00	Tubes, pipes and hoses of vulcanized rubber other than hard rubber, reinforced or combined with other materials nesoi, with fittings.	Aircraft.
4011.30.00	New pneumatic tires, of rubber, of a kind used on aircraft	Aircraft.
4012.13.00	Retreaded pneumatic tires, of rubber, of a kind used on aircraft	Aircraft.
4012.20.10	Used pneumatic tires of rubber, for aircraft	Aircraft.
4016.10.00	Articles of vulcanized cellular rubber other than hard rubber	Aircraft.
4016.93.50	Gaskets, washers and other seals, of noncellular vulcanized rubber other than hard rubber, not for use in automotive goods of chapter 87 of the HTSUS.	Aircraft.
4016.99.35	Articles made of noncellular vulcanized natural rubber, not used as vibration control goods in vehicles of headings 8701 through 8705, nesoi.	Aircraft.
4016.99.60	Articles of noncellular vulcanized synthetic rubber other than hard rubber	Aircraft.
4017.00.00	Hard rubber (for example, ebonite) in all forms, including waste and scrap; articles of hard rubber	Aircraft.
4403.42.00	Wood in the rough or roughly squared, of teak, not treated with paint, stain, creosote, or other preservatives.	
4403.49.02	Wood in the rough or roughly squared, of tropical wood other than Teak or Meranti, not treated with paint, stain, creosote, or other preservatives.	
4407.21.00	Mahogany (Swietenia spp.), sawn or chipped lengthwise, sliced or peeled, over 6 mm thick.	
4407.22.00	Virola, Imbuia and Balsa, sawn or chipped lengthwise, sliced or peeled, over 6 mm thick.	
4407.23.01	Teak, sawn or chipped lengthwise, sliced or peeled, over 6 mm thick.	
4407.25.00	Dark Red Meranti, Light Red Meranti and Meranti Bakau wood, sawn or chipped lengthwise, sliced or peeled, over 6 mm thick.	
4407.26.00	White Lauan, White Meranti, White Seraya, Yellow Meranti and Alan wood, sawn or chipped lengthwise, sliced or peeled, over 6 mm thick.	
4407.27.00	Sapelli wood, sawn or chipped lengthwise, sliced or peeled, over 6 mm thick.	
4407.28.00	Iroko wood, sawn or chipped lengthwise, sliced or peeled, over 6 mm thick.	
4407.29.02	Tropical wood, nesoi, sawn or chipped lengthwise, sliced or peeled, over 6 mm thick.	
4407.99.0295	Nonconiferous wood, nesoi, sawn or chipped lengthwise, sliced or peeled, over 6 mm thick; other.	
4408.31.01	Dark Red Meranti, Light Red Meranti and Meranti Bakau veneer sheets, for plywood and other wood, sawn lengthwise, sliced or peeled, not over 6 mm thick.	
4408.39.02	Other tropical wood veneer sheets, for plywood and other wood, sawn lengthwise, sliced or peeled, not over 6 mm thick.	
4504.90.00	Agglomerated cork and articles of cork, nesoi	Aircraft.
4702.00.00	Chemical woodpulp, dissolving grades.	
4703.11.00	Unbleached coniferous chemical woodpulp.	
4703.19.00	Chemical woodpulp, soda or sulfate, other than dissolving grades, of unbleached nonconiferous wood.	
4703.21.00	Semibleached or bleached coniferous chemical woodpulp.	
4703.29.00	Semibleached or bleached nonconiferous chemical woodpulp.	
4704.11.00	Chemical woodpulp, sulfite, other than dissolving grades, of unbleached coniferous wood.	
4704.19.00	Chemical woodpulp, sulfite, other than dissolving grades, of unbleached nonconiferous wood.	
4704.21.00	Chemical woodpulp, sulfite, other than dissolving grades, of semibleached or bleached coniferous wood.	
4704.29.00	Chemical woodpulp, sulfite, other than dissolving grades, of semibleached or bleached nonconiferous wood.	
4705.00.00	Semichemical woodpulp.	
4706.10.00	Cotton linters pulp.	
4706.20.00	Pulps of fibers derived from recovered (waste and scrap) paper or paperboard.	
4706.30.00	Pulps of fibrous cellulosic material, of bamboo.	
4706.91.00	Pulps of fibrous cellulosic material, mechanical.	
4706.92.01	Pulps of fibrous cellulosic material, chemical.	
4706.93.01	Pulps of fibrous cellulosic material, semichemical.	
4823.90.10	Articles of paper pulp, nesoi	Aircraft.
4823.90.20	Articles of papier-mâché, nesoi	Aircraft.
4823.90.31	Cards of paper or paperboard, nesoi, not punched, for punchcard machines, whether or not in strips	Aircraft.
4823.90.40	Frames or mounts for photographic slides of paper or paperboard	Aircraft.
4823.90.50	Hand fans of paper or paperboard	Aircraft.
4823.90.60	Gaskets, washers and other seals of coated paper or paperboard	Aircraft.
4823.90.67	Coated paper or paperboard, nesoi	Aircraft.
4823.90.70	Articles of cellulose wadding, nesoi	Aircraft.
4823.90.80	Gaskets, washers and other seals of paper, paperboard and webs of cellulose fibers, nesoi	Aircraft.
4823.90.86	Articles of paper pulp, paper, paperboard, cellulose wadding or webs of cellulose fibers, nesoi	Aircraft.
5607.21.00	Binder or baler twine of sisal or other textile fibers of the genus Agave.	

HTSUS	Description	Scope limitations
6802.99.00	Worked monumental or building stone, nesoi.	
6812.80.90	Articles or mixtures of crocidolite, nesoi	Aircraft.
6812.99.10	Paper, millboard and felt of asbestos, other than crocidolite	Aircraft.
6812.99.20	Compressed asbestos (other than crocidolite) fiber jointing, in sheets or rolls	Aircraft.
6812.99.90	Articles of mixtures of or with a basis of asbestos, nesoi, other than crocidolite	Aircraft.
6813.20.00	Friction material and articles thereof, containing asbestos	Aircraft.
6813.81.00	Brake linings and pads not containing asbestos	Aircraft.
6813.89.00	Friction material and articles thereof with a basis of mineral substances (other than asbestos) or of cellulose, nesoi.	Aircraft.
7007.21.11	Laminated safety glass windshields, of size and shape suitable for incorporation in vehicles (other than for goods of headings 8701 through 8705), aircraft, spacecraft or vessels.	Aircraft.
7103.10.20	Precious stones (o/than diamonds) & semiprecious stones, unworked.	
7103.10.40	Precious stones (o/than diamonds) & semiprecious stones, simply sawn or roughly shaped.	
7106.91.10	Silver bullion and dore.	
7108.11.00	Gold, nonmonetary, powder.	
7108.12.10	Gold, nonmonetary, bullion and dore.	
7108.12.50	Gold, nonmonetary, other unwrought forms, other.	
7108.13.10	Gold, nonmonetary, other semimanufactured forms, gold leaf.	
7108.13.55	Gold, nonmonetary, other semimanufactured forms, rectangular or near rectangular shapes, containing 99.5 percent or more by weight of gold and not otherwise marked or decorated than with weight, purity, or other identifying information.	
7108.13.70	Gold, nonmonetary, other semimanufactured forms, other.	
7108.20.00	Gold, monetary.	
7110.11.00	Platinum, unwrought or in powder form.	
7110.19.00	Platinum, in semimanufactured forms.	
7110.21.00	Palladium, unwrought or in powder form.	
7110.29.00	Palladium, in semimanufactured forms.	
7110.31.00	Rhodium, unwrought or in powder form.	
7110.39.00	Rhodium, in semimanufactured forms.	
7110.41.00	Iridium, osmium and ruthenium, unwrought or in powder form.	
7110.49.00	Iridium, osmium and ruthenium, in semimanufactured forms.	
7112.92.01	Platinum waste and scrap, including metal clad with platinum, excluding sweepings containing other precious metals, other than goods of heading 8549.	
7115.90.05	Articles of precious metal, in rectangular or near rectangular shapes, containing 99.5 percent or more by weight of a precious metal and not otherwise marked or decorated than with weight, purity, or other identifying information.	
7115.90.30	Articles of precious metal or of metal clad with precious metal, other articles of gold, including metal clad with gold.	
7118.90.00	Coins, nesoi.	
7201.50.60	Spiegeleisen in pigs, blocks or other primary forms.	
7202.11.10	Ferromanganese containing by weight more than 2 percent but not more than 4 percent of carbon.	
7202.11.50	Ferromanganese containing by weight more than 4 percent of carbon.	
7202.19.10	Ferromanganese containing by weight not more than 1 percent of carbon.	
7202.19.50	Ferromanganese containing by weight more than 1 percent but not more than 2 percent of carbon.	
7202.30.00	Ferrosilicon manganese.	
7202.41.00	Ferrochromium containing by weight more than 4 percent of carbon.	
7202.49.10	Ferrochromium containing by weight more than 3 percent but not more than 4 percent of carbon.	
7202.49.50	Ferrochromium containing by weight 3 percent or less of carbon.	
7202.50.00	Ferrosilicon chromium.	
7202.60.00	Ferronickel.	
7202.80.00	Ferrotungsten and ferrosilicon tungsten.	
7202.91.00	Ferrotitanium and ferrosilicon titanium.	
7202.93.40	Ferroniobium containing by weight less than 0.02 percent of phosphorus or sulfur or less than 0.4 percent of silicon.	
7202.93.80	Ferroniobium, nesoi.	
7202.99.20	Calcium Silicon (CaSi).	
7203.10.00	Ferrous products obtained by direct reduction of iron ore.	
7203.90.00	Spongy ferrous products, in lumps, pellets or like forms; iron of a minimum purity by weight of 99.94 percent in lumps, pellets or like forms.	
7204.21.00	Stainless steel waste and scrap.	
7304.31.30	Iron (other than cast) or nonalloy steel, seamless, cold-drawn or cold-rolled, hollow bars with circular cross section.	Aircraft.
7304.31.60	Iron (other than cast) or nonalloy steel, seamless, cold-drawn or cold-rolled, tubes, pipes and hollow profiles, with circular cross section, nesoi.	Aircraft.
7304.39.00	Iron (other than cast) or nonalloy steel, seamless, not cold-drawn or cold-rolled, tubes, pipes and hollow profiles, with circular cross section, nesoi.	Aircraft.
7304.41.30	Stainless steel, seamless, cold-drawn or cold-rolled, tubes, pipes and hollow profiles, with circular cross section and external diameter of less than 19mm.	Aircraft.
7304.41.60	Stainless steel, seamless, cold-drawn or cold-rolled, tubes, pipes and hollow profiles, with circular cross section and external diameter of 19mm or more.	Aircraft.
7304.49.00	Stainless steel, seamless, not cold-drawn or cold-rolled, tubes, pipes and hollow profiles, with circular cross section.	Aircraft.

HTSUS	Description	Scope limitations
7304.51.10	Alloy steel (other than stainless), seamless, cold-drawn or cold-rolled, tubes, pipes and hollow profiles, with circular cross section, for manufacture of ball or roller bearings.	Aircraft.
7304.51.50	Alloy steel (other than stainless), seamless, cold-drawn or cold-rolled, tubes, pipes and hollow profiles, with circular cross section, nesoi.	Aircraft.
7304.59.10	Alloy steel (other than stainless), seamless, not old-drawn or cold-rolled, tubes, pipes and hollow profiles, with circular cross section, for manufacture of ball or roller bearings.	Aircraft.
7304.59.20	Alloy steel (other than stainless), seamless, not cold-drawn or cold-rolled, tubes, pipes and hollow profiles, with circular cross section, for boilers, heaters, etc..	Aircraft.
7304.59.60	Heat-resisting alloy steel (other than stainless), seamless, not cold-drawn or cold-rolled, tubes, pipes and hollow profiles, with circular cross section, nesoi.	Aircraft.
7304.59.80	Alloy steel (other than heat-resist or stainless), seamless, not cold-drawn or cold-rolled, tubes, pipes and hollow profiles, with circular cross section, nesoi.	Aircraft.
7304.90.10	Iron (other than cast) or nonalloy steel, seamless, tubes, pipes and hollow profiles, other than circular cross section, with wall thickness of 4 mm or more.	Aircraft.
7304.90.30	Alloy steel (other than stainless), seamless, tubes, pipes and hollow profiles, other than circular cross section, with wall thickness of 4 mm or more.	Aircraft.
7304.90.50	Iron (other than cast) or nonalloy steel, seamless, tubes, pipes and hollow profiles, other than circular cross section, with wall thickness of less than 4 mm.	Aircraft.
7304.90.70	Alloy steel (other than stainless), seamless, tubes, pipes and hollow profiles, other than circular cross section, with wall thickness of less than 4 mm.	Aircraft.
7306.30.10	Iron or nonalloy steel, welded, with circular cross section and external diameter of 406.4mm or less, tubes, pipes and hollow profiles, with wall thickness of less than 1.65 mm.	Aircraft.
7306.30.30	Nonalloy steel, welded, with circular cross-section and external diameter 406.4mm or less, tapered pipes and tubes, with wall thickness of 1.65 mm or more, principally used as parts of illuminating articles.	Aircraft.
7306.30.50	Iron or nonalloy steel, welded, with circular cross section and external diameter of 406.4mm or less, pipes, tubes and hollow profiles, with wall thickness of 1.65 mm or more.	Aircraft.
7306.40.10	Stainless steel, welded, with circular cross section and external diameter of 406.4mm or less, tubes, pipes and hollow profiles, with wall thickness of less than 1.65 mm.	Aircraft.
7306.40.50	Stainless steel, welded, with circular cross section and external diameter of 406.4mm or less, tubes, pipes and hollow profiles, with wall thickness of 1.65 mm or more.	Aircraft.
7306.50.10	Alloy steel (other than stainless), welded, with circular cross section and external diameter of 406.4mm or less, tubes, pipes and hollow profiles, with wall thickness of less than 1.65 mm.	Aircraft.
7306.50.30	Alloy steel (other than stainless), welded, with circular cross section and external diameter 406.4mm or less, tapered pipes and tubes, with wall thickness of 1.65 mm or more, principally used as parts of illuminating articles.	Aircraft.
7306.50.50	Alloy steel (other than stainless), welded, with circular cross section and external diameter of 406.4mm or less, tubes, pipes and hollow profiles, with wall thickness of 1.65 mm or more.	Aircraft.
7306.61.10	Iron or nonalloy steel, welded, with square or rectangular cross section, tubes, pipes and hollow profiles, with wall thickness of 4 mm or more.	Aircraft.
7306.61.30	Alloy steel, welded, with square or rectangular cross section, tubes, pipes and hollow profiles, with wall thickness of 4 mm or more.	Aircraft.
7306.61.50	Iron or nonalloy steel, welded, with square or rectangular cross section, tubes, pipes and hollow profiles, with wall thickness of less than 4 mm.	Aircraft.
7306.61.70	Alloy steel, welded, with square or rectangular cross section, tubes, pipes and hollow profiles, with wall thickness of less than 4 mm.	Aircraft.
7306.69.10	Iron or nonalloy steel, welded, with other non-circular cross section, tubes, pipes and hollow profiles, with wall thickness of 4 mm or more.	Aircraft.
7306.69.30	Alloy steel, welded, with other non-circular cross-section, tubes, pipes and hollow profiles, with wall thickness of 4 mm or more.	Aircraft.
7306.69.50	Iron or nonalloy steel, welded, with other non-circular cross section, tubes, pipes and hollow profiles, with wall thickness of less than 4 mm.	Aircraft.
7306.69.70	Alloy steel, welded, with other non-circular cross section, tubes, pipes and hollow profiles, with wall thickness of less than 4 mm.	Aircraft.
7312.10.05	Stainless steel, stranded wire, not electrically insulated, fitted with fittings or made up into articles	Aircraft.
7312.10.10	Stainless steel, stranded wire, not electrically insulated, not fitted with fittings or made up into articles	Aircraft.
7312.10.20	Iron or steel (other than stainless), stranded wire, not electrically insulated, fitted with fittings or made up into articles.	Aircraft.
7312.10.30	Iron or steel (other than stainless), stranded wire, not electrically insulated, not fitted with fittings or made up into articles.	Aircraft.
7312.10.50	Stainless steel, ropes, cables and cordage (other than stranded wire), not electrically insulated, fitted with fittings or made up into articles.	Aircraft.
7312.10.60	Stainless steel, ropes, cables and cordage (other than stranded wire), not electrically insulated, not fitted with fittings or made up into articles.	Aircraft.
7312.10.70	Iron or steel (other than stainless), ropes, cables and cordage (other than stranded wire), not electrically insulated, fitted with fittings or made up into articles.	Aircraft.
7312.10.80	Iron or steel (other than stainless), ropes, cables and cordage, of brass plated wire (other than stranded wire), not electrically insulated, without fittings or articles.	Aircraft.
7312.10.90	Iron or steel (other than stainless), ropes, cables and cordage, other than of brass plate wire (other than stranded wire), not electrically insulated, without fittings or articles.	Aircraft.
7312.90.00	Iron or steel (other than stainless), plaited bands, slings and the like, not electrically insulated	Aircraft.
7314.19.01	Iron or steel (o/than stainless), woven cloth.	Aircraft.
7322.90.00	Iron or steel, non-electrically heated air heaters and hot air distributors with motor driven fan or blower and parts thereof.	Aircraft.

HTSUS	Description	Scope limitations
7324.10.00	Stainless steel, sinks and wash basins	Aircraft.
7324.90.00	Iron or steel, sanitary ware (other than baths or stainless steel sinks and wash basins) and parts thereof	Aircraft.
7326.20.00	Iron or steel, articles of wire, nesoi	Aircraft.
7401.00.00	Copper mattes; cement copper (precipitated copper).	
7402.00.00	Unrefined copper; copper anodes for electrolytic refining.	
7403.11.00	Refined copper cathodes and sections of cathodes.	
7403.12.00	Refined copper, wire bars.	
7403.13.00	Refined copper, billets.	
7403.19.00	Refined copper, unwrought articles nesoi.	
7403.21.00	Copper-zinc base alloys (brass), unwrought nesoi.	
7403.22.00	Copper-tin base alloys (bronze), unwrought nesoi.	
7403.29.01	Copper alloys (other than copper-zinc, copper-tin alloys), unwrought nesoi.	
7404.00.30	Copper spent anodes; copper waste and scrap containing less than 94 percent by weight of copper.	
7404.00.60	Copper, waste and scrap containing 94 percent or more by weight of copper.	
7405.00.10	Copper master alloys, containing 5 percent or more but not more than 15 percent by weight of phosphorus.	
7405.00.60	Copper master alloys, not containing 5 percent or more but not more than 15 percent by weight of phosphorus.	
7413.00.90	Copper, stranded wire, cables, plaited bands and the like, not electrically insulated, fitted with fittings or made up into articles.	Aircraft.
7501.10.00	Nickel mattes.	
7502.10.00	Nickel (other than alloy), unwrought.	
7502.20.00	Nickel alloys, unwrought.	
7503.00.00	Nickel, waste and scrap.	
7504.00.00	Nickel, powders and flakes.	
7508.90.50	Nickel, articles of nesoi.	
7608.10.00	Aluminum (other than alloy), tubes and pipes	Aircraft.
7608.20.00	Aluminum alloy, tubes and pipes	Aircraft.
7901.11.00	Zinc (other than alloy), unwrought, containing 99.99 percent or more by weight of zinc.	
7901.12.10	Zinc (other than alloy), unwrought, casting-grade zinc, containing at least 97.5 percent but less than 99.99 percent by weight of zinc.	
7901.12.50	Zinc (other than alloy), unwrought, other than casting-grade zinc, containing at least 97.5 percent but less than 99.99 percent by weight of zinc.	
7901.20.00	Zinc alloy, unwrought.	
7902.00.00	Zinc, waste and scrap.	
7903.90.30	Zinc, powders.	
7907.00.60	Zinc, articles (other than for household, table or kitchen use), nesoi.	
8001.10.00	Tin (other than alloy), unwrought.	
8001.20.00	Tin alloy, unwrought.	
8002.00.00	Tin, waste and scrap.	
8007.00.50	Tin, articles nesoi.	
8101.10.00	Tungsten, powders.	
8101.97.00	Tungsten waste and scrap.	
8103.20.00	Tantalum, unwrought (including bars and rods obtained simply by sintering); tantalum powders.	
8103.30.00	Tantalum waste and scrap.	
8103.91.00	Tantalum, crucibles.	
8103.99.00	Tantalum, articles other than crucibles, nesoi.	
8104.11.00	Magnesium, unwrought, containing at least 99.8 percent by weight of magnesium.	
8104.19.00	Magnesium, unwrought, nesoi.	
8104.20.00	Magnesium, waste and scrap.	
8104.30.00	Magnesium, raspings, turnings and granules graded according to size; magnesium powders.	
8104.90.00	Magnesium, articles nesoi.	
8105.20.30	Cobalt alloys, unwrought.	
8105.20.60	Cobalt (other than alloys), unwrought.	
8105.20.90	Cobalt, mattes and other intermediate products of cobalt metallurgy; cobalt powders.	
8105.30.00	Cobalt waste and scrap.	
8105.90.00	Cobalt, articles thereof nesoi.	
8106.10.00	Bismuth (including waste and scrap) and articles thereof, containing more than 99.99 percent of bismuth by weight.	
8106.90.00	Bismuth (including waste and scrap) and articles thereof, containing 99.99 percent of bismuth or less, nesoi.	
8108.20.00	Titanium, unwrought; titanium powders.	
8108.30.00	Titanium waste and scrap.	
8108.90.30	Titanium, articles nesoi.	
8108.90.60	Wrought titanium, nesoi.	
8110.10.00	Antimony, unwrought; antimony powders.	
8110.20.00	Antimony waste and scrap.	
8110.90.00	Articles of antimony, nesoi.	
8111.00.47	Unwrought manganese flake containing at least 99.5 percent by weight of manganese.	
8111.00.49	Unwrought manganese, nesoi.	
8112.21.00	Chromium, unwrought; chromium powders.	
8112.22.00	Chromium waste and scrap.	
8112.29.00	Articles of chromium, nesoi.	
8112.41.10	Rhenium, waste and scrap.	
8112.41.50	Rhenium, unwrought; rhenium powders.	
8112.49.00	Rhenium, articles, nesoi.	

HTSUS	Description	Scope limitations
8112.59.00	Articles of thallium, nesoi.	
8112.92.10	Gallium, unwrought; gallium powders.	
8112.92.30	Indium, unwrought; indium powders.	
8112.92.40	Niobium (columbium), unwrought; niobium powders.	
8112.92.60	Germanium, unwrought.	
8112.92.65	Germanium powder, wrought.	
8112.99.10	Germanium nesoi and articles thereof.	
8112.99.20	Vanadium, nesoi, and articles thereof.	
8112.99.91	Articles of gallium, indium, or niobium, nesoi.	
8302.10.60	Iron or steel, aluminum, or zinc hinges and base metal parts thereof, not designed for motor vehicles	Aircraft.
8302.10.90	Base metal (other than iron or steel or aluminum or zinc) hinges and base metal parts thereof	Aircraft.
8302.20.00	Base metal castors and base metal parts thereof	Aircraft.
8302.42.30	Iron or steel, aluminum, or zinc mountings, fittings and similar articles, suitable for furniture, and base metal parts thereof.	Aircraft.
8302.42.60	Base metal (other than iron or steel or aluminum or zinc) mountings, fittings and similar articles, suitable for furniture, and base metal parts thereof.	Aircraft.
8302.49.40	Base metal harness, saddlery or riding-bridle hardware, not coated or plated with precious metal, and base metal parts thereof.	Aircraft.
8302.49.60	Iron or steel, aluminum, or zinc, mountings, fittings and similar articles nesoi, and base metal parts thereof	Aircraft.
8302.49.80	Base metal (other than iron or steel or aluminum or zinc) mountings, fittings and similar articles nesoi, and base metal parts thereof.	Aircraft.
8302.60.30	Base metal automatic door closers	Aircraft.
8307.10.30	Iron or steel flexible tubing, with fittings	Aircraft.
8307.90.30	Base metal (other than iron or steel) flexible tubing, with fittings	Aircraft.
8407.10.00	Spark-ignition reciprocating or rotary internal combustion piston engines for use in aircraft	Aircraft.
8408.90.90	Compression-ignition internal-combustion piston engines, for machinery or equipment, nesoi	Aircraft.
8409.10.00	Parts for internal combustion aircraft engines	Aircraft.
8411.11.40	Aircraft turbojets of a thrust not exceeding 25 kN	Aircraft.
8411.11.80	Turbojets of a thrust not exceeding 25 kN, other than aircraft	Aircraft.
8411.12.40	Aircraft turbojets of a thrust exceeding 25 kN	Aircraft.
8411.12.80	Turbojets of a thrust exceeding 25 kN, other than aircraft	Aircraft.
8411.21.40	Aircraft turbopropellers of a power not exceeding 1,100 kW	Aircraft.
8411.21.80	Turbopropellers of a power not exceeding 1,100 kW, other than aircraft	Aircraft.
8411.22.40	Aircraft turbopropellers of a power exceeding 1,100 kW	Aircraft.
8411.22.80	Turbopropellers of a power exceeding 1,100 kW, other than aircraft	Aircraft.
8411.81.40	Aircraft gas turbines other than turbojets or turbopropellers, of a power not exceeding 5,000 kW	Aircraft.
8411.82.40	Aircraft gas turbines other than turbojets or turbopropellers, of a power exceeding 5,000 kW	Aircraft.
8411.91.10	Cast-iron parts of turbojets or turbopropellers, not advanced beyond cleaning, machined only for removal of fins, gates, sprues and risers, or to permit location in machinery.	Aircraft.
8411.91.90	Parts of turbojets or turbopropellers other than those of subheading 8411.91.10	Aircraft.
8411.99.10	Cast-iron parts of gas turbines nesoi, not advanced beyond cleaning, and machined for removal of fins, gates, sprues and risers.	Aircraft.
8411.99.90	Parts of gas turbines nesoi, other than those of subheading 8411.99.10	Aircraft.
8412.10.00	Reaction engines other than turbojets	Aircraft.
8412.21.00	Hydraulic power engines and motors, linear acting (cylinders)	Aircraft.
8412.29.40	Hydrojet engines for marine propulsion	Aircraft.
8412.29.80	Hydraulic power engines and motors, nesoi	Aircraft.
8412.31.00	Pneumatic power engines and motors, linear acting (cylinders)	Aircraft.
8412.39.00	Pneumatic power engines and motors, other than linear acting	Aircraft.
8412.80.10	Spring-operated and weight-operated motors	Aircraft.
8412.80.90	Engines and motors, nesoi (excluding motors of heading 8501)	Aircraft.
8412.90.90	Parts for engines of heading 8412 other than hydrojet engines for marine propulsion	Aircraft.
8413.19.00	Pumps for liquids fitted or designed to be fitted with a measuring device, nesoi	Aircraft.
8413.20.00	Hand pumps other than those of subheading 8413.11 or 8413.19, not fitted with a measuring device	Aircraft.
8413.30.10	Fuel-injection pumps for compression-ignition engines, not fitted with a measuring device	Aircraft.
8413.30.90	Fuel, lubricating or cooling medium pumps for internal-combustion piston engines, not fitted with a measuring device, nesoi.	Aircraft.
8413.50.00	Reciprocating positive displacement pumps for liquids, not fitted with a measuring device, nesoi	Aircraft.
8413.60.00	Rotary positive displacement pumps for liquids, not fitted with a measuring device, nesoi	Aircraft.
8413.70.10	Stock pumps imported for use with machines for making cellulosic pulp, paper or paperboard, not fitted with a measuring device.	Aircraft.
8413.70.20	Centrifugal pumps for liquids, not fitted with a measuring device, nesoi	Aircraft.
8413.81.00	Pumps for liquids, not fitted with a measuring device, nesoi	Aircraft.
8413.91.10	Parts of fuel-injection pumps for compression-ignition engines	Aircraft.
8413.91.20	Parts of stock pumps imported for use with machines for making cellulosic pulp, paper or paperboard	Aircraft.
8413.91.90	Parts of pumps, nesoi	Aircraft.
8414.10.00	Vacuum pumps	Aircraft.
8414.20.00	Hand-operated or foot-operated air pumps	Aircraft.
8414.30.40	Compressors of a kind used in refrigerating equipment (including air conditioning) not exceeding 1/4 horsepower	Aircraft.
8414.30.80	Compressors of a kind used in refrigerating equipment (including air conditioning) exceeding 1/4 horsepower	Aircraft.
8414.51.30	Ceiling fans for permanent installation, with a self-contained electric motor of an output not exceeding 125 W ...	Aircraft.
8414.51.90	Table, floor, wall, window or roof fans, with a self-contained electric motor of an output not exceeding 125 W ...	Aircraft.
8414.59.30	Turbocharger and supercharger fans	Aircraft.

HTSUS	Description	Scope limitations
8414.59.65	Other fans, nesoi	Aircraft.
8414.80.05	Turbocharger and supercharger air compressors	Aircraft.
8414.80.16	Air compressors, nesoi	Aircraft.
8414.80.20	Gas compressors, nesoi	Aircraft.
8414.80.90	Air or gas pumps, compressors and fans, nesoi	Aircraft.
8414.90.10	Parts of fans (including blowers) and ventilating or recycling hoods	Aircraft.
8414.90.30	Stators and rotors of goods of subheading 8414.30	Aircraft.
8414.90.41	Parts of air or gas compressors, nesoi	Aircraft.
8414.90.91	Parts of air or vacuum pumps, ventilating or recycling hoods, gas-tight biological safety cabinets	Aircraft.
8415.10.60	Window or wall type air conditioning machines, split-system, incorporating a refrigerating unit and valve for reversal of cooling/heat cycle.	Aircraft.
8415.10.90	Window or wall type air conditioning machines, split-system, nesoi	Aircraft.
8415.81.01	Air conditioning machines incorporating a refrigerating unit and valve for reversal of cooling/heat cycle, nesoi ...	Aircraft.
8415.82.01	Air conditioning machines incorporating a refrigerating unit, nesoi	Aircraft.
8415.83.00	Air conditioning machines not incorporating a refrigerating unit	Aircraft.
8415.90.40	Chassis, chassis bases and other outer cabinets for air conditioning machines, ...	Aircraft.
8415.90.80	Parts for air conditioning machines, nesoi	Aircraft.
8418.10.00	Combined refrigerator-freezers, fitted with separate external doors, electric or other	Aircraft.
8418.30.00	Freezers of the chest type, not exceeding 800 liters capacity, electric or other	Aircraft.
8418.40.00	Freezers of the upright type, not exceeding 900 liters capacity, electric or other	Aircraft.
8418.61.01	Heat pumps, other than the air-conditioning machines of heading 8415	Aircraft.
8418.69.01	Refrigerating or freezing equipment nesoi	Aircraft.
8419.50.10	Brazed aluminum plate-fin heat exchangers	Aircraft.
8419.50.50	Heat exchange units, nesoi	Aircraft.
8419.81.50	Cooking stoves, ranges and ovens, other than microwave, for making hot drinks or for cooking or heating food, not used for domestic purposes.	Aircraft.
8419.81.90	Machinery and equipment nesoi, for making hot drinks or for cooking or heating food, not used for domestic purposes.	Aircraft.
8419.90.10	Parts of instantaneous or storage water heaters	Aircraft.
8419.90.20	Parts of machinery and plant, for making paper pulp, paper or paperboard	Aircraft.
8419.90.30	Parts of heat exchange units	Aircraft.
8419.90.50	Parts of molten-salt-cooled acrylic acid reactors, nesoi; parts of certain medical, surgical or laboratory sterilizers, nesoi.	Aircraft.
8419.90.85	Parts of electromechanical tools for work in the hand, with self-contained electric motor, for treatment of materials by change in temperature.	Aircraft.
8421.19.00	Centrifuges, other than cream separators or clothes dryers	Aircraft.
8421.21.00	Machinery and apparatus for filtering or purifying water	Aircraft.
8421.23.00	Oil or fuel filters for internal combustion engines	Aircraft.
8421.29.00	Filtering or purifying machinery and apparatus for liquids, nesoi	Aircraft.
8421.31.00	Intake air filters for internal combustion engines	Aircraft.
8421.32.00	Catalytic converters; particulate filters for internal combustion engines	Aircraft.
8421.39.01	Filtering or purifying machinery and apparatus for gases, other than intake air filters or catalytic converters, for internal combustion engines.	Aircraft.
8422.40.9181	Packing or wrapping machinery, nesoi.	
8424.10.00	Fire extinguishers, whether or not charged	Aircraft.
8425.11.00	Pulley tackle and hoists other than skip hoists or hoists used for raising vehicles, powered by electric motor	Aircraft.
8425.19.00	Pulley tackle and hoists other than skip hoists or hoists used for raising vehicles, not powered by electric motor	Aircraft.
8425.31.01	Winches nesoi, and capstans, powered by electric motor	Aircraft.
8425.39.01	Winches nesoi, and capstans, not powered by electric motor	Aircraft.
8425.42.00	Hydraulic jacks and hoists, nesoi	Aircraft.
8425.49.00	Jacks and hoists of a kind used for raising vehicles, other than hydraulic, nesoi	Aircraft.
8426.99.00	Derricks, cranes and other lifting machinery nesoi	Aircraft.
8428.10.00	Passenger or freight elevators other than continuous action; skip hoists	Aircraft.
8428.20.00	Pneumatic elevators and conveyors	Aircraft.
8428.33.00	Belt type continuous-action elevators and conveyors, for goods or materials	Aircraft.
8428.39.00	Continuous-action elevators and conveyors, for goods or materials, nesoi	Aircraft.
8428.90.03	Machinery for lifting, handling, loading or unloading, nesoi	Aircraft.
8443.31.00	Multifunction units (machines which perform two or more of the functions of printing, copying or facsimile transmission, capable of connecting to an automatic data processing machine or to a network).	Aircraft.
8443.32.10	Printer units, capable of connecting to an automatic data processing machine or to a network	Aircraft.
8443.32.50	Single function units other than printer units (machines which perform only one of the functions of printing, copying or facsimile transmission).	Aircraft.
8471.30.01	Portable automatic data processing machines, not over 10 kg, consisting at least a central processing unit, keyboard and display.	
8471.41.01	Automatic data processing machines, nonportable or over 10 kg, comprising in the same housing at least a central processing unit and an input and output unit, whether or not combined.	
8471.49.00	Automatic data processing machines, nesoi, entered in the form of systems (consisting of at least a central processing unit, and an input and output unit).	
8471.50.01	Processing units other than those of subheading 8471.41 and 8471.49, nesoi.	
8471.60.10	Combined input/output units for automatic data processing machines not entered with the rest of a system.	
8471.60.20	Keyboards for automatic data processing machines not entered with the rest of a system.	
8471.60.70	Input or output units suitable for physical incorporation into an automatic data processing machine or unit thereof, nesoi, not entered with the rest of a system.	

HTSUS	Description	Scope limitations
8471.60.80	Optical scanners and magnetic ink recognition devices not entered with the rest of an automatic data processing system.	
8471.60.90	Other input or output units of digital automatic data processing machines, nesoi, not entered with the rest of a system.	
8471.70.10	Automatic data processing magnetic disk drive storage units, disk diameter exceeding 21 cm, without read-write unit assembled therein; read-write units; all not entered with the rest of a system.	
8471.70.20	Automatic data processing magnetic disk drive storage units, disk diameter exceeding 21 cm, for incorporation into automatic data processing machines or units, not entered with the rest of a system.	
8471.70.30	Automatic data processing magnetic disk drive storage units, disk diameter exceeding 21 cm, nesoi, not entered with the rest of a system.	
8471.70.40	Automatic data processing magnetic disk drive storage units, disk diameter not exceeding 21 cm, not assembled in cabinets, without attached external power supply, not entered with the rest of a system.	
8471.70.50	Automatic data processing magnetic disk drive storage units, disk diameter not exceeding 21 cm, nesoi, not entered with the rest of a system.	
8471.70.60	Automatic data processing storage units other than magnetic disk, not assembled in cabinets for placing on a table etc., not entered with the rest of a system.	
8471.70.90	Automatic data processing storage units other than magnetic disk drive units, nesoi, not entered with the rest of a system.	
8471.80.10	Control or adapter units for automatic data processing machines not entered with rest of a system.	
8471.80.40	Unit suitable for physical incorporation into automatic data processing machine or unit thereof, not entered with the rest of a system, nesoi.	
8471.80.90	Other units of automatic data processing machines, not entered with the rest of a system, nesoi.	
8471.90.00	Magnetic or optical readers, nesoi; machines for transcribing data on data media in coded form and machines for processing such data, nesoi.	
8473.30.11	Printed circuit assemblies, not incorporating a cathode ray tube, of the machines of 8471.	
8473.30.20	Parts and accessories of the automatic data processing machines of heading 8471, not incorporating a CRT, parts and accessories of printed circuit assemblies.	
8473.30.51	Parts and accessories of the automatic data processing machines of heading 8471, not incorporating a CRT, nesoi.	
8473.30.91	Parts and accessories of the automatic data processing machines of heading 8471, incorporating a CRT, nesoi.	
8479.89.10	Air humidifiers or dehumidifiers with self-contained electric motor, other than for domestic purposes	Aircraft.
8479.89.20	Floor polishers with self-contained electric motor, other than for domestic purposes	Aircraft.
8479.89.65	Electromechanical appliances with self-contained electric motor, nesoi	Aircraft.
8479.89.70	Carpet sweepers, not electromechanical with self-contained electric motor	Aircraft.
8479.89.95	Other machines and mechanical appliances having individual functions, not specified or included elsewhere in chapter 84 of the HTSUS, nesoi.	Aircraft.
8479.90.41	Parts of floor polishers of subheading 8479.89.20; parts of carpet sweepers	Aircraft.
8479.90.45	Parts of trash compactors, frame assemblies	Aircraft.
8479.90.55	Parts of trash compactors, ram assemblies	Aircraft.
8479.90.65	Parts of trash compactors, container assemblies	Aircraft.
8479.90.75	Parts of trash compactors, cabinets or cases	Aircraft.
8479.90.85	Parts of trash compactors, nesoi	Aircraft.
8479.90.95	Parts of machines and mechanical appliances having individual functions, not specified or included elsewhere in chapter 84 of the HTSUS, nesoi.	Aircraft.
8483.10.10	Camshafts and crankshafts for use solely or principally with spark-ignition internal-combustion piston or rotary engines.	Aircraft.
8483.10.30	Camshafts and crankshafts nesoi	Aircraft.
8483.10.50	Transmission shafts and cranks other than camshafts and crankshafts	Aircraft.
8483.30.40	Bearing housings of the flange, take-up, cartridge and hanger unit type	Aircraft.
8483.30.80	Bearing housings nesoi; plain shaft bearings	Aircraft.
8483.40.10	Torque converters	Aircraft.
8483.40.30	Fixed, multiple and variable ratio speed changers, imported for use with machines for making cellulosic pulp, paper or paperboard.	Aircraft.
8483.40.50	Fixed, multiple and variable ratio speed changers, not imported for use with machines for making cellulosic pulp, paper or paperboard.	Aircraft.
8483.40.70	Speed changers other than fixed, multiple and variable ratio speed changers	Aircraft.
8483.40.80	Ball or roller screws	Aircraft.
8483.40.90	Gears and gearing, other than toothed wheels, chain sprockets and other transmission elements entered separately.	Aircraft.
8483.50.40	Gray-iron awning or tackle pulleys, not over 6.4 cm in wheel diameter	Aircraft.
8483.50.60	Flywheels, nesoi	Aircraft.
8483.50.90	Pulleys, including pulley blocks, nesoi	Aircraft.
8483.60.40	Clutches and universal joints	Aircraft.
8483.60.80	Shaft couplings (other than universal joints)	Aircraft.
8483.90.10	Chain sprockets and parts thereof	Aircraft.
8483.90.20	Parts of flange, take-up, cartridge and hanger units	Aircraft.
8483.90.30	Parts of bearing housings and plain shaft bearings, nesoi	Aircraft.
8483.90.50	Parts of gearing, gear boxes and other speed changers	Aircraft.
8483.90.80	Parts of transmission equipment, nesoi	Aircraft.
8484.10.00	Gaskets and similar joints of metal sheeting combined with other material or of two or more layers of metal	Aircraft.
8484.90.00	Sets or assortments of gaskets and similar joints dissimilar in composition, put up in pouches, envelopes or similar packings.	Aircraft.
8486.10.00	Machines and apparatus for the manufacture of boules or wafers.	

HTSUS	Description	Scope limitations
8486.20.00	Machines and apparatus for the manufacture of semiconductor devices or electronic integrated circuits.	
8486.30.00	Machines and apparatus for the manufacture of flat panel displays.	
8486.40.00	Machines and apparatus for the manufacture of masks and reticles and for the assembly of electronic integrated circuits.	
8486.90.00	Parts and accessories of the machines and apparatus for the manufacture of semiconductor devices, electronic integrated circuits and flat pa.	
8501.20.50	Universal AC/DC motors of an output exceeding 735 W but under 746 W	Aircraft.
8501.20.60	Universal AC/DC motors of an output of 746 W or more	Aircraft.
8501.31.50	DC motors, nesoi, of an output exceeding 735 W but under 746 W	Aircraft.
8501.31.60	DC motors nesoi, of an output of 746 W but not exceeding 750 W	Aircraft.
8501.31.81	DC generators, other than photovoltaic generators, of an output not exceeding 750 W	Aircraft.
8501.32.20	DC motors nesoi, of an output exceeding 750 W but not exceeding 14.92 kW	Aircraft.
8501.32.55	DC motors nesoi, of an output exceeding 14.92 kW but not exceeding 75 kW, nesoi	Aircraft.
8501.32.61	DC generators, other than photovoltaic generators, of an output exceeding 750 W but not exceeding 75 kW	Aircraft.
8501.33.20	DC motors nesoi, of an output exceeding 75 kW but under 149.2 kW	Aircraft.
8501.33.30	DC motors, nesoi, 149.2 kW or more but not exceeding 150 kW	Aircraft.
8501.33.61	DC generators, other than photovoltaic generators, of an output exceeding 75 kW but not exceeding 375 kW	Aircraft.
8501.34.61	DC generators, other than photovoltaic generators, of an output exceeding 375 kW	Aircraft.
8501.40.50	AC motors, nesoi, single-phase, exceeding 735 W but under 746 W	Aircraft.
8501.40.60	AC motors nesoi, single-phase, of 746 W or more	Aircraft.
8501.51.50	AC motors, nesoi, multi-phase, of an output exceeding 735 W but under 746 W	Aircraft.
8501.51.60	AC motors nesoi, multi-phase of an output of 746 W but not exceeding 750 W	Aircraft.
8501.52.40	AC motors nesoi, multi-phase, of an output exceeding 750 W but not exceeding 14.92 kW	Aircraft.
8501.52.80	AC motors nesoi, multi-phase, of an output exceeding 14.92 kW but not exceeding 75 kW	Aircraft.
8501.53.40	AC motors nesoi, multi-phase, of an output exceeding 75 kW but under 149.2 kW	Aircraft.
8501.53.60	AC motors, nesoi, multi-phase, 149.2 kW or more but not exceeding 150 kW	Aircraft.
8501.61.01	AC generators (alternators), other than photovoltaic generators, of an output not exceeding 75 kVA	Aircraft.
8501.62.01	AC generators (alternators), other than photovoltaic generators, of an output exceeding 75 kVA but not exceeding 375 kVA.	Aircraft.
8501.63.01	AC generators (alternators), other than photovoltaic generators, of an output exceeding 375 kVA but not exceeding 750 kVA.	Aircraft.
8501.71.00	Photovoltaic DC generators, of an output not exceeding 50 W	Aircraft.
8501.72.10	Photovoltaic DC generators, of an output exceeding 50 W but not exceeding 750 W	Aircraft.
8501.72.20	Photovoltaic DC generators, of an output exceeding 750 W but not exceeding 75 kW	Aircraft.
8501.72.30	Photovoltaic DC generators, of an output exceeding 75 kW but not exceeding 375 kW	Aircraft.
8501.72.90	Photovoltaic DC generators, of an output exceeding 375 kW	Aircraft.
8501.80.10	Photovoltaic AC generators, of an output not exceeding 75 kVA	Aircraft.
8501.80.20	Photovoltaic AC generators, of an output exceeding 75 kVA but not exceeding 375 kVA	Aircraft.
8501.80.30	Photovoltaic AC generators, of an output exceeding 375 kVA but not exceeding 750 kVA	Aircraft.
8502.11.00	Electric generating sets with compression-ignition internal-combustion piston engines, of an output not exceeding 75 kVA.	Aircraft.
8502.12.00	Electric generating sets with compression-ignition internal-combustion piston engines, of an output exceeding 75 kVA but not over 375 kVA.	Aircraft.
8502.13.00	Electric generating sets with compression-ignition internal-combustion piston engines, of an output exceeding 375 kVA.	Aircraft.
8502.20.00	Electric generating sets with spark-ignition internal-combustion piston engines	Aircraft.
8502.31.00	Wind-powered electric generating sets	Aircraft.
8502.39.00	Electric generating sets, nesoi	Aircraft.
8502.40.00	Electric rotary converters	Aircraft.
8504.10.00	Ballasts for discharge lamps or tubes	Aircraft.
8504.31.20	Unrated electrical transformers other than liquid dielectric, having a power handling capacity not exceeding 1 kVA.	Aircraft.
8504.31.40	Electrical transformers other than liquid dielectric, having a power handling capacity less than 1 kVA	Aircraft.
8504.31.60	Electrical transformers other than liquid dielectric, having a power handling capacity of 1 kVA	Aircraft.
8504.32.00	Electrical transformers other than liquid dielectric, having a power handling capacity exceeding 1 kVA but not exceeding 16 kVA.	Aircraft.
8504.33.00	Electrical transformers other than liquid dielectric, having a power handling capacity exceeding 16 kVA but not exceeding 500 kVA.	Aircraft.
8504.40.40	Electrical speed drive controllers for electric motors (static converters)	Aircraft.
8504.40.60	Power supplies suitable for physical incorporation into automatic data processing machines or units thereof of heading 8471.	Aircraft.
8504.40.70	Power supplies for automatic data processing machines or units thereof of heading 8471, nesoi	Aircraft.
8504.40.85	Static converters (for example, rectifiers) for telecommunication apparatus	Aircraft.
8504.40.95	Static converters (for example, rectifiers), nesoi	Aircraft.
8504.50.40	Other inductors for power supplies for ADP machines and units of heading 8471 or for telecommunication apparatus.	Aircraft.
8504.50.80	Other inductors, nesoi	Aircraft.
8505.11.0070	Sintered neodymium-iron-boron magnets.	
8507.10.00	Lead-acid storage batteries of a kind used for starting piston engines	Aircraft.
8507.20.80	Lead-acid storage batteries other than of a kind used for starting piston engines or as the primary source of power for electric vehicles.	Aircraft.
8507.30.80	Nickel-cadmium storage batteries, other than of a kind used as the primary source of power for electric vehicles.	Aircraft.

HTSUS	Description	Scope limitations
8507.50.00	Nickel-metal hydride batteries	Aircraft.
8507.60.00	Lithium-ion batteries	Aircraft.
8507.80.82	Other storage batteries nesoi, other than of a kind used as the primary source of power for electric vehicles	Aircraft.
8507.90.40	Parts of lead-acid storage batteries, including separators therefor	Aircraft.
8507.90.80	Parts of storage batteries, including separators therefor, other than parts of lead-acid storage batteries	Aircraft.
8511.10.00	Spark plugs	Aircraft.
8511.20.00	Ignition magnetos, magneto-dynamos and magnetic flywheels	Aircraft.
8511.30.00	Distributors and ignition coils	Aircraft.
8511.40.00	Starter motors and dual purpose starter-generators	Aircraft.
8511.50.00	Generators nesoi, of a kind used in conjunction with spark-ignition or compression-ignition internal-combustion engines.	Aircraft.
8511.80.20	Voltage and voltage-current regulators with cut-out relays designed for use on 6, 12 or 24 V systems	Aircraft.
8511.80.40	Voltage and voltage-current regulators with cut-out relays other than those designed for use on 6, 12 or 24 V systems.	Aircraft.
8511.80.60	Electrical ignition or starting equipment of a kind used for spark-ignition internal-combustion or compression-ignition engines, nesoi.	Aircraft.
8514.20.40	Industrial or laboratory microwave ovens for making hot drinks or for cooking or heating food	Aircraft.
8516.80.40	Electric heating resistors assembled only with simple insulated former and electrical connectors, used for anti-icing or de-icing.	Aircraft.
8516.80.80	Electric heating resistors, nesoi	Aircraft.
8517.13.00	Smartphones for cellular networks or for other wireless of networks.	
8517.14.00	Other telephones for cellular networks or for other wireless of networks, other than smartphones	Aircraft.
8517.61.00	Base stations	Aircraft.
8517.62.00	Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus.	
8517.69.00	Other apparatus for transmission or reception of voice, images or other data, nesoi, but not apparatus of headings 8443, 8525, 8527 or 8528.	Aircraft.
8517.71.00	Aerials and aerial reflectors of all kinds; parts suitable for use therewith	Aircraft.
8518.10.40	Microphones having a frequency range of 300Hz–3.4kHz with diameter not over 10 mm and height not exceeding 3 mm, for telecommunication.	Aircraft.
8518.10.80	Microphones and stands therefor, nesoi	Aircraft.
8518.21.00	Single loudspeakers, mounted in their enclosures	Aircraft.
8518.22.00	Multiple loudspeakers mounted in the same enclosure	Aircraft.
8518.29.40	Loudspeakers not mounted in their enclosures, with frequency range of 300Hz to 3.4kHz, with a diameter of not exceeding 50 mm, for telecommunication.	Aircraft.
8518.29.80	Loudspeakers nesoi, not mounted in their enclosures, nesoi	Aircraft.
8518.30.10	Line telephone handsets	Aircraft.
8518.30.20	Headphones, earphones and combined microphone/speaker sets, other than telephone handsets	Aircraft.
8518.40.10	Audio-frequency electric amplifiers for use as repeaters in line telephony	Aircraft.
8518.40.20	Audio-frequency electric amplifiers, other than for use as repeaters in line telephony	Aircraft.
8518.50.00	Electric sound amplifier sets	Aircraft.
8519.81.10	Transcribing machines	Aircraft.
8519.81.20	Cassette players (non-recording) designed exclusively for motor-vehicle installation	Aircraft.
8519.81.25	Cassette players (non-recording), nesoi	Aircraft.
8519.81.30	Sound reproducing apparatus nesoi, not incorporating a sound recording device	Aircraft.
8519.81.41	Other sound recording and reproducing apparatus using magnetic tape, optical media, or semiconductor media	Aircraft.
8519.89.10	Record players, other than coin- or token-operated, without loudspeaker	Aircraft.
8519.89.20	Record players, other than coin- or token-operated, with loudspeakers	Aircraft.
8519.89.30	Sound recording and reproducing apparatus, nesoi	Aircraft.
8521.10.30	Color, cartridge or cassette magnetic tape-type video players, not capable of recording	Aircraft.
8521.10.60	Color, cartridge or cassette magnetic tape-type video recording and reproducing apparatus, nesoi	Aircraft.
8521.10.90	Magnetic tape-type video recording or reproducing apparatus, other than color, cartridge or cassette type	Aircraft.
8522.90.25	Assemblies and subassemblies of articles of subheading 8519.81.41, consisting of 2 or more pieces fastened together, printed circuit assemblies.	Aircraft.
8522.90.36	Other assemblies and subassemblies of articles of subheading 8519.81.41, consisting of 2 or more pieces fastened together, other than printed circuit assemblies.	Aircraft.
8522.90.45	Other parts of telephone answering machines, printed circuit assemblies	Aircraft.
8522.90.58	Other parts of telephone answering machines, other than printed circuit assemblies	Aircraft.
8522.90.65	Parts and accessories of apparatus of headings 8519 or 8521, nesoi, printed circuit assemblies	Aircraft.
8522.90.80	Parts and accessories of apparatus of headings 8519 or 8521, nesoi, other than printed circuit assemblies	Aircraft.
8523.51.00	Semiconductor media, solid state non-volatile storage devices.	
8524.11.10	Flat panel display modules of liquid crystals without drivers or control circuits, other than for articles of subheadings 8528.59, 8528.69, 8528.72 and 8528.73.	
8524.11.90	Flat panel display modules of liquid crystals without drivers or control circuits, for articles of subheadings 8528.59, 8528.69, 8528.72 and 8528.73.	
8524.12.00	Flat panel display modules of organic light-emitting diodes without drivers or control circuits.	
8524.19.00	Other flat panel display modules without drivers or control circuits, nesoi.	
8524.91.10	Flat panel display modules of liquid crystals with drivers or control circuits, other than for articles of subheadings 8528.59, 8528.69, 8528.72 and 8528.73.	
8524.91.90	Flat panel display modules of liquid crystals with drivers or control circuits, for articles of subheadings 8528.59, 8528.69, 8528.72 and 8528.73.	
8524.92.00	Flat panel display modules of organic light-emitting diodes with drivers or control circuits.	
8524.99.00	Other flat panel display modules with drivers or control circuits, nesoi.	

HTSUS	Description	Scope limitations
8526.10.00	Radar apparatus	Aircraft.
8526.91.00	Radio navigational aid apparatus, other than radar	Aircraft.
8526.92.10	Radio remote control apparatus for video game consoles	Aircraft.
8526.92.50	Radio remote control apparatus other than for video game consoles	Aircraft.
8528.42.00	Cathode-ray tube monitors capable of directly connecting to and designed for use with an automatic data processing machine of heading 8471.	Aircraft.
8528.52.00	Other monitors capable of directly connecting to and designed for use with an automatic data processing machine of heading 8471.	
8528.62.00	Projectors capable of directly connecting to and designed for use with an automatic data processing machine of heading 8471.	Aircraft.
8529.10.21	Television antennas and antenna reflectors, and parts suitable for use therewith	Aircraft.
8529.10.40	Radar, radio navigational aid and radio remote control antennas and antenna reflectors, and parts suitable for use therewith.	Aircraft.
8529.10.91	Other antennas and antenna reflectors of all kinds and parts, for use	Aircraft.
8529.90.04	Tuners (printed circuit assemblies)	Aircraft.
8529.90.05	Printed circuit boards and ceramic substrates and subassemblies thereof, for color TV, with components listed in additional U.S. note 4 to chapter 85 of the HTSUS.	Aircraft.
8529.90.06	Printed circuit boards and ceramic substrates and subassemblies thereof, for color TV, not with components listed in additional U.S. note 4 to chapter 85 of the HTSUS.	Aircraft.
8529.90.09	Printed circuit assemblies for television cameras	Aircraft.
8529.90.13	Printed circuit assemblies for television apparatus, nesoi	Aircraft.
8529.90.16	Printed circuit assemblies which are subassemblies of radar, radio navigational aid or remote control apparatus, of 2 or more parts joined together.	Aircraft.
8529.90.19	Printed circuit assemblies, nesoi, for radar, radio navigational aid or radio remote control apparatus	Aircraft.
8529.90.21	Other printed circuit assemblies suitable for use solely or principally with the apparatus of headings 8524 to 8528, nesoi.	Aircraft.
8529.90.24	Transceiver assemblies for the apparatus of subheading 8526.10, other than printed circuit assemblies	Aircraft.
8529.90.29	Tuners for television apparatus, other than printed circuit assemblies	Aircraft.
8529.90.33	Subassemblies with 2 or more printed circuit boards or ceramic substrates, for color TV, entered with components in additional U.S. note 4 to chapter 85 of the HTSUS.	Aircraft.
8529.90.36	Subassemblies with 2 or more printed circuit boards or ceramic substrates, for color TV, other	Aircraft.
8529.90.39	Parts of television receivers specified in U.S. note 9 to chapter 85 of the HTSUS, other than printed circuit assemblies, nesoi.	Aircraft.
8529.90.43	Printed circuit boards and ceramic substrates and subassemblies thereof for color TV, with components listed in additional U.S. note 4 to chapter 85 of the HTSUS.	Aircraft.
8529.90.46	Combinations of printed circuit boards and ceramic substrates and subassemblies thereof for color TV, with components listed in additional U.S. note 4 to chapter 85 of the HTSUS.	Aircraft.
8529.90.49	Combinations of parts of television receivers specified in U.S. note 10 to chapter 85 of the HTSUS, other than printed circuit assemblies, nesoi.	Aircraft.
8529.90.55	Flat panel screen assemblies for TV reception apparatus, color video monitors and video projectors	Aircraft.
8529.90.63	Parts of printed circuit assemblies (including face plates and lock latches) for television cameras	Aircraft.
8529.90.68	Parts of printed circuit assemblies (including face plates and lock latches) for television apparatus other than television cameras.	Aircraft.
8529.90.73	Parts of printed circuit assemblies (including face plates and lock latches) for radar, radio navigational aid or radio remote control app..	Aircraft.
8529.90.77	Parts of printed circuit assemblies (including face plates and lock latches) for other apparatus of headings 8524 to 8528, nesoi.	Aircraft.
8529.90.78	Mounted lenses for use in closed circuit television cameras, separately imported, with or without attached electrical connectors or motors.	Aircraft.
8529.90.81	Other parts of television cameras, nesoi	Aircraft.
8529.90.83	Other parts of television apparatus (other than television cameras), nesoi	Aircraft.
8529.90.87	Parts suitable for use solely or principally with the apparatus of 8525 and 8527 (except television apparatus or cellular phones), nesoi.	Aircraft.
8529.90.88	Subassemblies with 2 or more printed circuit boards or ceramic substrates, except tuners or convergence assemblies, for color TV, entered with components in additional U.S. note 4 to chapter 85 of the HTSUS.	Aircraft.
8529.90.89	Subassemblies with 2 or more printed circuit boards or ceramic substrates, except tuners or convergence assemblies, for color TV, other.	Aircraft.
8529.90.93	Parts of television apparatus, nesoi	Aircraft.
8529.90.95	Assemblies and subassemblies of radar, radio navigational aid or remote control apparatus, of 2 or more parts joined together, nesoi.	Aircraft.
8529.90.97	Parts suitable for use solely or principally in radar, radio navigational aid or radio remote control apparatus, nesoi.	Aircraft.
8529.90.98	Parts suitable for use solely or principally with the apparatus of headings 8524 through 8528, nesoi	Aircraft.
8531.10.00	Electric burglar or fire alarms and similar apparatus	Aircraft.
8531.20.00	Indicator panels incorporating liquid crystal devices (LCD's) or light-emitting diodes (LED's)	Aircraft.
8531.80.15	Doorbells, chimes, buzzers, and similar apparatus	Aircraft.
8531.80.90	Electric sound or visual signaling apparatus, nesoi	Aircraft.
8536.70.00	Connectors for optical fibers, optical fiber bundles or cables	Aircraft.
8537.10.9170	Other boards, panels, consoles, desks, cabinets, etc., equipped with apparatus for electric control, for a voltage not exceeding 1,000, nesoi.	
8539.10.00	Sealed beam lamp units	Aircraft.
8539.51.00	Light-emitting diode (LED) modules	Aircraft.
8541.10.00	Diodes, other than photosensitive or light-emitting diodes.	

HTSUS	Description	Scope limitations
8541.21.00	Transistors, other than photosensitive transistors, with a dissipation rating of less than 1 W.	
8541.29.00	Transistors, other than photosensitive transistors, with a dissipation rating of 1 W or more.	
8541.30.00	Thyristors, diacs and triacs, other than photosensitive devices.	
8541.41.00	Light emitting diodes (LED).	
8541.49.10	Other photosensitive semiconductor diodes, other than light-emitting.	
8541.49.70	Other photosensitive semiconductor transistors.	
8541.49.80	Optical coupled isolators.	
8541.49.95	Other photosensitive semiconductor devices, other than diodes or transistors, nesoi.	
8541.51.00	Other semiconductor-based transducers, other than photosensitive transducers.	
8541.59.00	Other semiconductor devices, other than semiconductor-based transducers, other than photosensitive devices, nesoi.	
8541.90.00	Parts of diodes, transistors, similar semiconductor devices, photosensitive semiconductor devices, LEDs and mounted piezoelectric crystals.	
8542.31.00	Electronic integrated circuits: processors and controllers.	
8542.32.00	Electronic integrated circuits: memories.	
8542.33.00	Electronic integrated circuits: amplifiers.	
8542.39.00	Electronic integrated circuits: other.	
8542.90.00	Parts of electronic integrated circuits and microassemblies.	
8543.70.42	Flight data recorders	Aircraft.
8543.70.45	Other electric synchros and transducers; defrosters and demisters with electric resistors for Aircraft.	Aircraft.
8543.70.60	Electrical machines and apparatus nesoi, designed for connection to telegraphic or telephonic apparatus, instruments or networks.	Aircraft.
8543.70.80	Microwave amplifiers	Aircraft.
8543.70.91	Digital signal processing apparatus capable of connecting to a wired or wireless network for sound mixing	Aircraft.
8543.70.95	Touch screens without display capabilities for incorporation in apparatus having a display	Aircraft.
8543.90.12	Parts of physical vapor deposition apparatus of subheading 8543.70	Aircraft.
8543.90.15	Assemblies and subassemblies for flight data recorders, consisting of 2 or more parts pieces fastened together, printed circuit assemblies.	Aircraft.
8543.90.35	Assemblies and subassemblies for flight data recorders, consisting of 2 or more parts pieces fastened together, not printed circuit assemblies.	Aircraft.
8543.90.65	Printed circuit assemblies of flat panel displays other than for reception apparatus for television of heading 8528, except for subheadings 8528.52 and 8528.62.	Aircraft.
8543.90.68	Printed circuit assemblies of electrical machines and apparatus, having individual functions, nesoi	Aircraft.
8543.90.85	Parts, nesoi, of flat panel displays other than for reception apparatus for television of heading 8528, except for subheadings 8528.52 and 8528.62.	Aircraft.
8543.90.88	Parts (other than printed circuit assemblies) of electrical machines and apparatus, having individual functions, nesoi.	Aircraft.
8544.30.00	Insulated ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships	Aircraft.
8801.00.00	Balloons, dirigibles and non-powered aircraft, gliders and hang gliders	Aircraft.
8802.11.01	Helicopters (except unmanned aircraft of heading 8806), with an unladen weight not over 2,000 kg	Aircraft.
8802.12.01	Helicopters (except unmanned aircraft of heading 8806), with an unladen weight over 2,000 kg	Aircraft.
8802.20.01	Airplanes and other powered aircraft (except unmanned aircraft of heading 8806), nesoi, with an unladen weight not over 2,000 kg.	Aircraft.
8802.30.01	Airplanes and other powered aircraft (except unmanned aircraft of heading 8806), nesoi, with an unladen weight over 2,000 kg but not over 15,000 kg.	Aircraft.
8802.40.01	Airplanes and other powered aircraft (except unmanned aircraft of heading 8806), nesoi, with an unladen weight over 15,000 kg.	Aircraft.
8805.29.00	Ground flying trainers and parts thereof, other than air combat simulators	Aircraft.
8806.10.00	Unmanned aircraft designed for the carriage of passengers	Aircraft.
8806.21.00	Unmanned aircraft, not for the carriage of passengers, for remote-controlled flight only, max take-off weight not more than 250g.	Aircraft.
8806.22.00	Unmanned aircraft, not for the carriage of passengers, for remote-controlled flight only, max take-off weight more than 250g but less than 7kg.	Aircraft.
8806.23.00	Unmanned aircraft, not for the carriage of passengers, for remote-controlled flight only, max take-off weight more than 7kg but less than 25kg.	Aircraft.
8806.24.00	Unmanned aircraft, not for the carriage of passengers, for remote-controlled flight only, max take-off weight more than 25kg but less than 150 kg.	Aircraft.
8806.29.00	Unmanned aircraft, not for the carriage of passengers, for remote-controlled flight only, max take-off weight more than 150 kg.	Aircraft.
8806.91.00	Unmanned aircraft, not for the carriage of passengers, not for remote-controlled flight only, nesoi, max take-off weight not more than 250g.	Aircraft.
8806.92.00	Unmanned aircraft, not for the carriage of passengers, not for remote-controlled flight only, nesoi, max take-off weight more 250g less than 7kg.	Aircraft.
8806.93.00	Unmanned aircraft, not for the carriage of passengers, not for remote-controlled flight only, nesoi, max take-off weight more than 7kg but less than 25kg.	Aircraft.
8806.94.00	Unmanned aircraft, not for the carriage of passengers, not for remote-controlled flight only, nesoi, max take-off weight more than 25kg but less than 150 kg.	Aircraft.
8806.99.00	Unmanned aircraft, not for the carriage of passengers, not for remote-controlled flight only, nesoi, max take-off weight more than 150 kg.	Aircraft.
8807.10.00	Parts of aircraft of headings 8801, 8802 or 8806, propellers and rotors and parts thereof	Aircraft.
8807.20.00	Parts of aircraft of headings 8801, 8802 or 8806, undercarriages and parts thereof	Aircraft.
8807.30.00	Parts of aircraft of headings 8801, 8802 or 8806, for airplanes, helicopters, unmanned aircraft, other than propellers, rotors or undercarriages, nesoi.	Aircraft.

HTSUS	Description	Scope limitations
8807.90.90	Parts of aircraft of headings 8801, 8802 or 8806, not for airplanes, helicopters or unmanned aircraft, nesoi	Aircraft.
9001.90.40	Lenses nesoi, unmounted	Aircraft.
9001.90.50	Prisms, unmounted	Aircraft.
9001.90.60	Mirrors, unmounted	Aircraft.
9001.90.80	Half-tone screens designed for use in engraving or photographic processes, unmounted	Aircraft.
9001.90.90	Optical elements nesoi, unmounted	Aircraft.
9002.90.20	Prisms, mounted, for optical uses	Aircraft.
9002.90.40	Mirrors, mounted, for optical uses	Aircraft.
9002.90.70	Half-tone screens, mounted, designed for use in engraving or photographic processes	Aircraft.
9002.90.85	Mounted lenses suitable for use in, and entered separately from, closed circuit television cameras, with or without attached electrical connectors or motors.	Aircraft.
9002.90.95	Mounted optical elements, nesoi; parts and accessories of mounted optical elements, nesoi	Aircraft.
9014.10.10	Optical direction finding compasses	Aircraft.
9014.10.60	Gyroscopic directing finding compasses, other than electrical	Aircraft.
9014.10.70	Electrical direction finding compasses	Aircraft.
9014.10.90	Direction finding compasses, other than optical instruments, gyroscopic compasses or electrical	Aircraft.
9014.20.20	Optical instruments and appliances (other than compasses) for aeronautical or space navigation	Aircraft.
9014.20.40	Automatic pilots for aeronautical or space navigation	Aircraft.
9014.20.60	Electrical instruments and appliances (other than compasses) for aeronautical or space navigation	Aircraft.
9014.20.80	Nonelectrical instruments and appliances (other than compasses) for aeronautical or space navigation	Aircraft.
9014.90.10	Parts and accessories of automatic pilots for aeronautical or space navigation of subheading 9014.20.40	Aircraft.
9014.90.20	Parts and accessories of nonelectrical instruments and appliances for aeronautical or space navigation of subheading 9014.20.80.	Aircraft.
9014.90.40	Parts and accessories of nonelectrical navigational instruments and appliances nesoi of subheading 9014.80.50	Aircraft.
9014.90.60	Parts and accessories of navigational instruments and appliances, nesoi	Aircraft.
9020.00.40	Underwater breathing devices designed as a complete unit to be carried on the person and not requiring attendants, parts and accessories thereof.	Aircraft.
9020.00.60	Breathing appliances, nesoi, and gas masks, except protective masks having neither mechanical parts or replaceable filters, parts, accessories thereof.	Aircraft.
9025.11.20	Clinical thermometers, liquid-filled, for direct reading, not combined with other instruments	Aircraft.
9025.11.40	Liquid-filled thermometers, for direct reading, not combined with other instruments, other than clinical thermometers.	Aircraft.
9025.19.40	Pyrometers, not combined with other instruments	Aircraft.
9025.19.80	Thermometers, for direct reading, not combined with other instruments, other than liquid-filled thermometers	Aircraft.
9025.80.10	Electrical hydrometers and similar floating instruments, thermometers, pyrometers, barometers, hygrometers, psychrometers, and any combination.	Aircraft.
9025.80.15	Nonelectrical barometers, not combined with other instruments	Aircraft.
9025.80.20	Hydrometers and similar floating instruments, whether or not incorporating a thermometer, non-recording, other than electrical.	Aircraft.
9025.80.35	Hygrometers and psychrometers, non-electrical, non-recording	Aircraft.
9025.80.40	Thermographs, barographs, hygrographs and other recording instruments, other than electrical	Aircraft.
9025.80.50	Combinations of thermometers, barometers and similar temperature and atmosphere measuring and recording instruments, nonelectrical.	Aircraft.
9025.90.06	Other parts and accessories of hydrometers and like floating instruments, thermometers, pyrometers, barometers, hygrometers, psychrometers and combinations.	Aircraft.
9026.10.20	Electrical instruments and apparatus for measuring or checking the flow or level of liquids	Aircraft.
9026.10.40	Flow meters, other than electrical, for measuring or checking the flow of liquids	Aircraft.
9026.10.60	Instruments and apparatus for measuring or checking the level of liquids, other than flow meters, non-electrical	Aircraft.
9026.20.40	Electrical instruments and apparatus for measuring or checking the pressure of liquids or gases	Aircraft.
9026.20.80	Instruments and apparatus, other than electrical, for measuring or checking the pressure of liquids or gases	Aircraft.
9026.80.20	Electrical instruments and apparatus for measuring or checking variables of liquids or gases, nesoi	Aircraft.
9026.80.40	Nonelectrical heat meters incorporating liquid supply meters, and anemometers	Aircraft.
9026.80.60	Nonelectrical instruments and apparatus for measuring or checking variables of liquids or gases, nesoi	Aircraft.
9026.90.20	Parts and accessories of electrical instruments and apparatus for measuring or checking variables of liquids or gases.	Aircraft.
9026.90.40	Parts and accessories of nonelectrical flow meters, heat meters incorporating liquid supply meters and anemometers.	Aircraft.
9026.90.60	Parts and accessories of nonelectrical instruments and apparatus for measuring or checking variables of liquids or gases, nesoi.	Aircraft.
9029.10.80	Revolution counters, production counters, odometers, pedometers and the like, other than taximeters	Aircraft.
9029.20.40	Speedometers and tachometers, other than bicycle speedometers	Aircraft.
9029.90.80	Parts and accessories of revolution counters, production counters, odometers, pedometers and the like, of speedometers nesoi and tachometers.	Aircraft.
9030.10.00	Instruments and apparatus for measuring or detecting ionizing radiations	Aircraft.
9030.20.05	Oscilloscopes and oscillographs, specially designed for telecommunications	Aircraft.
9030.20.10	Oscilloscopes and oscillographs, nesoi	Aircraft.
9030.31.00	Multimeters for measuring or checking electrical voltage, current, resistance or power, without a recording device.	Aircraft.
9030.32.00	Multimeters, with a recording device	Aircraft.
9030.33.34	Resistance measuring instruments	Aircraft.
9030.33.38	Other instruments and apparatus, nesoi, for measuring or checking electrical voltage, current, resistance or power, without a recording device.	Aircraft.

HTSUS	Description	Scope limitations
9030.39.01	Instruments and apparatus, nesoi, for measuring or checking electrical voltage, current, resistance or power, with a recording device.	Aircraft.
9030.40.00	Instruments and apparatus specially designed for telecommunications	Aircraft.
9030.84.00	Instruments and apparatus for measuring, checking or detecting electrical quantities or ionizing radiations, nesoi, with a recording device.	Aircraft.
9030.89.01	Instruments and apparatus for measuring, checking or detecting electrical quantities or ionizing radiations, nesoi, without a recording device.	Aircraft.
9030.90.25	Printed circuit assemblies for instruments and apparatus for measuring or detecting ionizing radiation	Aircraft.
9030.90.46	Parts and accessories for instruments and apparatus for measuring or detecting ionizing radiation, nesoi	Aircraft.
9030.90.66	Printed circuit assemblies for subheadings and apparatus of subheadings 9030.40 or 9030.82	Aircraft.
9030.90.68	Printed circuit assemblies, nesoi	Aircraft.
9030.90.84	Parts and accessories for instruments and apparatus for measuring or checking semiconductor wafers or devices, nesoi.	Aircraft.
9030.90.89	Parts and accessories for articles of subheadings 9030.20 to 9030.84, nesoi	Aircraft.
9031.80.40	Electron beam microscopes fitted with equipment specifically designed for the handling and transport of semiconductor devices or reticles.	Aircraft.
9031.80.80	Measuring and checking instruments, appliances and machines, nesoi	Aircraft.
9031.90.21	Parts and accessories of profile projectors	Aircraft.
9031.90.45	Bases and frames for the optical coordinate-measuring machines of subheading 9031.49.40	Aircraft.
9031.90.54	Parts and accessories of measuring and checking optical instruments and appliances of subheading 9031.41 or 9031.49.70.	Aircraft.
9031.90.59	Parts and accessories of measuring and checking optical instruments and appliances, other than test benches or profile projectors, nesoi.	Aircraft.
9031.90.70	Parts and accessories of articles of subheading 9031.80.40	Aircraft.
9031.90.91	Parts and accessories of measuring or checking instruments, appliances and machines, nesoi	Aircraft.
9032.10.00	Automatic thermostats	Aircraft.
9032.20.00	Automatic manostats	Aircraft.
9032.81.00	Hydraulic and pneumatic automatic regulating or controlling instruments and apparatus	Aircraft.
9032.89.20	Automatic voltage and voltage-current regulators, designed for use in a 6, 12, or 24 V system	Aircraft.
9032.89.40	Automatic voltage and voltage-current regulators, not designed for use in a 6, 12, or 24 V system	Aircraft.
9032.89.60	Automatic regulating or controlling instruments and apparatus, nesoi	Aircraft.
9032.90.21	Parts and accessories of automatic voltage and voltage-current regulators designed for use in a 6, 12, or 24 V system, nesoi.	Aircraft.
9032.90.41	Parts and accessories of automatic voltage and voltage-current regulators, not designed for use in a 6, 12, or 24 V system, nesoi.	Aircraft.
9032.90.61	Parts and accessories for automatic regulating or controlling instruments and apparatus, nesoi	Aircraft.
9033.00.90	Other parts and accessories for machines, appliances, instruments or apparatus of chapter 90 of the HTSUS, nesoi.	Aircraft.
9104.00.05	Instrument panel clocks for vehicles, air/spacecraft or vessels, clock movement over 50 mm wide, optoelectronic display only, not over \$10 each.	Aircraft.
9104.00.10	Instrument panel clocks for vehicles, air/spacecraft or vessels, clock movement over 50 mm wide, electric, not optoelectronic display, not over \$10 each.	Aircraft.
9104.00.20	Instrument panel clocks for vehicles, air/spacecraft or vessels, clock movement over 50 mm wide, nonelectric, valued not over \$10 each.	Aircraft.
9104.00.25	Instrument panel clocks for vehicles, air/spacecraft or vessels, clock movement over 50 mm wide, optoelectronic display only, over \$10 each.	Aircraft.
9104.00.30	Instrument panel clocks for vehicles, air/spacecraft or vessels, clock movement over 50 mm wide, electric, not optoelectronic display, over \$10 each.	Aircraft.
9104.00.40	Instrument panel clocks for vehicles, air/spacecraft or vessels, clock movement over 50 mm wide, non-electric, valued over \$10 each.	Aircraft.
9104.00.45	Instrument panel clocks for vehicles, air/spacecraft or vessels, watch or clock movement not over 50 mm wide, optoelectronic display only.	Aircraft.
9104.00.50	Instrument panel clocks for vehicles, air/spacecraft, vessels, watch or clock movement not over 50 mm wide, electric, not optoelectronic display.	Aircraft.
9104.00.60	Instrument panel clocks for vehicles, air/spacecraft or vessels, clock or watch movement not over 50 mm wide, nonelectric.	Aircraft.
9109.10.50	Clock movements nesoi, complete and assembled, electrically operated, with optoelectronic display only	Aircraft.
9109.10.60	Clock movements nesoi, complete and assembled, electrically operated, with display nesoi, measuring not over 50 mm in width or diameter.	Aircraft.
9109.90.20	Clock movements, complete and assembled, not electrically operated, measuring not over 50 mm in width or diameter.	Aircraft.
9401.10.40	Seats, of a kind used for aircraft, leather upholstered	Aircraft.
9401.10.80	Seats, of a kind used for aircraft (other than leather upholstered)	Aircraft.
9403.20.00	Furniture (other than seats) of metal nesoi, other than of a kind used in offices	Aircraft.
9403.70.40	Furniture (other than seats and other than of heading 9402) of reinforced or laminated plastics nesoi	Aircraft.
9403.70.80	Furniture (other than seats and other than of heading 9402) of plastics (other than reinforced or laminated) nesoi.	Aircraft.
9405.11.40	Chandeliers and other electric ceiling or wall lighting fittings, of brass, designed for use solely with LED sources	Aircraft.
9405.11.60	Chandeliers and other electric ceiling or wall lighting fixtures, of base metal (other than brass), designed for use solely with LED sources.	Aircraft.
9405.11.80	Chandeliers and other electric ceiling or wall lighting fixtures, not of base metal, designed for use solely with LED sources.	Aircraft.

HTSUS	Description	Scope limitations
9405.19.40	Chandeliers and other electric ceiling or wall lighting fittings, of brass, not designed for use solely with LED sources.	Aircraft.
9405.19.60	Chandeliers and other electric ceiling or wall lighting fixtures, of base metal (other than brass), not designed for use solely with LED sources.	Aircraft.
9405.19.80	Chandeliers and other electric ceiling or wall lighting fixtures, not of base metal, not designed for use solely with LED sources.	Aircraft.
9405.61.20	Illuminated signs, illuminated name plates and the like, of brass, designed for use solely with LED sources	Aircraft.
9405.61.40	Illuminated signs, illuminated name plates and the like, of base metal (other than brass), designed for use solely with LED sources.	Aircraft.
9405.61.60	Illuminated signs, illuminated name plates and the like, not of base metal, designed for use solely with LED sources.	Aircraft.
9405.69.20	Illuminated signs, illuminated name plates and the like, of brass, not designed for use solely with LED sources	Aircraft.
9405.69.40	Illuminated signs, illuminated name plates and the like, of base metal (other than brass), not designed for use solely with LED sources.	Aircraft.
9405.69.60	Illuminated signs, illuminated name plates and the like, not of base metal, not designed for use solely with LED sources.	Aircraft.
9405.92.00	Parts of lamps, lighting fixtures, illuminated signs and the like, of plastics	Aircraft.
9405.99.20	Parts of lamps, lighting fixtures, illuminated signs and the like, of brass	Aircraft.
9405.99.40	Parts of lamps, lighting fixtures, illuminated signs and the like, not of glass, plastics or brass	Aircraft.
9620.00.50	Monopods, bipods, tripods and similar articles of plastics, nesoi	Aircraft.
9620.00.60	Monopods, bipods, tripods and similar articles of graphite and other carbon, nesoi	Aircraft.
9802.00.40	Articles returned to the United States after having been exported for repairs or alterations made pursuant to a warranty.	Aircraft.
9802.00.50	Articles returned to the United States after having been exported for repairs or alterations, other	Aircraft.
9802.00.60	Any article of metal (as defined in U.S. note 3(e) of subchapter II of chapter 98 of the HTSUS) manufactured in the United States or subjected to a process of manufacture in the United States, if exported for further processing, and if the exported article as processed outside the United States, or the article which results from the processing outside the United States, is returned to the United States for further processing.	Aircraft.
9802.00.80	Articles, except goods of heading 9802.00.91 and goods imported under provisions of subchapter XIX of this chapter and goods imported under provisions of subchapter XX, assembled abroad in whole or in part of fabricated components, the product of the United States, which (a) were exported in condition ready for assembly without further fabrication, (b) have not lost their physical identity in such articles by change in form, shape or otherwise, and (c) have not been advanced in value or improved in condition abroad except by being assembled and except by operations incidental to the assembly process such as cleaning, lubricating and painting.	Aircraft.
9818.00.05	Spare parts necessarily installed before first entry into the United States, upon first entry into the United States of each such spare part purchased in, or imported from, a foreign country.	Aircraft.
9818.00.07	Other, upon first arrival in any port of the United States of any vessel described in U.S. note 1 to subchapter XVIII of chapter 98 of the HTSUS.	Aircraft.

[FR Doc. 2026-11158 Filed 6-3-26; 8:45 am]

BILLING CODE 3390-F4-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****[Docket No. FAA-2026-4787]****Agency Information Collection****Activities: Requests for Comments;
Clearance of Renewed Approval of
Information Collection: Medical
Standards and Certification****AGENCY:** Federal Aviation
Administration (FAA), DOT.**ACTION:** Notice and request for
comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval renew an information collection. The collection involves information applicants must provide on

an application for an FAA medical certificate. The information to be collected will be used to evaluate an applicant's medical fitness. The information to be collected will be used to and/or is necessary because individuals are required to obtain an FAA medical certificate per 14 CFR . § 61.3(c) and § 67.4

DATES: Written comments should be submitted by August 3, 2026.

ADDRESSES: Please send written comments:

By Electronic Docket:
www.regulations.gov (Enter docket number into search field).

By mail: Office of Aerospace Medicine
Federal Aviation Administration 800
Independence Ave. SW, Suite 800W,
Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT:
Lauren N. Sadiq by email
lauren.n.sadiq@faa.gov; phone: 202-267-6346.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this

information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120-0034.

Title: Medical Standards and Certification.

Form Numbers: 8500-8, 8500-14, 8500-7.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information. The Secretary of Transportation collects this information under the authority of 49 U.S.C. 40113; 44701; 44510; 44702; 44703; 44709; 45303; and 80111. The

FAA medical certification program is implemented by Title 14 Code of Federal Regulations (CFR) parts 61 and 67 (14 CFR parts 61 and 67). The Federal Aviation Administration (FAA) determines if applicants are medically qualified to perform the duties associated with the class of medical certificate sought by evaluating the information applicants provide on FAA

Form 8500–8. Also, the agency uses two vision forms, as indicated, for individuals who may need further testing.

Respondents: Pilots, Student pilots, and air traffic control specialist Applicants.

Frequency: 1 per initial/renewal of application.

Estimated Average Burden per Response: 1.48.

Estimated Total Annual Burden: FAA data indicated a total of 478,051 respondents for CY25; 463,891 for 8500–8, the general medical application; and 14,160 for FAA forms 8700–7 or 8700–14 for vision examinations. Estimated Total annual burden for CY 2025 totals \$23,690,176.43.

Form No.	Number of respondents	Number of responses per respondent	Total number of responses	Time per response (hrs)	Total burden (hrs)	Cost per hour	Total cost per year
8500–7	7,080	1	7,080	1.5	10,620	¹ 33.45	355,239
8500–14	7,080	1	7,080	.25	1,770	33.45	59,206.50
8500–8	449,161 Pilot, 14,730 ATC	1	463,891	1.5	695,836.50	33.45	23,275,730.93

¹ Employer Costs for Employee Compensation—December 2025.

Issued in Washington, DC, on April 30, 2026.

Kenneth Egerstrom,

Manager, Regional Augmentation Team,
Aerospace Medicine/Aviation Safety,
kenneth.s.egerstrom@faa.gov.

[FR Doc. 2026–11205 Filed 6–3–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2026–5017]

Agency Information Collection

Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Renewal, Maintenance, Preventive Maintenance, Rebuilding, and Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public to make comments about our intention to request the Office of Management and Budget (OMB) approval to renew information collection. The Information to be collected is necessary to insure the safety of the flying public. Documentation of maintenance repair actions record who, what, when, where and how of the task performed. All maintenance actions as well as documentation are required by Title 14 CFR part 43. This collection focuses on Form 337 which is collected by the FAA. Other records for preventative maintenance, and logbook entries are not collected by the FAA serve as a responsibility of the owner to maintain in case of verification of airworthiness when seeking approval or sale of the

aircraft. This ensures proper certification of personnel; proper tooling is utilized and accurate measures to ensure safety. Total form 337s submitted in 2024 is 76,253. Total general aviation aircraft registrations on file are 438,651. It is estimated by the numbers collected one in every five aircraft have a 337-form submitted for major alteration and repairs performed. Each 337 takes approximately 1 hour.

DATES: Written comments should be submitted by August 3, 2026.

ADDRESSES: Please send written comments:

By Electronic Docket:
www.regulations.gov (Enter docket number into search field).

By email: Jude Sellers, @
jude.n.sellers@faa.gov.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0020.

Title: Maintenance, Preventive Maintenance, Rebuilding, and Alteration.

Form Numbers: Aircraft maintenance logbooks and form 337.

Type of Review: Renewal of information collection.

Background: Title 14 CFR part 43 mandates information to be provided when an alteration or major repair is performed on an aircraft of United States

registry. Submission of Form 337 is required for capture in the aircraft permanent records for current and future owners to substantiate the requirements of the regulations, prior to operation of the aircraft. Aircraft owners have the responsibility of documentation and submission of all maintenance records performed to their aircraft.

Respondents: 438,651 Aircraft owners.

Frequency: On occasion.

Estimated Average Burden per Response: 1 hour.

Estimated Total Annual Burden:
Industry Annual burden 76,253 man hours.

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

Jude Sellers,

Aviation Safety Inspector, AFS–340 General Aviation Maintenance Branch.

[FR Doc. 2026–11138 Filed 6–3–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Waller County, Texas

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Federal notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: Pursuant to 23 CFR 771.123(a), FHWA, on behalf of the Texas Department of Transportation (TxDOT), is issuing this notice to advise the public that an EIS will be prepared for a proposed transportation project to construct a new highway (known as 36A North) from Interstate (I)–10 west of Katy, Texas to US Highway (US) 290

west of Waller, Texas in Waller County (CSJ 0912-00-646).

FOR FURTHER INFORMATION CONTACT:

TxDOT Houston District, P.O. Box 1386, Houston, Texas 77251-1386, 713-802-5199, 36ANorth@txdot.gov.

SUPPLEMENTARY INFORMATION: The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried out by TxDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated July 17, 2025, and executed by FHWA and TxDOT.

The 36A North project is proposed as a new highway to improve north-south mobility from I-10 west of Katy, Texas to US 290 west of Waller, Texas. The proposed highway would be approximately 20–25 miles in length and would primarily serve Waller County.

The EIS will evaluate a range of build alternatives and a no-build alternative.

TxDOT will issue a single Final Environmental Impact Statement and Record of Decision document pursuant to 23 U.S.C. 139(n)(2), unless TxDOT determines statutory criteria or practicability considerations preclude issuance of a combined document.

In accordance with 23 U.S.C. 139, cooperating agencies, participating agencies, and the public will be given an opportunity for continued input on project development. A virtual public scoping meeting is planned for Tuesday, July 14, 2026, with two in-person open houses. One in-person meeting would be held on Tuesday, July 14, 2026, at the Royal ISD Early Childhood Center Gymnasium, located at 2505 Durkin Road, Brookshire, Texas 77423. The second in-person meeting would be held on Thursday, July 16, 2026, at Edmonds Hall at the Waller County Fairgrounds, located at 21988 FM 359, Hempstead, Texas 77445. Both in-person meetings will be held from 5 to 7 p.m. and would present identical content. The public scoping meeting will provide an opportunity for the public to review and comment on the draft coordination plan and schedule, the project purpose and need, the range of alternatives, and methodologies and level of detail for analyzing alternatives. It will also allow the public an opportunity to provide input on any expected environmental impacts and any significant issues that should be analyzed in depth in the EIS. In addition to the public scoping meeting, a public hearing will be held after the draft EIS is prepared. Public notice will include the time and place of the meeting and hearing.

The public meeting will be conducted in English and Spanish. If you need an interpreter or document translator because English or Spanish is not your primary language or you have difficulty communicating effectively in English or Spanish, one will be provided to you free of charge. If you have a disability and need assistance, special arrangements can be made to accommodate most needs. If you need interpretation or translation services or you are a person with a disability who requires any accommodation to attend and participate in the public meeting, please contact Gabriel Adame, TxDOT Houston District Public Engagement Coordinator, at 713-802-5199 no later than 4 p.m., by Friday, July 10, 2026. Please be aware that advance notice is required as some services and accommodations may require time for TxDOT to arrange.

The public is requested to provide public comments on alternatives or impacts and on relevant information, studies, or analyses with respect to this proposed project. Comments may be provided in writing by mail to Advanced Project Development, Texas Department of Transportation—Houston District, P.O. Box 1386, Houston, Texas 77251-1386 or by email to 36ANorth@txdot.gov. Comments must be received by Friday, July 31, 2026.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction.)

Issued on: June 1, 2026.

Jack Bales,

Director of Project Delivery, Federal Highway Administration.

[FR Doc. 2026-11162 Filed 6-3-26; 8:45 am]

BILLING CODE 4910-RY-P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA-2026-0232]

Request for Information on Family Friendly Transit

AGENCY: Federal Transit Administration (FTA), U.S. Department of Transportation (DOT).

ACTION: Request for Information (RFI).

SUMMARY: Many transit agencies have developed ways to assess and improve the quality of the public transportation service that they provide to their communities. The Federal Transit Administration (FTA) seeks input from the transit industry and the public about how to assess public transportation service quality across five areas: safety

and security, cleanliness, universal accessibility, real time service data availability, and system reliability. FTA will use this information to develop tools to help the public, transit agencies, and all levels of government assess the quality of public transportation service in their communities more directly and identify actions necessary to improve family-friendly service.

DATES: Comments are requested by August 3, 2026.

ADDRESSES: You may file comments identified by docket number FTA-2026-0232 by any of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov> and follow the online instructions for submitting comments.

- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

FOR FURTHER INFORMATION CONTACT:

Office of Budget and Policy, Federal Transit Administration, FTAPerformanceData@dot.gov or (202) 366-4050.

SUPPLEMENTARY INFORMATION:

I. Background

The performance of America's public transportation systems is often measured by the number of trips taken or miles traveled, yet these metrics do not capture the full impact of transit systems on the well-being of the communities and travelers they serve. FTA is considering developing common service quality metrics grounded in the premise that transit systems offer the most value when they can successfully answer key questions travelers may ask themselves before making a trip, such as: *Will I feel safe and secure?, When is the next bus/train, and will it be on time?, and Can I easily get where I need to go with my family?* These potential service quality metrics will help the public, transit agencies, and all levels of government, to assess more directly the quality of public transportation service in their communities and identify actions necessary to improve family-friendly service. For the purpose of this request for information, "family-friendly service" means the availability of high-quality transit service that is welcoming to as many members of the public as possible, not just commuters or adults traveling alone. This request for information will focus on transit systems that serve urbanized areas with 200,000 or more in population for two reasons. First, larger transit agencies are more likely to have mature service

quality frameworks and metrics in place with established data collection systems. Second, FTA prioritizes reducing burdens on small and rural transit providers.

FTA encourages responses from academic institutions, industry associations, transit rider advocacy organizations, advisory groups, recipients of FTA funding that operate rail transit systems, transit agencies operating bus systems in large urban areas with populations of 200,000 or more, metropolitan planning organizations, State departments of transportation, other transit providers, industry stakeholders, and the public.

II. Service Quality Performance Areas

FTA has identified five service quality performance areas: safety and security; cleanliness; universal accessibility; real-time service data availability; and system reliability. For each area, FTA (i) proposes questions travelers may ask themselves before making a trip and (ii) identifies existing data reported to the National Transit Database (NTD) or collected as part of its oversight responsibilities that it may consider for possible service quality performance metrics (see below). FTA seeks comment regarding these proposed service quality performance areas, the effectiveness of leveraging existing NTD and oversight data, whether it should assess any other publicly available data, and whether FTA should consider collecting any new data through the NTD or other means.

Possible service quality performance metrics derived from existing NTD data for each area include: rate of fatalities, rate of injuries (safety and security); percentage of rail stations that are ADA-accessible (as a metric for achieving universal accessibility); and mean distance between mechanical failures (system reliability). FTA seeks comments on these service quality performance metrics, as well as other service quality performance metrics.

• Area #1: Safety and Security

Traveler Question: Will I feel safe and secure on transit?

FTA currently collects data through the NTD on safety and security events on public transportation, such as fatalities, injuries, and assaults. FTA also acknowledges the importance of the public's perceptions of safety and security, in addition to event data. Therefore, FTA seeks to know whether transit agencies collect data from riders regarding perceptions and experiences of transit system safety and security, and how transit agencies analyze and use this data. In addition, FTA is

interested in knowing what additional information it should consider collecting to enhance the public's understanding of transit safety and security, to include fare evasion trends, given observed correlations between fare evasion and more serious criminal offenses.

• Area #2: Cleanliness

Traveler Question: Is the transit vehicle or facility clean?

FTA does not currently collect data from transit agencies or the public regarding the cleanliness of transit vehicles or facilities, such as buses, ferries, trains, and rail stations. FTA also acknowledges the importance of passengers' perception of cleanliness, alongside other data about cleanliness that transit agencies may track. FTA seeks comments on what data agencies collect regarding cleanliness of transit systems, including vehicles and facilities, as well as methodologies used to define or assess cleanliness.

• Area #3: Universal Accessibility

Traveler Question: Can I easily use the transit system, whether I am alone or with my family/others?

FTA currently collects some data on transit and paratransit service compliance with the Americans with Disabilities Act (ADA). However, much of this data concerns barriers to transit access for people with mobility disabilities, such as wheelchair users. FTA is considering assessing performance beyond the minimum requirements of the ADA to measure how easily individuals of all ages and abilities, including families traveling together, can utilize the system. Increasing transit system accessibility for people with intellectual, developmental, sensory, or mobility disabilities may help agencies to be more inclusive of all customers, including families with small children and strollers, as well as older adults with canes or walkers. FTA is interested in the extent to which transit agencies collect and use data regarding accessibility of transit systems beyond the minimum ADA requirements.

• Area #4: Real-time Service Data Availability

Traveler Questions: Can I plan my trip easily? When is the next bus/train? Will I know about delays, and be able to plan around unexpected delays?

Accurate, reliable, and timely transit service data helps people plan and take transit trips with more ease and confidence. Through the NTD, FTA currently collects General Transit Feed Specifications (GTFS) schedule

information for fixed route modes, such as route identifiers, stop locations, and planned stop times. FTA also collects geographic area coverage data for demand response service through the NTD. FTA seeks input on the extent to which agencies make real-time service data available to customers to support trip planning, including service disruptions. We are interested in leveraging existing data protocols based on industry standards for geographic-based transit service information, such as GTFS.

• Area #5: System Reliability

Traveler Question: Will I get to where I am going on time?

FTA currently collects information on scheduled service and mechanical failures that disrupt service through the NTD, but it does not collect data on actual delivered headways or on-time performance. FTA seeks input on how on-time performance is assessed by transit agencies, including methods and technology used, and how successful on-time performance is defined. FTA is also interested in other ways transit agencies may track and assess system reliability.

Section III. Questions to the Public

FTA requests detailed feedback on the following questions. Replies may respond to any question and do not need to respond to all questions. FTA looks forward to receiving feedback from all interested parties.

Service Quality Performance Areas and Metrics

1. To what extent do transit agencies use these five FTA-identified service quality performance areas (also referred to as 'areas') to drive customer service decision-making? What other service quality performance areas do transit agencies track, and how do they define them?

2. What other areas should FTA consider for assessing the quality of public transportation service in communities or for improving family-friendly service?

3. What performance metrics do transit agencies use to measure service quality in each area, or other areas they may use? What other metrics should FTA consider for assessing whether a public transportation service is welcoming and appealing to families?

4. For performance metrics used, what thresholds define success, and what factors are considered in determining each threshold for success?

5. What additional or alternative existing NTD data, if any, should FTA consider within each area?

6. What additional or alternative existing oversight data, if any, should FTA consider within each area?

7. What additional or alternative new NTD or oversight data, if any, should FTA consider within each area?

Data Availability, Limitations and Collection Methodology

8. To what extent is data that responds to the proposed traveler questions collected by transit providers or obtainable from third parties (e.g., applications, contractors for purchased transportation, non-profits or other organizations)?

9. What are the limitations (e.g., reliability, frequency, accuracy, etc.) of any current data collection methods? What resources are needed to overcome those limitations?

10. If data is not already collected through the NTD, what data collection methodologies exist for assessing each area (especially cleanliness, universal accessibility, and system reliability)?

11. To what extent is customer satisfaction data collected by transit agencies for each area? Please briefly describe methodology, including method(s) and frequency of collection, as well as how the information is used.

Other Considerations

12. Could standardization of operational data assist transit agencies in streamlining NTD data collection, validation, and reporting? What are transit agencies positive or negative experiences using open data standards for operational data to improve and/or streamline NTD reporting?

13. What are the differences among transit agencies (e.g., fleet size, service type, service area, network design) that could affect how thresholds for success are defined, and why?

Authority: 49 U.S.C. 5301, 49 CFR 1.91.

Jamie Pfister,

Acting Executive Director.

[FR Doc. 2026–11220 Filed 6–3–26; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities; Comment Request on Application for Extension of Time To File Information Returns

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 August 3, 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. 1545–1081” in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: View the latest drafts of the tax forms related to the information collection listed in this notice at <https://www.irs.gov/draft-tax-forms>. Requests for additional information or copies of this collection should be directed to Kerry Dennis, (202) 317–5751.

SUPPLEMENTARY INFORMATION: The IRS, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the IRS assess the impact and minimize the burden of its information collection requirements. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record, and viewable on relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Title: Application for Extension of Time to File Information Returns.

OMB Control Number: 1545–1081.

Form Number: 8809.

Abstract: Form 8809 is used to request an extension of time to file Forms W–2, W–2G, 1042–S, 1094–C, 1095, 1097,

1098, 1099, 3921, 3922, 5498, or 8027. The IRS reviews the information contained on the form to determine whether an extension should be granted.

Current Actions: There is no change to the previously approved information collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, not-for-profit institutions, farms, and Federal, State, local or tribal governments.

Estimated Number of Responses: 821,406.

Estimated Time per Response: 4 hours, 44 minutes.

Estimated Total Annual Burden Hours: 3,893,465 hours.

Dated: May 29, 2026.

Kerry Dennis,

Tax Analyst.

[FR Doc. 2026–11153 Filed 6–3–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities; Comment Request on TD 9981, Requirements for Type I and Type III Supporting Organizations

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 August 3, 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. 1545–2271” in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Jason Schoonmaker, (801) 620–6008.

SUPPLEMENTARY INFORMATION: The IRS, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of

information. This helps the IRS assess the impact and minimize the burden of its information collection requirements. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record, and viewable on relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Title: Requirements for Type I and Type III Supporting Organizations.

OMB Control Number: 1545–2271.

Regulation Project Number: TD 9981.

Abstract: Treasury Decision (TD) 9981 implemented final regulations addressing the prohibition on certain contributions to Type I and Type III supporting organizations, the requirements for qualifying as a Type III supporting organization, and the criteria for qualifying as functionally integrated by supporting a governmental organization. These regulations are necessary to ensure that certain Type III supporting organizations meet the public charity requirements under IRC section 509(a)(3). Type III supporting organizations, which are the respondents, are responsible for collecting the necessary information from their supported organizations and providing it to the Internal Revenue Service upon request.

Current Actions: There is no change to the previously approved information collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit Institutions.

Estimated Number of Responses: 6,089.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 12,178.

Dated: June 1, 2026.

Jason M. Schoonmaker,

Tax Analyst.

[FR Doc. 2026–11166 Filed 6–3–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0265]

Agency Information Collection Activity Under OMB Review: Personalized Career Planning and Guidance

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 (VBA), 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 within 30 days of publication of this notice.

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. 2900–0265.”

FOR FURTHER INFORMATION CONTACT: VA PRA information: Dorothy Glasgow, 202–461–1084, VAPRA@va.gov.

SUPPLEMENTARY INFORMATION:

Title: Personalized Career Planning and Guidance, VA Form 27–8832.

OMB Control Number: 2900–0265
<https://www.reginfo.gov/public/do/PRAsearch>.

Type of Review: Extension without change of a currently approved collection.

Abstract: VA Form 27–8832 is primarily used to collect the necessary information to determine eligibility for Personalized Career Planning and Guidance or Chapter 36 benefits. If this information is not collected, the eligibility determination for Chapter 36

benefits cannot be made. It would affect eligible transitioning Service members, Veterans, and dependents in obtaining educational and vocational counseling. Collection of the information is the only way for VA to determine eligibility for Chapter 36 benefits. Without this information, determination of entitlement would not be possible.

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 14634, March 25, 2026.

Affected Public: Individuals or Households.

Estimated Annual Burden: 2,750 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 11,000 per year.

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. 2026–11165 Filed 6–3–26; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0111]

Agency Information Collection Activity: Statement of Purchaser or Owner Assuming Seller's Loan

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 July 6, 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. 2900–0111.”

FOR FURTHER INFORMATION CONTACT: VA PRA information: Dorothy Glasgow, 202–461–1084, VAPRA@va.gov.

SUPPLEMENTARY INFORMATION:

Title: Statement of Purchaser or Owner Assuming Seller’s Loan (VA Form 26–6382).

OMB Control Number: 2900–0111. <https://www.reginfo.gov/public/do/PRASearch>.

Type of Review: Revision of a Currently Approved Collection.

Abstract: VA Form 26–6382, The Statement of Purchaser or Owner

Assuming Seller’s Loan, is used to help determine eligibility for release of liability and substitution of entitlement when a VA guaranteed loan is assumed. The collection is authorized under 38, U.S.C., section 3702. Use of VA form 26–6382 (Statement of Purchaser or Owner Assuming Seller’s Loan) has increased in recent years due to below market interest rates on assumable VA loans. As a result, the number of respondents increased from 1,000 to 5,000, resulting in an increase in the total burden hours.

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 12280, March 12, 2026.

Affected Public: Individuals or Households.

Estimated Annual Burden: 1,250 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 5000 per annual.

(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. 2026–11164 Filed 6–3–26; 8:45 am]

BILLING CODE 8320–01–P



FEDERAL REGISTER

Vol. 91
No. 107

Thursday,
June 4, 2026

Part II

Office of Personnel Management

5 CFR Part 890

Department of the Treasury

Internal Revenue Service

26 CFR Part 54

Department of Labor

Employee Benefits Security Administration

29 CFR Part 2590

Department of Health and Human Services

45 CFR Part 149

Federal Independent Dispute Resolution Operations; Final Rule

**OFFICE OF PERSONNEL
MANAGEMENT****5 CFR Part 890**

RIN 3206–AO48

DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 54**

[TD 10049]

RIN 1545–BQ55

DEPARTMENT OF LABOR**Employee Benefits Security
Administration****29 CFR Part 2590**

RIN 1210–AC17

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES****45 CFR Part 149**

[CMS–9897–F]

RIN 0938–AV15

**Federal Independent Dispute
Resolution Operations**

AGENCY: Office of Personnel Management; Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration, Department of Labor; Centers for Medicare & Medicaid Services, Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: This document sets forth these final rules related to certain provisions of the No Surprises Act regarding the Federal independent dispute resolution (IDR) process, which was established as part of the Consolidated Appropriations Act, 2021 (CAA). These rules finalize new requirements relating to the disclosure of information that group health plans and health insurance issuers offering group or individual health insurance coverage must include along with the initial payment or notice of denial of payment for certain items and services subject to the surprise billing protections in the No Surprises Act. These final rules also require plans and issuers to communicate information by using claim adjustment reason codes (CARCs) and remittance advice remark codes (RARC)s, as specified in guidance, when providing any paper or electronic remittance advice (ERA) to an entity

that does not have a contractual relationship with the plan or issuer. This document also finalizes amendments to certain requirements related to the open negotiation period preceding the Federal IDR process, the initiation of the Federal IDR process, the Federal IDR dispute eligibility review process, and the payment and collection of administrative fees and certified IDR entity fees. This document also finalizes the definition of bundled payment arrangements, amends requirements related to batched items and services and amends the rules for extensions of timeframes due to extenuating circumstances. Additionally, this document finalizes provisions that require plans and issuers to register in the Federal IDR portal. In accordance with Federal law, a summary of these rules may be found at <https://www.regulations.gov/>.

DATES:

Effective date: These final rules are effective on August 3, 2026.

Applicability date: See section II.H. of these final rules for information on the applicability dates.

FOR FURTHER INFORMATION CONTACT:

Cameron Stokes, Office of Personnel Management, at 202–936–0162; Alexander Krupnick, Internal Revenue Service, Department of the Treasury, at 202–317–5500; Elizabeth Schumacher or Rebecca Miller, Employee Benefits Security Administration, Department of Labor, at 202–693–8335; Bryan Kirk, Centers for Medicare & Medicaid Services, Department of Health and Human Services, at 301–492–4122.

Customer Service Information:

Information from the Office of Personnel Management (OPM) on health benefits plans offered under the Federal Employees Health Benefits (FEHB) Program can be found on the OPM website (<http://www.opm.gov/healthcare-insurance/healthcare/>). Individuals interested in obtaining information from the Department of Labor (DOL) concerning employment-based health coverage laws may call the Employee Benefits Security Administration (EBSA) Toll-Free Hotline at 1–866–444–EBSA (3272) or visit the DOL’s website (www.dol.gov/agencies/ebsa). In addition, information from the Department of Health and Human Services (HHS) on private health insurance coverage and coverage provided by non-Federal governmental group health plans can be found on the Centers for Medicare & Medicaid Services (CMS) website (<http://www.cms.gov/marketplace>), information on health care reform can be found at <http://www.healthcare.gov>, and

information on surprise medical bills can be found at <http://www.cms.gov/nosurprises>.

SUPPLEMENTARY INFORMATION:**I. Background***A. Preventing Surprise Medical Bills and Establishing the Federal Independent Dispute Resolution (IDR) Process*

The No Surprises Act amended chapter 100 of the Internal Revenue Code (Code), Part 7 of the Employee Retirement Income Security Act (ERISA), and title XXVII of the Public Health Service Act (PHS Act) to provide Federal protections against surprise billing by limiting out-of-network cost sharing and prohibiting balance billing in many of the circumstances in which surprise bills most frequently arise.¹ Section 102 of the No Surprises Act added section 9816 of the Code, section 716 of ERISA, and section 2799A–1 of the PHS Act, which contain limitations on cost sharing and requirements regarding the timing of initial payments and notices of denial of payment by plans and issuers for emergency services furnished by nonparticipating providers and nonparticipating emergency facilities, and for non-emergency services furnished by nonparticipating providers for patient visits to participating health care facilities. “Health care facilities” are generally defined as hospitals, hospital outpatient departments, critical access hospitals, and ambulatory surgical centers.²

Section 103 of the No Surprises Act established a Federal IDR process that plans and issuers and nonparticipating providers and facilities may utilize to resolve certain disputes regarding out-of-network rates under section 9816 of the Code, section 716 of ERISA, and section 2799A–1 of the PHS Act.

Section 105 of the No Surprises Act added section 9817 of the Code, section 717 of ERISA, and section 2799A–2 of the PHS Act. These sections contain limitations on cost sharing and requirements for the timing of initial payments and notices of denial of payment by plans and issuers for air

¹ On December 27, 2020, the CAA was enacted. Title I of the CAA is also known as the No Surprises Act. Public Law 116–260 (December 27, 2020).

² Section 102(d)(1) of the No Surprises Act amended the Federal Employees Health Benefits Act, 5 U.S.C. 8901 *et seq.*, by adding a new subsection (p) to 5 U.S.C. 8902. Under this new provision, each FEHB Program contract must require a carrier to comply with requirements described in sections 9816 and 9817 of the Code, sections 716 and 717 of ERISA, and sections 2799A–1 and 2799A–2 of the PHS Act (as applicable) in the same manner as these provisions apply for a group health plan or health insurance issuer offering group or individual health insurance coverage.

ambulance services furnished by nonparticipating providers of air ambulance services and allow plans and issuers and nonparticipating providers of air ambulance services to utilize the Federal IDR process.

The No Surprises Act also added provisions to title XXVII of the PHS Act in a new part E that apply to health care providers, facilities, and providers of air ambulance services, such as prohibitions on balance billing for certain items and services and requirements related to disclosures about balance billing protections.

The Departments of the Treasury, Labor, and HHS (the Departments), along with the Office of Personnel Management (OPM), are issuing regulations in phases that implement provisions of the No Surprises Act and have issued multiple rulemakings since 2021 to implement various provisions. More specifically relevant to these final rules, the Departments and OPM issued interim final rules (July 2021 interim final rules³ and October 2021 interim final rules⁴), and the Departments issued final rules (August 2022 final rules⁵) implementing provisions of sections 9816 and 9817 of the Code, sections 716 and 717 of ERISA, and sections 2799A–1 and 2799A–2 of the PHS Act. These rules implement provisions to protect consumers from surprise medical bills for emergency services, non-emergency services furnished by nonparticipating providers for patient visits to participating facilities⁶ in certain circumstances, and air ambulance services furnished by nonparticipating providers of air ambulance services. These rules also implement provisions to establish a Federal IDR process to determine payment amounts when there is a dispute between plans or issuers and providers, facilities, or providers of air ambulance services about the out-of-network rate for these services in cases where a specified State law or an applicable All-Payer Model Agreement does not provide a method for determining the total amount payable.

The July 2021 interim final rules and October 2021 interim final rules generally apply to plans and issuers (including grandfathered health plans) for plan years (in the individual market, policy years) beginning on or after January 1, 2022, and to health care providers, facilities, and providers of air

ambulance services for items and services furnished during plan years (in the individual market, policy years) beginning on or after January 1, 2022.⁷ The August 2022 final rules became effective October 25, 2022, and are applicable for items and services provided or furnished on or after October 25, 2022, for plan years (in the individual market, policy years) beginning on or after January 1, 2022.

As outlined in sections I.D and I.F of the preamble to the Federal Independent Dispute Resolution Operations proposed rules⁸ (2023 proposed rules), certain provisions of these rules relating to the methodology for calculating the qualifying payment amount (QPA), the information that a certified IDR entity must consider in making a payment determination, and certain restrictions on the qualified IDR items or services that may be considered jointly as part of a batched dispute have been vacated by the United States District Court for the Eastern District of Texas (District Court).⁹ The District Court also vacated guidance¹⁰ raising the Federal IDR administrative fee from \$50 to \$350 per party for disputes initiated during the calendar year beginning January 1, 2023. On October 30, 2024, the Fifth Circuit issued an opinion and order in *TMA III*, which partially reversed the district court's decision for certain provisions related to the methodology for calculating the QPA that had been vacated by the district court in *TMA III*. On May 30,

⁷ The interim final rules also include interim final regulations under 5 U.S.C. 8902(p) issued by OPM that specify how certain provisions of the No Surprises Act apply to health benefit plans offered by carriers under the Federal Employees Health Benefits Act. These provisions apply to carriers in the FEHB Program for contract years beginning on or after January 1, 2022. The disclosure requirements at 45 CFR 149.430 regarding patient protections against balance billing are applicable as of January 1, 2022.

⁸ 88 FR 75744 (November 3, 2023).

⁹ See *Tex. Med. Ass'n v. U.S. Dep't of Health & Hum. Servs.*, 587 F. Supp. 3d 528 (E.D. Tex. 2022) (*TMA I*); *Tex. Med. Ass'n v. U.S. Dep't of Health & Hum. Servs.*, 654 F. Supp. 3d 575 (E.D. Tex. 2023), *aff'd*, No. 23–40217 (5th Cir. August 2, 2024) (*TMA II*); *Tex. Med. Ass'n v. U.S. Dep't of Health & Hum. Servs.*, Case No. 6:22–cv–450–JDK (E.D. Tex. August 24, 2023), *Tex. Med. Ass'n v. U.S. Dep't of Health & Hum. Servs.*, 120 F.4th 494 (5th Cir. 2024), and *Tex. Med. Ass'n v. U.S. Dep't of Health & Hum. Servs.*, Case No. 23–40605 (5th Cir. May 30, 2025) (collectively, *TMA III*); and *Tex. Med. Ass'n v. U.S. Dep't of Health & Hum. Servs.*, Case No. 6:23–cv–00059–JDK, (E.D. Tex. August 3, 2023) (*TMA IV*).

¹⁰ See Amendment to the Calendar Year 2023 Fee Guidance for the Federal Independent Dispute Resolution Process Under the No Surprises Act: Change in Administrative Fee (December 23, 2022), available at <https://www.cms.gov/ccio/resources/regulations-and-guidance/downloads/amended-cy2023-fee-guidance-federal-independent-dispute-resolution-process-nsa.pdf>.

2025, the Fifth Circuit granted a request from the plaintiffs in *TMA III* for a rehearing en banc and vacated the Fifth Circuit's October 30, 2024 panel opinion. As a result, the district court's decision from August 24, 2023 continues to bind the Departments pending the Fifth Circuit's en banc decision.

On September 26, 2023, the Departments published the Federal IDR Process Administrative Fee and Certified IDR Entity Fee Ranges Proposed Rules (IDR Process Fees proposed rules)¹¹ to amend the administrative fee and certified IDR entity fee provisions in the October 2021 interim final rules to provide additional guidance and promote transparency in the administrative fee calculation and certified IDR entity fee ranges. These rules were finalized on December 21, 2023 (IDR Process Fees final rules)¹² and are effective for disputes initiated on or after January 22, 2024.

On November 3, 2023, the Departments issued the Federal Independent Dispute Resolution Operations Proposed Rules (2023 proposed rules) to further amend existing requirements related to the Federal IDR process. The comment period for the 2023 proposed rules closed on January 2, 2024. On January 22, 2024, the Departments reopened the comment period from January 22, 2024, to February 5, 2024, to give interested parties additional time to review the 2023 proposed rules and submit comments.

B. The Federal IDR Process to Date

On April 15, 2022, the Departments launched the Federal IDR portal to accept disputes regarding the appropriate out-of-network rate for claims subject to the surprise billing protections of the No Surprises Act. In the first year of operations, disputing parties submitted 489,000 disputes, which is 14 times the number of disputes that the Departments had expected to receive in an entire calendar year.^{13 14} The high volume of dispute submissions has continued, and as of January 31, 2026, disputing parties have

¹¹ 88 FR 65888 (September 26, 2023).

¹² 88 FR 88494 (December 21, 2023).

¹³ See Federal Independent Dispute Resolution Process—Status Update, available at <https://www.cms.gov/files/document/Federal-idr-processstatus-update-april-2023.pdf>.

¹⁴ In the regulatory impact analysis of the October 2021 interim final rules (86 FR 55980, 56068–56070), the Departments estimated that 17,333 disputes involving non-air ambulance services and 4,899 disputes involving air ambulance services would be submitted to the Federal IDR process during the first year of implementation.

³ 86 FR 36872 (July 13, 2021).

⁴ 86 FR 55980 (October 7, 2021).

⁵ 87 FR 52618 (August 26, 2022).

⁶ References to a “participating facility” in this preamble mean a “participating health care facility,” as defined at 26 CFR 54.9816–3T, 29 CFR 2590.716–3, and 45 CFR 149.30.

submitted over 5.1 million disputes for review.¹⁵

Several factors likely contribute to the high volume of initiated disputes and longer timeframes for resolution of disputes in the Federal IDR process. First, providers, facilities, and providers of air ambulance services (providers)§¹⁶ have alleged that plans' and issuers' QPA calculations are sometimes artificially low and that plans and issuers are making initial payments based on these artificially low QPAs, which incentivizes the use of the Federal IDR process for a larger number of items and services. Second, providers, plans and issuers have alleged, on numerous occasions, that the other party regularly fails to engage in meaningful open negotiation during the 30-business-day open negotiation period, resulting in relatively few disputes being settled outside of the Federal IDR process. Interested parties also shared that the lack of meaningful engagement in open negotiation contributes to inefficiencies within the Federal IDR process because disputing parties that fail to engage in open negotiation may not exchange information that would facilitate the Federal IDR process, such as contact information and other required disclosures, or may exchange only incomplete information. Third, the District Court's successive rulings in *TMA II*, *TMA IV*, and *TMA III* have necessitated multiple temporary shutdowns of the Federal IDR process to comply with the District Court's orders. Reopening the Federal IDR portal each time has required the Departments to draft new guidance, engage in new rulemaking, implement significant system updates, and communicate changes to disputing parties and certified IDR entities. Finally, initiating parties are submitting a large number of ineligible disputes, leading to both a high volume of dispute submissions and slow processing of disputes.

From April 15, 2022 to December 31, 2024, non-initiating parties challenged the eligibility of 976,721 disputes for the Federal IDR process, and certified IDR entities found 355,804 disputes ineligible.¹⁷ Ineligible disputes often

involve an item or service that is not a qualified IDR item or service because it is payable by a health plan or coverage that is not subject to the surprise billing protections of the No Surprises Act, such as Medicare or Medicaid, or because the item or service is subject to a specified State law or an All-Payer Model Agreement. Additionally, many batched disputes were found ineligible due to the initiating party incorrectly batching items or services in a manner that did not comply with the regulations, such as batching claims paid by different plans or issuers.¹⁸ Certified IDR entities have similarly reported encountering incorrectly bundled disputes. For example, a provider may incorrectly try to submit as a bundle an emergency room facility code with various item and service codes included as line items, rather than properly submitting a single service code (for example, a Diagnosis-Related Group (DRG) code under which a provider, facility, or provider of air ambulance services can bill for multiple items or services).¹⁹ Disputes are also ineligible when the disputing parties initiate the Federal IDR process after failing to satisfy the 30-business-day open negotiation period requirements specified under 29 CFR 2590.716–8(b)(1) and 45 CFR 149.510(b)(1) or after 4 business days after the end of the 30-business-day open negotiation period as specified under 29 CFR 2590.716–8(b)(2)(i) and 45 CFR 149.510(b)(2)(i).

To address the high volume of disputes submitted to the Federal IDR process, the Departments have provided ongoing technical assistance to certified IDR entities and disputing parties by issuing guidance as well as performing research and outreach on dispute eligibility determinations.²⁰ In addition, the Departments have implemented Federal IDR portal system enhancements, such as enabling non-initiating parties to submit supporting documentation to contest dispute

eligibility within their response to the notice of IDR initiation and requiring non-initiating parties to attest to the health plan type.²¹ This allows the Departments to collect information regarding dispute eligibility earlier in the process to identify whether the eligibility requirements are met. However, despite the efforts to date, the Departments and certified IDR entities continue to experience challenges related to determining eligibility for the Federal IDR process, such as delays due to necessary outreach by the certified IDR entities to the disputing parties to obtain or verify information regarding the eligibility of a dispute.

C. Federal IDR Operations Proposed Rules

The 2023 proposed rules were intended to address issues that are critical to the timely rendering of payment determinations and to address feedback from interested parties and certified IDR entities to improve the functioning of the Federal IDR process.

Specifically, the 2023 proposed rules sought to enhance sharing information for plans, issuers, and providers by requiring that these parties share specific information before initiating the Federal IDR process, including by providing No Surprises Act-specific claim adjustment reason codes (CARCs) and remittance advice remark codes (RARCs) with a remittance advice. The 2023 proposed rules also sought to amend the information that must be disclosed about the QPA. Additionally, the 2023 proposed rules proposed to require plans and issuers to register with the Federal IDR portal to facilitate identification of the parties to a dispute and determine whether coverage of an item or service that is the subject of the dispute is subject to a specified State law, an All-Payer Model Agreement, or the Federal IDR process for determining the out-of-network rate. To facilitate communication and improve open negotiation, the 2023 proposed rules sought to amend to the content requirements of the standard open negotiation notice, establish requirements related to an open negotiation response notice, and clarify the timing for when the open negotiation period begins. Additionally, the 2023 proposed rule included amendments to the notice of IDR initiation and new requirements for the initiation response from the non-initiating party.²² The rules also proposed establishing a new process for

meets the definition of a qualified IDR item or service. 29 CFR 2590.716–8(a)(2)(xi) and 45 CFR 149.510 (a)(2)(xi).

¹⁸ 29 CFR 2590.716–8(c)(3)(i)(B) and 45 CFR 149.510(c)(3)(i)(B). The District Court vacated the batching provisions of 45 CFR 149.510(c)(3)(i)(C), 26 CFR 54.9816–8T(c)(3)(i)(C), and 29 CFR 2590.716–8(c)(3)(i)(C) in *Tex. Med. Ass'n v. U.S. Dep't of Health & Hum. Servs.*, Case No. 6:23-cv–59–JDK (E.D. Tex. Aug. 3, 2023) (*TMA IV*).

¹⁹ 29 CFR 2590.716–8(c)(3)(ii) and 45 CFR 149.510(c)(3)(ii).

²⁰ U.S. Department of Health and Human Services, U.S. Department of Labor, and U.S. Department of the Treasury, Federal Independent Dispute Resolution (IDR) Process Technical Assistance for Certified IDR Entities, August 2022, available at <https://www.cms.gov/files/document/TA-certified-independent-dispute-resolution-entities-August-2022.pdf>.

²¹ See notices of eligibility enhancements at <https://www.cms.gov/nosurprises/notices>.

²² OMB control number 1210–0169.

¹⁵ See Federal IDR Bi-Monthly Reports, as of January 31, 2025, available at <https://www.cms.gov/nosurprises/policies-and-resources/reports>.

¹⁶ For purposes of these final rules, unless otherwise stated, whenever the Departments are referring to providers, facilities, and providers of air ambulance services, or to “providers” for short that are parties to Federal IDR process disputes, the Departments are referring to nonparticipating providers, facilities, and providers of air ambulance services.

¹⁷ A dispute is not eligible for the Federal IDR process unless it concerns an item or service that

providing and receiving notices related to the IDR process.

The 2023 proposed rules also sought to introduce clearer timeframes for certain steps in the Federal IDR process. More specifically, the 2023 proposed rules proposed procedures for selecting a certified IDR entity and handling conflict-of-interest reviews to account for the time it takes certified IDR entities to confirm that they do not have a conflict of interest with either party. The 2023 proposed rules also proposed to establish a departmental eligibility review process and require that additional information be submitted to support eligibility determinations, conflict-of-interest reviews, or payment determinations. The 2023 proposed rules also proposed to establish a standard process for disputes to be withdrawn from the Federal IDR process. The Departments also proposed amendments to adjust the timeframe for submission of offers and payment determination.

Regarding fee collections, the proposed rule included amendments related to the collection of certified IDR entity fees and administrative fees. The Departments proposed a reduced administrative fee amount for low-dollar disputes to address access concerns by certain interested parties that regularly provide services with low-dollar values. The Departments also proposed reduced administrative fee amounts for non-initiating parties in cases of ineligible disputes as well as pursuing Federal debt collection of the administrative fee from parties that do not pay as required.

The Departments proposed to amend requirements related to batched items and services and bundled payment arrangements. These amendments sought to provide clarity in how parties can submit multiple items and services as either batched items and services or bundled payment arrangements in a single dispute and to provide additional flexibility in submitting multiple items and services. The proposed rules also proposed to expand upon situations in which timeframes may be waived due to extenuating circumstances.

The Departments received 124 timely comments during both comment periods²³ in response to the proposed rules from a wide variety of interested parties, including private citizens; consumer and advocacy organizations;

employers and other plan sponsors; health information technology, health care consulting, and health care staffing companies; health care providers and facilities and health systems; health insurance issuers; service providers, including third party administrators (TPAs) and revenue cycle management organizations; trade and professional associations; and researchers. Many commenters provided detailed feedback on multiple aspects of the proposed rules and in response to various specific comment solicitations included in the preamble to the proposed rules and the request for information. After reviewing the comments received, the Departments are finalizing the 2023 proposed rules, with some changes in response to comments as described in more detail later in this preamble, to improve the overall functioning of the Federal IDR process.

II. Overview of the Final Rules—Departments of the Treasury, Labor, and HHS

A. Definition of Bundled Payment Arrangement

Section 9816(c)(3)(B) of the Code, section 716(c)(3)(B) of ERISA, and section 2799A–1(c)(3)(B) of the PHS Act state that the Departments shall provide that, in the case of items and services which are included by a provider or facility as part of a bundled payment, such items and services may be part of a single determination. The October 2021 interim final rules specify that in the case of qualified IDR items and services billed by a provider, facility, or provider of air ambulance services as part of a bundled payment arrangement, or if a plan or issuer makes or denies an initial payment as a bundled payment, the qualified IDR items and services may be submitted as part of one dispute and are subject to the rules for batched disputes and the certified IDR entity fee for single disputes.²⁴ The preamble to the October 2021 interim final rules describes a bundled payment arrangement as an instance in which a group health plan or health insurance issuer pays a provider, facility, or provider of air ambulance services a single payment for multiple services furnished during an episode of care to a single patient.²⁵ To clarify how certified IDR entities can identify a dispute that includes a bundled payment arrangement, the Departments provided a definition for a bundled arrangement in the *August 2022 Technical Assistance for Certified IDR*

Entities.²⁶ The 2023 proposed rules proposed to codify the definition set forth in the *August 2022 Technical Assistance for Certified IDR Entities*.

Specifically, the Departments proposed to amend 26 CFR 54.9816–3T, 29 CFR 2590.716–3, and 45 CFR 149.30 by defining the term “bundled payment arrangement” as an arrangement under which: (1) a provider, facility, or provider of air ambulance services bills for multiple items or services furnished to a single patient under a single service code that represents multiple items or services (for example, a diagnostic related group (DRG) code); or (2) a plan or issuer makes an initial payment or notice of denial of payment to a provider, facility, or provider of air ambulance services under a single service code that represents multiple items or services furnished to a single patient (for example, a DRG code).

To further clarify the process for resolving IDR disputes for bundled payment arrangements, the Departments proposed to remove the language under 26 CFR 54.9816–8T(c)(3)(ii), 29 CFR 2590.716–8(c)(3)(ii), and 45 CFR 149.510(c)(3)(ii) stating that a bundled payment arrangement is subject to the rules for batched disputes. While a bundled payment arrangement is, by definition, billed by the same provider or group of providers, facility, or same provider of air ambulance services and paid by the same group health plan or health insurance issuer, not all requirements for batched disputes, including those finalized under 26 CFR 54.9816–8(c)(4), 29 CFR 2590.716–8(c)(4) and 45 CFR 149.510(c)(4) of these final rules, apply to bundled payment arrangements. Therefore, it is not entirely accurate to say that bundled payment arrangements are subject to the rules for batched disputes.

The Departments solicited comment on the definition and treatment of bundled payment arrangements in the 2023 proposed rules. The Departments also solicited comment on examples of service or procedural codes other than DRGs that would meet the proposed definition of a bundled payment arrangement. After consideration of the comments received, and for the reasons described below, the Departments are finalizing the definition of the term “bundled payment arrangement” at 26

²³ Comments on the 2023 proposed rules were due by January 2, 2024. However, the Departments subsequently reopened the comment period from January 22, 2024, to February 5, 2024, to provide additional time for interested parties to consider and comment on any implications of the IDR Process Fees final rules. See 89 FR 3896 (Jan. 22, 2024).

²⁴ 86 FR 55980, 55994 (October 7, 2021).

²⁵ *Id.*

²⁶ U.S. Department of Health and Human Services, U.S. Department of Labor, and U.S. Department of the Treasury. (August 2022). *Federal Independent Dispute Resolution (IDR) Process Guidance for Certified IDR Entities: Technical Assistance for Certified IDR Entities*, available at <https://www.cms.gov/files/document/TA-certified-independent-dispute-resolution-entities-August-2022.pdf>.

CFR 54.9816–3, 29 CFR 2590.716–3, and 45 CFR 149.30 as proposed. The Departments did not receive any comments on the proposed amendment to remove the language under 26 CFR 54.9816–8T(c)(3)(ii), 29 CFR 2590.716–8(c)(3)(ii), and 45 CFR 149.510(c)(3)(ii) stating that a bundled payment arrangement is subject to the rules for batched disputes, and are finalizing this amendment as proposed.²⁷

Commenters generally supported the proposed definition of bundled payment arrangement. However, the Departments also received a comment opposing the proposed definition, stating that bundled disputes should be defined as a single episode of care on a single claim form. This commenter stated that bundled payment arrangements are typically for contracted services and are not relevant to out-of-network claims subject to the No Surprises Act.

Several commenters also had additional recommendations regarding scenarios or types of services that could be defined as a bundled payment arrangement. Another commenter recommended that the definition of bundling used for the Medicare program be used for the purposes of the No Surprises Act. Another commenter suggested that bundled payment arrangements under the proposed definition be limited to situations where the provider or facility and the plan or issuer mutually agree to bundling, or a recognized DRG or all-patients refined diagnosis related group (APR DRG) applies to the claim. A few commenters provided examples of services or procedural codes other than DRGs that would meet the proposed bundled payment arrangement definition. One of these commenters stated that Current Procedural Terminology (CPT) and Healthcare Common Procedure Coding System (HCPCS) codes, particularly for laboratory services, could be used for bundled payment arrangements under the proposed definition.

Even if bundled payment arrangements are most often used for contracted services, as the commenter suggested, some qualified IDR items and services provided by out-of-network providers will still meet the definition of bundled payment arrangement as defined under the proposed rules. Section 9816(c)(3)(B) of the Code,

section 716(c)(3)(B) of ERISA, and section 2799A–1(c)(3)(B) of the PHS Act explicitly contemplate bundled payments within the context of the Federal IDR process, which is a process that only applies to claims for out-of-network items and services, and therefore we disagree that bundled payment arrangements are not relevant to out-of-network claims subject to the No Surprises Act.

For the comment requesting additional guidance about the types of services that may be defined as bundled payment arrangements, the Departments believe that existing guidance provided in the *August 2022 Technical Assistance for Certified IDR Entities* and in the preamble to the 2023 proposed rules provides sufficient examples of bundled payment arrangements. The Departments restate the example in the preamble to the 2023 proposed rules: if a physician performs bilateral mammography, the provider shall report (or for the purpose of the Federal IDR process, the provider shall bill) the Current Procedural Terminology (CPT) code 77066 (*Diagnostic mammography. . . bilateral*). The provider should not submit CPT code 77065 (*Diagnostic mammography. . . unilateral*) with 2 UOS or CPT code 77065 LT (*unilateral left breast mammography*) plus CPT code 77065 RT (*unilateral right breast mammography*). Under this example, the provider performed multiple services, and therefore, under these final rules, if the services are billed or reimbursed under one service code (CPT code 77066), all services performed under that service code (CPT codes 77065 LT and 77065 RT) may be considered a bundled payment arrangement for purposes of the Federal IDR process.

The definition of bundled payment arrangements under these final rules allows disputes to be bundled by a single CPT code, DRG code, or HCPCS code, provided the dispute otherwise complies with such definition. We disagree that bundling should be limited to a recognized DRG or APR DRG, as doing so would be overly restrictive and would limit initiating parties' ability to submit bundled disputes. The Departments favor broader criteria for bundling to increase the number of claims eligible to be submitted as a bundled payment arrangement. Further, the Departments disagree that they should adopt the Medicare definition of bundled payments for purposes of submitting claims, because there are multiple definitions that exist in guidance and regulation that rely on a defined episode of care, single illness or

condition, or course of treatment, which the Departments proposed as a method of batching at 26 CFR 54.9816–8(c)(4)(i)(C)(2), 29 CFR 2590.716–8(c)(4)(i)(C)(2), and 45 CFR 149.510(c)(4)(i)(C)(2).²⁸ Additionally, the Departments decline to finalize a rule limiting the use of bundled payment arrangements to situations where the provider and the plan or issuer mutually agree to the use of bundling, as a commenter suggested. Such a limitation creates an administrative barrier to submitting a bundled dispute and could disincentivize parties from using or relying on bundled payment arrangements, which could decrease the accessibility of the Federal IDR process for bundled payment arrangements.

B. Use of CARCs and RARCs

1. Existing Payment Communication Practice and Requirements

As described in the preamble to the 2023 proposed rules, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) mandated the adoption of electronic standards for certain health care transactions, including health care payment and remittance advice.²⁹ When remittance advice is transmitted electronically, it is commonly referred to as an electronic remittance advice or ERA.³⁰ All ERAs must comply with the Accredited Standards Committee (ASC) X12 835 transaction standard adopted by HHS under 45 CFR 162.1602.

The ASC X12 835 implementation guide mandates the use of CARCs and RARCs to communicate remittance information (as opposed to any other code systems, such as proprietary codes developed by specific plans and

²⁸ For definitions of bundled payments, see <https://www.cms.gov/priorities/innovation/key-concepts/bundled-payments> and <https://www.cms.gov/priorities/innovation/innovation-models/bundled-payments>. For definitions of episode(s) of care, see 42 CFR 414.1305 “Episode payment model” and 42 CFR 510.2 “Episode of care (or Episode).”

²⁹ 88 FR 75744, 75759 (November 3, 2023). The ASC X12N 835 Version 5010 (835 transaction), adopted at 45 CFR 162.1602, is the current HIPAA standard that plans and issuers must use to electronically transmit explanations of benefits (EOBs) or remittance advice information to providers and facilities.

³⁰ An ERA explains how a plan or issuer has adjusted claim charges based on factors like contract agreements, secondary payers, benefits coverage, and expected cost sharing. Centers for Medicare & Medicaid Services. (June 16, 2022). *Health Care Payment and Remittance Advice and Electronic Funds Transfer*, available at <https://www.cms.gov/Regulations-and-Guidance/Administrative-Simplification/Transactions/HealthCarePaymentandRemittanceAdviceandElectronicFundsTransfer>.

²⁷ The 2023 proposed rules included language that would have amended Treasury Department temporary regulations issued in July and October 2021. Those temporary regulations have since expired and are not being amended as proposed in the 2023 proposed rules. Corresponding sections of the Department of Labor's interim final regulations at 86 FR 36872 and 86 FR 55980 may be relied upon until those sections of the previously proposed Treasury regulations are published in final form.

issuers).³¹ CARCs explain why a claim or service line was paid differently than it was billed.³² RARCs provide additional explanations for a remittance. RARCs are either “supplemental,” meaning that they provide additional explanation for an adjustment already described by a CARC, or “informational,” meaning they convey information about remittance processing and are not related to a specific adjustment or CARC.³³ The lists of approved CARCs and RARCs are maintained by separate committees (the CARC Committee and the RARC Committee) designated by HHS to review requests to add, remove, or modify existing CARCs and RARCs. The HIPAA operating rule adopted at 45 CFR 162.1603(a)(4) requires plans and issuers to use a uniform set of CARCs and RARCs for defined business scenarios.³⁴ Any interested party can use publicly available forms to submit requests for new or modified CARCs and RARCs and accompanying explanations to the respective committees on a rolling basis. Each committee meets on a regularly scheduled, periodic basis to discuss proposed new CARCs and RARCs or modifications of existing CARCs and RARCs with the sponsors of such changes and determine whether to approve or deny the recommended change or new CARC or RARC.³⁵ Updated lists of approved CARCs and RARCs, along with an updated list of approved CARC and RARC combinations and business scenarios, are published three times each year.³⁶

The RARC Committee has approved a set of specific RARCs that convey information related to the No Surprises Act, including which provisions apply

to a claim, how cost sharing was calculated, and whether a payment for a claim was an initial or final payment.³⁷ While these RARCs are currently available for use by plans and issuers, the No Surprises Act-specific RARCs do not address all required QPA disclosures or all data elements relevant to whether a payment dispute arising from an item or service included on a remittance advice is eligible for the Federal IDR process. Furthermore, the current standards and operating rules that govern ERA transactions under HIPAA do not include specific requirements that dictate which combinations of CARCs and RARCs must be used to communicate claim adjudication information in business scenarios anticipated by the No Surprises Act.³⁸

2. Requiring CARCs and RARCs To Improve Communication Between Parties

In the preamble to the 2023 proposed rules, the Departments identified communication gaps between plans or issuers and providers that contribute to inefficiencies in resolving disputes in the Federal IDR process including, but not limited to: (1) whether the consumer protections against balance billing and out-of-network cost sharing under the No Surprises Act apply to an item or service; (2) how cost sharing and the out-of-network rates are determined (that is, through an All-Payer Model Agreement, specified State law, or the Federal rules); (3) how and with whom to initiate open negotiation; and (4) which items or services eligible for the Federal IDR process can be batched or bundled into one dispute.

Under section 9816(a)(2)(B)(ii) of the Code, section 716(a)(2)(B) of ERISA, and section 2799A–1(a)(2)(B)(ii) of the PHS Act, the Departments are directed to establish through rulemaking the

information that a plan or issuer must share with a provider or facility when making a determination of the QPA.³⁹ Under section 9833 of the Code, section 734 of ERISA, and section 2792 of the PHS Act, the Departments are authorized to issue such regulations as may be necessary and appropriate to carry out the provisions of chapter 100 of the Code, part 7 of ERISA, and title XXVII of the PHS Act, respectively, including the provisions directing the Departments to establish the Federal IDR process.

In the 2023 proposed rules, the Departments proposed new disclosure rules at 26 CFR 54.9816–6A, 29 CFR 2590.716–6A, and 45 CFR 149.100. These proposals would require plans and issuers to use CARCs and RARCs, as specified in guidance issued by the Departments, or as required under any applicable adopted standards and operating rules under 45 CFR part 162, to communicate information related to whether a claim for an item or service furnished by an entity that does not have a direct or indirect contractual relationship with the plan or issuer for the furnishing of such item or service under the plan or coverage is subject to the provisions of 26 CFR 54.9816 and 54.9817; 29 CFR 2590.716 and 2590.717; or 45 CFR part 149, subpart B, E, or F.

The Departments sought comment on the CARC and RARC proposal. After reviewing comments, and in light of the considerations discussed in this section of these final rules, the Departments are finalizing the CARC and RARC proposal with minor modifications.

a. In General

Many commenters supported the proposal to require plans and issuers to use CARCs and RARCs to standardize communication between plans and issuers and providers early in the claims process for out-of-network items and

³¹ CARCs and RARCs are required by the ASC X12 835 transaction standard and are not currently required to be used on paper remittance advice.

³² X12. (Updated November 1, 2025). *Claim Adjustment Reason Codes*. <https://x12.org/codes/claim-adjustment-reason-codes>.

³³ X12. (Updated July 1, 2025). *Remittance Advice Remark Codes*. <https://x12.org/codes/remittance-advice-remark-codes>.

³⁴ CAQH CORE. (June 2012). *Phase III 360 CORE Uniform Use of CARCs and RARCs (835) Rule, Version 3.0.0*, available at https://43908627.fs1.hubspotusercontent-na1.net/hubfs/43908627/CARCsRARCs_835_Rule.pdf.

³⁵ See Maintenance Request Form, available at <https://x12.org/codes/remittance-advice-remark-codes> (for RARCs) and <https://x12.org/codes/claim-adjustment-reason-codes> (for CARCs). See also CMS, Health Care Payment and Remittance Advice and Electronic Funds Transfer, Claim Adjustment Reason Codes and Remittance Advice Remark Codes, available at <https://www.cms.gov/priorities/key-initiatives/burden-reduction/administrative-simplification/transactions/health-care-payment-remittance-advice-electronic-funds-transfer>.

³⁶ CAQH CORE. (n.d.). *Operating Rules, Keeping Up with the Core Code Combinations*, available at <https://www.caqh.org/core/operating-rules>.

³⁷ X12. (Updated July 1, 2025). *Remittance Advice Remark Codes*. <https://x12.org/codes/remittance-advice-remark-codes> (complete list of approved RARC codes including No Surprises Act-specific codes); and Centers for Medicare & Medicaid Services. (March 1, 2022). *Remittance Advice Remark Codes Related to the No Surprises Act*, available at <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Other-Insurance-Protections/CAANSAR-Codes.pdf> (unofficial reference list of No Surprises Act-specific RARC codes).

³⁸ The ASC X12 835 transaction standard requires health plans to convey information about the adjudication of a claim using CARCs and RARCs. The Phase III 360 CORE Uniform Use of CARCs and RARCs (835) Rule, adopted at 45 CFR 162.1603, requires plans to use specified combinations of CARCs and RARCs in certain business scenarios. CAQH CORE. (June 2012). *Phase III 360 CORE Uniform Use of CARCs and RARCs (835) Rule, Version 3.0.0*, available at https://43908627.fs1.hubspotusercontent-na1.net/hubfs/43908627/CARCsRARCs_835_Rule.pdf.

³⁹ The No Surprises Act does not include the same language addressing disclosures to providers of air ambulance services. However, the July 2021 interim final rules implemented the statute's cost-sharing requirements for air ambulance services by requiring that plans and issuers base any coinsurance and deductible for air ambulance services furnished by a nonparticipating provider of air ambulance services on the lesser of the QPA or the billed amount for the services. 86 FR 36884 (July 13, 2021). Therefore, the July 2021 interim final rules also applied the requirement to make disclosures regarding the QPA for providers of air ambulance services. As stated in the preamble to the July 2021 interim final rules, the Departments recognize that providers of air ambulance services subject to the surprise billing rules (as well as providers and emergency facilities) need transparency regarding how the QPA was calculated to inform the open negotiation process, the decision whether to initiate the Federal IDR process, and the amount of the offer to submit. 86 FR 36898 (July 13, 2021).

services. Several commenters noted that some plans and issuers currently use No Surprises Act-related RARCs, but usage is not consistent across all plans and issuers or in every circumstance in which they apply. Many commenters stated that the proposal would reduce the number of ineligible disputes submitted to the Federal IDR process by allowing parties to more easily identify ineligible claims, including, for example, allowing providers to automate some aspects of claims analysis, increasing the speed with which providers can review remittances and determine eligibility for the Federal IDR process compared to current manual review processes. One commenter highlighted that the proposal would provide more information for initiating parties and certified IDR entities, which would improve the certified IDR entity's ability to determine a dispute's eligibility.

The Departments agree with commenters who suggested that the CARC and RARC requirement will facilitate communication between plans or issuers and providers, thereby reducing the number of ineligible disputes submitted to the Federal IDR process and thus allowing certified IDR entities to focus resources more efficiently. In addition, the use of RARCs and CARCs will reduce the need for providers to engage in resource-intensive manual examination of paper or other non-standardized eligibility information.

However, a few commenters opposed the CARC and RARC proposal. One of these commenters stated that because only a few of the currently available RARCs specific to the No Surprises Act relate to how claims are paid and negotiated, requiring their use would not improve providers' ability to determine whether they may initiate open negotiation and the Federal IDR process. Another commenter noted that disclosures provided separately from the electronic transaction are often more detailed than what is likely to be communicated via CARCs and RARCs, and that requiring CARCs and RARCs to be added to a remittance advice provided with the initial payment or notice of denial of payment would be redundant with what plans are already providing in other steps of the Federal IDR process.

The Departments have determined that CARCs and RARCs provided on remittance advice as required under these final rules will help to address communication challenges between plans or issuers and providers, even when information that could be conveyed by a CARC or RARC may also

be available through another mechanism or at a later point in the payment dispute process. Specifically, using a CARC or RARC to convey information in ASC X12 835 transactions, prior to the open negotiation period, could improve or replace later communications or render them entirely unnecessary. For example, the Departments are aware that because the ASC X12 835 electronic transaction standard does not accommodate the QPA disclosures that plans and issuers are required to provide under 26 CFR 54.9816–6(d), 29 CFR 2590.716–6(d), and 45 CFR 149.140(d), plans and issuers generally provide all required disclosures by an alternate mechanism, such as using email or sending in paper form. Providers therefore receive disclosures separately from, and often much later than, electronic transactions and have reported challenges linking the disclosures to the correct transaction.⁴⁰ However, requiring certain disclosure information to be provided using a CARC or RARC means that information will be conveyed to the provider as part of the ASC X12 835 transaction. A CARC or RARC provided in a remittance advice that clearly and accurately identifies an item or service as being eligible or ineligible for the Federal IDR process could remove delays in initiating the open negotiation period or prevent a dispute over payment for that item or service from incorrectly proceeding to the Federal IDR process.⁴¹

In other cases, CARCs and RARCs may provide information prior to the initiation of the Federal IDR process that is not available through other mechanisms and could be used to prevent the initiation of an incorrectly batched dispute. For example, as described elsewhere in this preamble, the Departments are finalizing requirements that certain plans and issuers provide specific data elements in the Federal IDR registry established under 26 CFR 54.9816–9, 29 CFR 2590.716–9, and 45 CFR 149.530, such as plan type or whether a self-insured plan has properly effectuated an

election to opt in to a specified State law or an All-Payer Model Agreement under section 1115A of the Social Security Act. Such data will be provided at the level of the plan or coverage. By contrast, similar information could be provided through CARCs and RARCs for each specific line item on a remittance advice and convey information specific to a particular item or service. Line item level details are relevant to disputes in which a specified State law or All-Payer Model Agreement applies to certain items and services and the Federal IDR process applies to others.

The Departments clarify that the requirement to use specified CARCs and RARCs under these final rules will be in addition to the disclosure requirements at 26 CFR 54.9816–6(d), 29 CFR 2590.716–6(d), and 45 CFR 149.140(d) and Federal IDR registry requirements at 26 CFR 54.9816–9, 29 CFR 2590.716–9, and 45 CFR 149.530. To the extent that a CARC or RARC could be used to fulfill a separate disclosure requirement, such as the requirements at 29 CFR 2590.716–6(d) and 45 CFR 149.140(d), the Departments will issue future guidance to identify how and when a specific code can be used to meet a particular requirement.

b. Application to Items and Services Not Subject to No Surprises Act Surprise Billing Requirements

The Departments also proposed in the 2023 proposed rules that the requirements under 26 CFR 54.9816–6A, 29 CFR 2590.716–6A, and 45 CFR 149.100 relating to CARCs and RARCs would apply to plans and issuers when sending any paper or electronic remittance advice to entities with which they do not have a direct or indirect contractual relationship, including for items and services to which the No Surprises Act surprise billing requirements do not apply. The Departments proposed this approach so that CARCs and RARCs could be used to convey when the No Surprises Act does not apply to a particular item or service and reduce the submission of ineligible disputes to the Federal IDR process.

Several commenters supported this proposal, stressing the importance of understanding when the No Surprises Act does not apply to a particular item or service to avoid submission of ineligible disputes to the Federal IDR process. One commenter highlighted that requiring a RARC that identifies an item or service as being ineligible for a State or Federal balance billing protection would significantly and immediately reduce the number of

⁴⁰ See FAQs About Consolidated Appropriations Act, 2021 Implementation Part 69 (January 14, 2025), Q3, available at <https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/faqs/aca-part-69.pdf> and <https://www.cms.gov/files/document/faqs-part-69.pdf>.

⁴¹ The use by a plan or issuer of a CARC or RARC that conveys that an item or service is ineligible for the Federal IDR process is not a dispositive determination of eligibility and would not prevent a certified IDR entity from determining that the item or service is eligible through the eligibility review process finalized in these final rules. See 26 CFR 54.9816–8(c)(2), 29 CFR 2590.716–8(c)(2), and 45 CFR 149.510(c)(2) and section I.I.E.1.b of this preamble.

ineligible dispute initiations, allowing certified IDR entities to address future payment disputes more efficiently, while another commenter suggested the proposal would reduce financial and administrative burdens associated with identifying whether balance billing is prohibited. On the other hand, a small number of commenters indicated that applying the provision to out-of-network claims for items and services that are not subject to the surprise billing provisions in the No Surprises Act would require additional time to implement and could cause provider confusion and increase operational burden for plans and issuers.

The Departments acknowledge these final rules may require some plans and issuers to implement new processes to include CARCs and RARCs related to the No Surprises Act on remittance advice but have determined that there is a critical need to provide this information to improve the functioning of the Federal IDR process. Just as it is important for providers to understand when an item or service is subject to the surprise billing protections under the No Surprises Act, it is equally important to understand when an item or service is not subject to these protections, so that parties can take appropriate steps to resolve payment issues and avoid submission of ineligible disputes to the Federal IDR process. Therefore, the Departments are finalizing this aspect of the proposed requirements as proposed.

In the preamble to the 2023 proposed rules, the Departments stated that, because direct billing of patients for an amount greater than the applicable in-network cost-sharing requirement is largely limited to items and services to which the No Surprises Act does not apply, the 2023 proposed rules would not require plans and issuers to provide CARCs and RARCs on remittance advice provided directly to participants, beneficiaries, and enrollees.⁴² However, the Departments sought comment on whether a plan or issuer should generate

a remittance advice that can be obtained upon request by the provider when the plan or issuer makes a payment directly to a participant, beneficiary, or enrollee, and whether the proposed requirement to use CARCs and RARCs to convey No Surprises Act-specific information should apply in these circumstances.

The Departments did not receive any comments on this provision in the 2023 proposed rules. These final rules do not require plans and issuers to use CARCs and RARCs on remittance advice for payments made directly to participants, beneficiaries, or enrollees—including if the remittance advice is requested by the provider that furnished the item or service for which payment is made. The proposed regulation text has been modified to make clear that the provision applies when providing remittance advice to an entity “(other than a participant, beneficiary, or enrollee)” that does not have a contractual relationship with the plan or issuer.

c. Use of Guidance

The Departments proposed that certain procedural aspects of the CARC and RARC requirement would be implemented through guidance, including the specific CARCs and RARCs that plans and issuers would be required to use to satisfy the disclosure requirements under proposed 26 CFR 54.9816–6A, 29 CFR 2590.716–6A, and 45 CFR 149.100.⁴³ The Departments are finalizing this part of the proposal as proposed. Accordingly, these final rules establish the general requirement that plans and issuers use CARCs and RARCs, in the manner and timeframe specified in guidance, to communicate information about whether an item or service identified on a claim is or is not subject to the surprise billing requirements under the No Surprises Act. Future guidance will identify the specific CARCs and RARCs to be used in particular circumstances, which, as discussed below in section II.B.2.e of this preamble, when surprise billing protections do apply, may include use of CARCs and RARCs to communicate relevant procedural or administrative information related to application of the surprise billing protections to the items or services at issue. Future guidance will also provide any administrative and technical instructions necessary to facilitate the use of mandated CARCs and RARCs in all paper or electronic

remittance advice transactions to providers that do not have a contractual relationship with the plan or issuer. Approval of new CARCs and RARCs or modifications to existing CARCs and RARCs, including the existing list of No Surprises Act-related RARCs, will be subject to the existing CARC Committee and RARC Committee processes, as mentioned above.

Most commenters generally supported the use of guidance to implement the proposal. Some of these commenters also provided specific recommendations for how the Departments could ensure future guidance would be clear and effective. Commenters recommended that any guidance should include explicit timelines for compliance and provide clear direction for how specified CARCs and RARCs must be used. As discussed in section II.B.2.g of this preamble, several commenters requested that guidance address potential non-compliance, including describing oversight mechanisms and penalties and providing contact information for filing complaints against parties that are non-compliant with the CARC and RARC requirement. As discussed in more detail in section II.H.1 of this preamble, several commenters emphasized the importance of implementing the CARC and RARC requirements as quickly as possible.

A few commenters recommended that the Departments use notice-and-comment rulemaking, rather than guidance, to change existing, or identify new, CARCs and RARCs. For example, one commenter stated that plans and issuers could provide feedback through rulemaking regarding the initial development of technically and operationally complex requirements, but once initial requirements were reviewed and agreed upon by industry, future updates could be issued via guidance. Another commenter recommended rulemaking to allow interested parties to comment on specific challenges that could be raised by individual CARCs and RARCs.

The Departments have determined that guidance, rather than notice-and-comment rulemaking, is appropriate for providing the technical and operational instruction needed to implement this provision. This approach will provide necessary flexibility, enabling the Departments to better respond to evolving needs and circumstances, including the flexibility to discontinue specification of certain CARCs and RARCs should the information they communicate become readily available to providers through a different mechanism or otherwise become unnecessary. Further, as discussed in

⁴² See 88 FR 75744, 75762 and 75763 (November 3, 2023). While a plan or issuer should not send payment for items and services that are subject to the surprise billing provisions of the No Surprises Act to any individual or entity other than the provider, the Departments acknowledge there may be circumstances in which a plan or issuer initially determines that an item or service is not subject to the surprise billing provisions of the No Surprises Act and sends payment and a corresponding ERA to a participant, beneficiary, or enrollee, but subsequently, upon the receipt of new or updated information, revises that assessment (for example, when an in-network facility submits a claim for a non-emergency service after the plan or issuer has processed an out-of-network provider claim for the same item or service). In these cases, the plan or issuer would be required to provide an updated remittance advice to the provider that includes any relevant required CARCs or RARCs.

⁴³ Neither the proposal nor these final rules alter HHS' authority under HIPAA to implement future guidance for ERA or to adopt new or modified standards or operating rules in accordance with Title XI Part C—Administrative Simplification of the Social Security Act.

the preamble to the 2023 proposed rules, this approach mirrors the longstanding framework in which interested parties may submit requests to add, remove, or modify existing CARCs and RARCs, but updates to the lists of approved CARCs and RARCs and the required CARC and RARC code combinations provided for in the HIPAA-mandated operating rule are issued outside of the notice-and-comment rulemaking process.⁴⁴

d. Technical and Operational Considerations

The Departments solicited comment on circumstances in which a plan or issuer would be unable to determine whether an item or service included on a remittance advice is, or is not, subject to the Federal IDR process at the time the remittance advice is issued to a provider, facility, or provider of air ambulance services. One commenter identified a scenario in which a provider submits a claim, but the related facility claim containing the information needed to determine applicability of the No Surprises Act is submitted later. The Departments understand that plans and issuers sometimes need to adjust remittance advice (for example, to reflect corrections or new information that could impact payment) and anticipate that plans and issuers will apply existing processes⁴⁵ to modify remittance advice as needed to ensure compliance with the CARC and RARC requirement being finalized in these final rules. Because the Departments anticipate corrections will be needed infrequently, the Departments do not expect making corrections with ERA using CARCs and RARCs as required by these final rules to be overly burdensome on plans or issuers.

The Departments also sought comment on the technical and operational steps that plans and issuers would need to take to initially implement new No Surprises Act-specific CARCs and RARCs, including plans and issuers that do not currently use CARCs and RARCs, or that are currently able to accommodate only one CARC and RARC combination per line item. Several commenters noted that many plans and issuers already use CARCs and RARCs, albeit inconsistently

for No Surprises Act-specific RARCs, and are familiar with the use of such codes generally, and suggested that implementation of the proposed CARC and RARC requirement would not be technically or operationally difficult. However, several other commenters noted that ERAs have limited space to enter additional data, including CARCs and RARCs. In many cases, HIPAA-mandated standards for electronic data interchange already require plans and issuers to include specific code combinations on ERAs, further limiting the available space for additional No Surprises Act-specific CARCs and RARCs. Commenters explained that a plan's current system might only accommodate a single RARC per line item; in cases when an existing requirement already mandates the use of a CARC or RARC to describe, for example, a payment adjustment, the plan may not be able to accommodate an additional No Surprises Act-related CARC or RARC. As a partial solution, a few commenters requested that the Departments design CARCs and RARCs to convey multiple data elements in a single code and avoid a scenario where plans and issuers would have to combine multiple codes to convey required information related to the No Surprises Act.

The Departments have determined that because all plans and issuers that provide ERA transactions that are subject to the HIPAA Administrative Simplification requirements are required to use CARCs and RARCs, most plans and issuers already have the capacity to implement the CARC and RARC requirement. However, as stated in the preamble to the 2023 proposed rules, the Departments acknowledge that implementing any new requirements affecting remittance advice, including the CARC and RARC requirement, may increase burden and pose technical and operational challenges for some plans and issuers, particularly those whose systems do not currently accommodate multiple CARCs and RARCs per line item. In light of the comments described above, the Departments will consider providing technical direction in future guidance to facilitate implementation of the CARC and RARC requirements on ERA with limited space available for data elements. As discussed in the 2023 proposed rules⁴⁶ and section II.H.1 of this preamble, the Departments are aware that after guidance is issued identifying the specific CARCs and RARCs required to be used, plans and issuers will need additional time to

implement the CARC and RARC requirement. The Departments will establish an appropriate applicability date in guidance, as further discussed in section II.H. of these final rules. Plans and issuers will not be required to use CARCs and RARCs under these final rules until such date as provided for in future guidance.

e. Additional CARCs and RARCs

As described in section II.B.1 of this preamble, the RARC Committee has approved a set of informational RARCs that plans and issuers can use to convey information about the No Surprises Act when providing remittances to providers. In the preamble to the 2023 proposed rules, the Departments solicited comment on whether, and if so, what information related to the No Surprises Act's surprise billing provisions that is not conveyed in the existing RARCs would be helpful to convey through the creation of additional RARCs. Many commenters provided feedback on the existing No Surprises Act-related RARCs, as well as recommendations for potential new CARCs and RARCs.

As noted in section II.B.2 of this preamble, multiple commenters noted that plans and issuers have not adopted a consistent approach to using RARCs to provide information related to the No Surprises Act. Given this lack of consistency, one commenter recommended that the Departments undertake an inventory of the current RARC list before introducing new CARCs and RARCs specific to the No Surprises Act. Another commenter requested utilizing a single, consistent list of CARCs and RARCs that provide a common language for understanding remittance information, regardless of payer. A few other commenters recommended that, because CARCs and RARCs are often generic, requiring a "plain language" explanation of the specific reason for a claim denial would benefit all parties.

Other commenters provided feedback on specific, current RARCs. Several commenters recommended that the Departments specify in guidance that plans and issuers must use one of two "mutually exclusive" RARCs: N871, which identifies an initial payment that was calculated based on a specified State law in accordance with the No Surprises Act; or N859, which identifies a claim that was processed subject to the No Surprises Act and that is eligible for Federal dispute resolution. Another commenter recommended requiring N883 to identify an item or service that

⁴⁴ See 45 CFR 162.1603(a)(3–4), and Phase III CORE 360 Uniform Use of Claim Adjustment Reason Codes and Remittance Advice Remark Codes (835) Rule, available at <https://www.caqh.org/core/operating-rules> (outlining the process for maintaining CORE-defined CARC, RARC & Claim Adjustment Group Code Combinations).

⁴⁵ See, for example, CAQH, Operating Rules, available at <https://www.caqh.org/core/operating-rules>.

⁴⁶ 88 FR 75744, 75762 (November 3, 2023).

was processed according to State law.⁴⁷ Several commenters stated that the RARC Committee should deactivate RARC N830 and the Departments should not include it in future guidance.⁴⁸ Commenters identified N830 as the most common No Surprises Act-related RARC being provided by plans and issuers, but explained that N830 is problematically vague because it does not distinguish between claims that are subject to State dispute resolution processes and claims subject to the Federal IDR process. These commenters stated that N830 therefore does not provide meaningful guidance to providers and facilities seeking to determine the appropriate State or Federal venue for their payment dispute. Another commenter recommended deactivating several codes that distinguish between emergency, non-emergency, and air ambulance services, because providers are already aware of the services that they render and can typically identify more granular information about specific items and services from other information on the remittance.⁴⁹

Many commenters also recommended creating new RARCs to communicate information that cannot be conveyed using existing RARCs. Commenters generally recommended creating RARCs that would convey the following information about a claim: (1) identifying when State or Federal surprise billing protections do not apply; (2) when surprise billing protections do apply, the applicable dispute resolution process or payment amount (such as the Federal IDR process; processes or amounts governed

by a specified State law, including whether a self-insured plan has opted into a specified State law; or an amount determined by an All-Payer Model Agreement); and (3) plan type (such as a fully or self-insured ERISA plan, a non-Federal governmental plan, an FEHB plan, or individual health insurance coverage). A few commenters also recommended that the Departments require that plans and issuers convey information about the QPA using RARCs, such as a RARC that specifies when the allowed amount is the QPA or one or more RARCs that convey the QPA disclosures required under 29 CFR 2590.716–6(d) and 45 CFR 149.140(d), including the QPA itself. One commenter requested that the Departments require plans and issuers providing a payment in the form of a bundled payment to use CARCs and RARCs to disclose the application of a bundling methodology and identify each item or service included in such bundling, to ensure that plans and issuers provide a QPA for each item or service in a bundled payment.⁵⁰

The Departments also solicited comment regarding any experiences with State-level CARC and RARC requirements related to State surprise billing laws. One commenter emphasized the importance of considering State-Federal interactions when developing guidance mandating plans and issuers use specific CARCs and RARCs to avoid conflicts with State requirements.

The Departments agree with commenters who recommend undertaking a thorough inventory of the existing No Surprises Act-related RARCs as part of the process for developing future guidance and recognize the importance of considering potential interactions with State-level code requirements. The Departments also acknowledge that it may be necessary to supplement the existing RARC list with new RARCs to comprehensively address whether and how the No Surprises Act applies to items and services included on a remittance advice. The Departments will take the commenters' recommendations into consideration when developing future guidance.

f. Applicability to Paper and Electronic Remittance Advice

The Departments proposed that plans and issuers be required to include CARCs and RARCs on “any paper or electronic remittance advice” provided to an out-of-network provider, facility, or provider of air ambulance services, and requested feedback on whether a more general term, such as “any remittance advice” would be helpful in characterizing the types of communications accompanying payments for items and services. A few commenters supported the use of the more general term “any remittance advice” instead of “any paper or electronic remittance advice,” provided that plans and issuers would retain the flexibility to choose whether to use paper or electronic communication. One commenter requested that plans and issuers retain the flexibility to provide all required disclosures on “separate page disclosures,” as they explained is commonly done today. Another commenter requested that the Departments apply the proposed CARC and RARC requirements to ERA only, excepting plans and issuers from the requirements when they issue a paper remittance advice or EOB. This commenter stated that paper remittance advice is generally prepared for the benefit of plan members or for providers who do not use HIPAA electronic transactions and do not generally furnish items and services that are subject to the No Surprises Act. A few commenters cited the added provider burden associated with paper remittance advice and requested that the Departments encourage the use of ERA. By contrast, other commenters supported the Departments' proposal to apply the requirements to paper and ERA and highlighted the importance of standardizing the communication between plans and issuers and providers, regardless of the method of communication. One commenter noted that out-of-network providers were particularly likely to rely on paper remittance advice because they were less likely to have established electronic communication with a plan with which they do not contract.

After reviewing comments, the Departments are finalizing a modified version of the proposal to require that, when providing any remittance advice (including in paper or electronic form) to an entity (other than a participant, beneficiary, or enrollee) that does not have a contractual relationship, directly or indirectly, with a group health plan or a health insurance issuer offering group or individual health insurance

⁴⁷ The RARC text associated with N883 is: “Alert: Processed according to State law.” See X12, “Remittance Advice Remark Codes,” available at <https://x12.org/codes/remittance-advice-remark-codes>.

⁴⁸ The RARC text associated with N830 is: “Alert: The charge[s] for this service was processed in accordance with Federal/State, Balance Billing/No Surprise Billing regulations. As such, any amount identified with OA, CO, or PI cannot be collected from the member and may be considered provider liability or be billable to a subsequent payer. Any amount the provider collected over the identified PR amount must be refunded to the patient within applicable Federal/State timeframes. Payment amounts are eligible for dispute under any Federal/State documented appeal/grievance process(es).” See CMS, “Remittance Advice Remark Codes Related to the No Surprises Act,” available at <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Other-Insurance-Protections/CAA-NSA-RARC-Codes.pdf>.

⁴⁹ In the case of payments that are not on a fee-for-service basis, plans and issuers are required to calculate a QPA for each item or service according to the requirements at 29 CFR 2590.716–6(b)(2)(iii) and 45 CFR 149.140(b)(2)(iii) and disclose the QPA for each item or service involved in an initial payment or notice of denial of payment according to the requirements at 29 CFR 2590.716–6(d)(1)(i) and 45 CFR 149.140(d)(1)(i).

⁵⁰ In the case of payments that are not on a fee-for-service basis (such as bundled or capitated payments), plans and issuers are required to calculate a QPA for each item or service according to the requirements at 29 CFR 2590.716–6(b)(2)(iii) and 45 CFR 149.140(b)(2)(iii) and disclose the QPA for each item or service involved in an initial payment according to the requirements at 29 CFR 2590.716–6(d)(1)(i) and 45 CFR 149.140(d)(1)(i).

coverage for the furnishing of an item or service under the plan or coverage, in response to a claim for payment for health care items and services furnished by that entity, the plan or issuer must use CARCs and RARCs, in the manner and timeframe specified in guidance issued by the Departments. This modification to the proposed language does not alter the requirements proposed in the 2023 proposed rules, but rather more clearly communicates that the requirement to use CARCs and RARCs, as specified in guidance, applies to a plan or issuer regardless of the format of the remittance advice it uses to communicate with an entity with which it does not have a direct or indirect contractual relationship.

In response to comments raising concerns generally related to the use of paper remittances or ERA, the Departments acknowledge that paper remittance advice may impose a higher administrative burden on providers. However, as noted in the 2023 proposed rules and in section II.B.1 of this preamble, the Departments understand that some plans and issuers routinely communicate with some providers using paper remittance advice and other formats outside the purview of the HIPAA transaction standards. Indeed, it is particularly important to ensure that the requirements apply to paper remittances, to the extent that plans or issuers use paper remittance advice for items and services provided by entities with which they do not have a direct or indirect contractual relationship. By applying the CARC and RARC requirement regardless of remittance advice format, these final rules ensure that entities that do not receive ERA will benefit from improved access to standardized Federal IDR process eligibility information early in the claims process. The Departments reiterate that the CARC and RARC requirement in these final rules only applies to plans and issuers when sending any paper or electronic remittance advice to entities with which they do not have a direct or indirect contractual relationship. It does not apply to any remittance information or EOB sent from plans and issuers directly to plan participants, beneficiaries, or enrollees.

The 2023 proposed rules did not propose any changes to requirements governing the format of remittances or remittance advice. The Departments clarify that these final rules neither establish a requirement to use a specific format nor alter existing requirements related to the use of electronic or paper remittance advice (such as the requirement that entities subject to

electronic transactions requirements under HIPAA must use ERA at the request of a provider, facility, or provider of air ambulance services, regardless of its network status or other contractual relationship with the plan or issuer).⁵¹

g. Enforcement of CARC and RARC Requirement

Many commenters highlighted the importance of ensuring that the CARC and RARC requirement is strictly and consistently enforced. Several commenters recommended imposing monetary penalties on plans and issuers that fail to provide required CARCs and RARCs. Several commenters recommended that the Departments modify the Federal IDR process to either create consequences for plans or issuers that fail to provide appropriate CARCs or RARCs, or provide relief for providers that are impacted by a plan's or issuer's failure to provide appropriate CARCs and RARCs.

In previously issued guidance, the Departments stated that when a plan or issuer fails to comply with the QPA disclosure requirements,⁵² providers retain the right to initiate the open negotiation period within 30 business days of receiving the initial payment or notice of denial of payment.⁵³ The Departments further stated that in cases in which a plan or issuer fails to comply with the disclosure requirements, the provider did not have the information necessary to initiate the 30-business-day open negotiation period, and the provider subsequently missed the deadline to initiate the Federal IDR process, the provider may alternatively request an extension to initiate the Federal IDR process by emailing a request for extension due to extenuating circumstances to FederalIDRQuestions@cms.hhs.gov.

In response to comments, the Departments note that this option to request extensions will also apply in

cases where a plan or issuer fails to provide CARCs and RARCs as required under these final rules. The Departments are not imposing additional Federal IDR process consequences in these final rules on plans and issuers that fail to provide CARCs and RARCs, which could complicate and delay payment determinations, but will continue to assess the need for Federal IDR process changes and propose any such changes in future rulemaking. The Departments will use existing processes to enforce requirements under the Code, ERISA, and the PHS Act that apply to group health plans and health insurance issuers, including the requirements added by these final rules.

C. Information To Be Shared About the QPA

As described in section I.B of this preamble, the July 2021 interim final rules and August 2022 final rules provide that if the recognized amount for an item or service is the QPA, plans and issuers must make certain disclosures about the QPA with each initial payment or notice of denial of payment and must also provide certain additional information upon request.⁵⁴ This information must be provided in writing, either on paper or electronically, to a provider, facility, or provider of air ambulance services, as applicable.⁵⁵ These requirements were intended to ensure the disclosure of information about the QPA in any instance in which an item or service could be eligible for the Federal IDR process. However, the current text of the regulations describing when such disclosures are required does not precisely mirror all instances in which an item or service could be eligible for the Federal IDR process.

The term "recognized amount" is not used in the statute or regulations for purposes of determining cost sharing for air ambulance services furnished by nonparticipating providers of air ambulance services. Accordingly, in the 2023 proposed rules, the Departments proposed a change to 26 CFR 54.9816-6T(d), 29 CFR 2590.716-6(d), and 45 CFR 149.140(d) to specify that, in the case of air ambulance services, plans and issuers must disclose the QPA and certain information about the QPA when cost sharing is calculated based on the lesser of the QPA or the amount billed by the provider of air ambulance services. The Departments similarly proposed that, in the case of emergency and applicable non-emergency services,

⁵¹ See 45 CFR 162.925(a)(1) (providing that if an entity requests a health plan to conduct a transaction as a standard transaction, the health plan must do so).

⁵² 26 CFR 54.9816-6(d)(1) or (2), 29 CFR 2590.716-6(d)(1) or (2), and 45 CFR 149.140(d)(1) or (2).

⁵³ See FAQs about Affordable Care Act and Consolidated Appropriations Act, 2021 Implementation Part 55 (August 19, 2022), Q20, available at <https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/faqs/aca-part-55.pdf> and <https://www.cms.gov/files/document/faqs-part-55.pdf>; see also FAQs about Consolidated Appropriations Act, 2021 Implementation Part 69 (January 14, 2025), Q3 and Q4, available at <https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/faqs/aca-part-69.pdf> and <https://www.cms.gov/files/document/faqs-part-69.pdf>.

⁵⁴ 86 FR 36898; 87 FR 52633.

⁵⁵ 29 CFR 2590.716-6(d) and 45 CFR 149.140(d).

information about the QPA must be disclosed when the recognized amount is lesser of the QPA or the amount billed by the provider or facility. This proposal to require the disclosure when the amount billed is used to determine cost sharing takes into account the rare circumstances where the billed amount is less than the QPA. In such cases, cost sharing must be based on the billed amount, as specified in existing rules at 29 CFR 2590.716–3, 29 CFR 2590.717–1(b)(2), 45 CFR 149.30, and 45 CFR 149.130(b)(2).

Lastly, the Departments proposed technical changes to clarify several definitional terms and proposed several additional items of information that must be included as part of the disclosure. After considering the comments received, the Departments are finalizing the proposed changes with minor modifications.

The Departments received several comments expressing support for the proposed change to 26 CFR 54.9816–6T(d), 29 CFR 2590.716–6(d), and 45 CFR 149.140(d) to reflect that the term “recognized amount” does not apply for air ambulance services. These commenters stated that the change in terminology will result in plans and issuers providing necessary information for all items and services that may be subject to the Federal IDR process, making it easier for providers of air ambulance services to decide, prior to the open negotiation process, whether a claim is eligible for the IDR process.

After considering the comments, the Departments are finalizing this amendment as proposed. The amendment does not change existing policy but rather is a technical amendment to reflect that the term “recognized amount” is not used in the statute or the regulations for purposes of determining cost sharing for air ambulance services furnished by nonparticipating providers of air ambulance services. Instead, for air ambulance services, cost sharing is calculated based on the lesser of the QPA or the amount billed by the provider of air ambulance services.

The Departments also proposed amendments to 26 CFR 54.9816–6(d), 29 CFR 2590.716–6(d), and 45 CFR 149.140(d) to require plans and issuers to make the same disclosures regarding the QPA and related information when the recognized amount (or for air ambulance services, the amount on which cost sharing is based) is the amount billed by the provider, facility, or provider of air ambulance services.

Several commenters stated their support for this clarifying amendment, stating that in cases where the

recognized amount (or the amount upon which cost sharing is based) is the billed amount, the QPA and its related disclosures are important information to have prior to the open negotiation period and when assessing whether to initiate a Federal IDR dispute. These commenters also explained that the change would facilitate certified IDR entities’ determinations of whether a claim is eligible for the Federal IDR process, but did not expand further on this point. A few commenters urged that this change not be finalized. Those commenters stated that disclosing certain information about the QPA when the calculation of cost sharing involves the billed amount would incentivize providers to increase their billed charges to the QPA (or higher), which would in turn increase costs to patients and the larger health care system. In addition, one commenter stated that this change is unfeasible because the disclosure requirements would apply to items and services for which the payer is unable to generate QPA values, due to limited sample sizes.

The Departments disagree with the concerns stated by commenters about finalizing the amendment as proposed. When an All-Payer Model Agreement or specified State law does not apply, the recognized amount used to determine cost sharing (or for air ambulance services, the amount upon which cost sharing is based) for an item or service subject to the No Surprises Act is the lesser of the amount billed by the provider or facility or the QPA. When the QPA is not the lesser amount and therefore is not used to determine cost sharing, the item or service may nevertheless be eligible for the Federal IDR process, provided other conditions of eligibility are met. Because certified IDR entities are required under statute to consider the QPA in rendering a payment determination, the Departments have concluded that it is critical that plans and issuers share information about the QPA even when the billed amount, rather than the QPA, is used to determine cost sharing.⁵⁶

In response to the comment regarding inability to calculate QPA values due to a limited sample size, the Departments note that QPAs are based on contracted rates, and not on amounts billed by providers.⁵⁷ Accordingly, after

⁵⁶ The Departments note that a plan or issuer must provide the required QPA disclosures, regardless of the cost-sharing requirement imposed under the plan or coverage, including for example, when the cost-sharing requirement for the item or service is \$0 or is a copayment.

⁵⁷ See 29 CFR 2590.716–6(b) and (c)(3) and 45 CFR 149.140(b) and (c)(3).

considering the concerns raised and the many comments received supporting the proposed changes, the Departments are finalizing this amendment as proposed.

The Departments also proposed technical and conforming amendments to align the requirements under 26 CFR 54.9816–6T, 29 CFR 2590.716–6, and 45 CFR 149.140 with the October 2021 interim final rules and current practice. One of these proposed changes was to specify that “days,” as described in the disclosure provisions (for example, the 30-business-day open negotiation period), are counted using “business days” (rather than “calendar days”), where applicable. One commenter stated concern that specifying “business days” instead of “calendar days” would lead to delays and explained that the Congress did not specify the use of business days, suggesting that calendar days were intended. However, the proposed change is consistent with the Departments’ previously described interpretation of the statute. Specifically, in the October 2021 interim final rules, the Departments noted, “[t]he statute is largely silent on whether the term ‘days’ used in these provisions means business days or calendar days. However, in certain provisions, the No Surprises Act specifies the use of calendar days or business days, indicating that where the statute is silent the Departments may choose either meaning.”⁵⁸ The Departments have determined that aligning the timeframes described in the disclosure with the existing timeframes for open negotiation will minimize confusion. Therefore, to ensure conformity and consistency between the disclosures and the regulatory timeframes, the Departments have finalized the amendments as proposed, interpreting “days” as “business days” for the purpose of the disclosures required under 29 CFR 2590.716–6(d) and 45 CFR 149.140(d), to align with the previously codified regulatory timeframes.⁵⁹

The Departments also proposed technical and conforming amendments to align the language in 29 CFR 2590.716–6(d)(1)(iv) and 45 CFR 149.140(d)(1)(iv) with the requirements established in the October 2021 interim final rules regarding initiation of open negotiation and the Federal IDR process by replacing the phrase “amount of total payment” with the term “out-of-network rate,” as defined in 29 CFR 2590.716–3 and 45 CFR 149.30, and by describing an unsuccessful open

⁵⁸ 86 FR 55980, 55989 (October 7, 2021).

⁵⁹ *Id.*

negotiation period as not resulting in an “agreement on the amount of payment” rather than not resulting in a “determination.” The Departments received one comment supporting the proposed changes and did not receive any comments opposing these amendments. The Departments are finalizing these changes as proposed.

The Departments further proposed that plans’ and issuers’ disclosures must include a statement that explains that a provider, facility, or provider of air ambulance services must notify the Departments to initiate open negotiation. The requirement, which would update the disclosure language consistent with related changes that the Departments proposed in the 2023 proposed rules,⁶⁰ would apply to disclosures that are made after the open negotiation notice can be submitted through the Federal IDR portal.

Commenters stated support for the proposed change and the Departments are finalizing this change in 29 CFR 2590.716–6(d)(1)(iv)(A)(2) and 45 CFR 140(d)(1)(iv)(A)(2) as proposed.

As the Departments explained in the preamble to the 2023 proposed rules, disclosure of additional information with the QPA as proposed is critical to ensuring that all parties have the information necessary to determine whether a payment dispute is eligible for the Federal IDR process.

Accordingly, the Departments proposed amending the disclosure requirements at 26 CFR 54.9816–6T, 29 CFR 2590.716–6, and 45 CFR 149.140 by redesignating paragraph (d)(1)(v) as (d)(1)(vi) and adding a new paragraph (d)(1)(v) to require plans and issuers to disclose the legal business name of the plan (if any) or issuer; the legal business name of the plan sponsor (if applicable); and the registration number assigned under proposed 26 CFR 54.9816–9, 29 CFR 2590.716–9, or 45 CFR 149.530, if the plan or issuer is registered with the Federal IDR registry. The Departments also sought comment on the specific technical and operational steps that would be necessary for plans and issuers to disclose this additional information when providing an initial payment or notice of denial of payment, including the appropriate implementation period that would allow plans and issuers to complete these steps to comply with the 2023 proposed rules, if finalized, and any additional proposed disclosures that might be required to be communicated using a CARC or RARC as specified in guidance issued by the Departments. In

consideration of the comments received, the Departments are finalizing the disclosure requirements with minor modifications as discussed below.

The Departments received many comments in support of these proposals. Many commenters in support explained that the new content elements would facilitate open negotiation by ensuring all parties have more accurate contact information for the specific plan or issuer. Commenters further stated that the proposed requirements would establish clearer standards for initiating IDR, ensure all parties have the information they need to efficiently determine eligibility for IDR, identify which entity is ultimately responsible for payment following a payment determination, and reduce confusion regarding the application of the “cooling off” period.

A few commenters were generally supportive of the proposed disclosure requirements but recommended minor changes. For example, a few commenters opposed the proposal to require inclusion of the legal business name of a plan sponsor, when applicable. One of these commenters recommended that plan sponsors be permitted to use the “does business as” or product marketing name recognized by the relevant State insurance regulator, instead of the legal business name when the plan sponsor has assigned the responsibility for managing claims administration to its issuer or TPA, stating that in such circumstances, the plan sponsor information is not necessary to adjudicate a Federal IDR dispute and may cause confusion. Another commenter recommended that the Departments require the disclosure of the legal business name of the group health plan and sponsor only for self-insured group health plans. Another commenter opposed the Departments’ proposal, expressing concern that the additional items proposed to be required as part of the disclosure are duplicative of other steps in the Federal IDR process.

The Departments disagree that the proposed disclosures are duplicative of other steps in the Federal IDR process. As discussed in the preamble to the 2023 proposed rules, transparent and meaningful disclosure about the calculation of the QPA is crucial to inform the negotiation process. Ensuring consistency and uniformity between the information that plans and issuers provide in the Federal IDR registry discussed in section II.F of the preamble and the information disclosed by plans and issuers with their initial payment or notice of denial of payment is also necessary to ensure the efficient

operation of the Federal IDR process. Allowing parties to choose whether to disclose their legal business name or their “does business as” name would undermine that uniformity.

As explained in more detail in section II.F of the preamble which outlines the Federal IDR registration process, self-insured plans must provide the legal business name of their plan sponsor even if the sponsor has apportioned responsibility to its TPA, as certified IDR entities and initiating parties must distinguish between self-insured group health plans with the same TPA to determine whether items and services were paid by the same self-insured group health plan and are therefore eligible to be batched together in a single dispute.

To align required disclosures with the Federal IDR registration process, the Departments are finalizing with a minor modification the requirement that plans and issuers include, as part of the required disclosures, the registration number assigned to the plan or issuer, as required under 26 CFR 54.9816–9, 29 CFR 2590.716–9, or 45 CFR 149.530, as applicable. The phrase, “if the plan or issuer is registered,” has been replaced with “as required” to better reflect that a plan or issuer is required to include a registration number as part of the disclosures when it becomes subject to the registration requirement. Under these final rules, each self-insured group health plan, FEHB Program carrier, and health insurance issuer offering group or individual health insurance coverage subject to the Federal IDR process must register with the Federal IDR Registry before the later of the date that is 90 business days after the date the registry becomes available or the date the plan sponsor or health insurance issuer begins offering a group health plan or health insurance coverage or FEHB Program carrier begins offering an FEHB plan subject to the Federal IDR process. Failure to comply with the registration requirement by the applicable date will be a violation of these final rules.

The Departments also received many comments suggesting additional information that could be included in the disclosures. Many commenters recommended that the Departments require that plans and issuers, when providing the QPA with the initial payment or notice of denial of payment, also disclose more detailed information on the specific methodology and data used for calculating the QPA. One commenter suggested requiring a fax number in addition to contact information that is already required. Some commenters recommended that the Departments require standardized

⁶⁰ See section II.D.1 of this preamble, for further discussion of the Federal IDR portal.

communication from plans and issuers that are beyond the proposed use of CARCs/RARCs so that the QPA and related disclosure information is presented clearly and consistently to providers and facilities. These commenters believe the QPA currently is not provided in a clearly identifiable manner, that the ASC X12 835 transaction standard should be used, and that since there are limits on the current ASC X12 835 transaction standard, it should be modified so that all information, including the QPA, is disclosed uniformly.

While nothing in these final rules precludes including a fax number as part of a plan's or issuer's contact information, the Departments decline to require that information at this time given that some plans and issuers may not have fax numbers, especially as fax machines become increasingly replaced by digital technology such as email. In addition, the Departments decline to require disclosure of additional information about the methodology and data used for calculating the QPA in these final rules because these additional disclosures would not assist parties in determining whether a payment dispute is eligible for the Federal IDR process and would be difficult to implement. These final rules also do not modify the ASC X12 835 transaction standard, which is outside the scope of this rulemaking.

The provisions of these final rules related to disclosure of information about the QPA apply to disclosures required to be provided on or after the effective date of the final rules, as discussed in more detail in section II.H.1 of this preamble.

D. Open Negotiation and Initiation of the Federal IDR Process

1. Open Negotiation

a. Determination of Payment Amount Through Open Negotiation

The Departments proposed several amendments to the open negotiation provisions at 26 CFR 54.9816–8(b)(1), 29 CFR 2590.716–8(b)(1), and 45 CFR 149.510(b)(1) to impose new information exchange requirements and to establish a process for tracking open negotiation through the Federal IDR portal in anticipation of initiation of a Federal IDR process dispute.

First, the Departments proposed to amend paragraphs 26 CFR 54.9816–8(b)(1)(i), 29 CFR 2590.716–8(b)(1)(i), and 45 CFR 149.510(b)(1)(i) to establish a requirement that a party must provide a written open negotiation notice to the other party and to the Departments through the Federal IDR portal to

initiate the open negotiation period, and that such notice must comply with the content requirements of proposed paragraph (b)(1)(ii) and in the manner specified in proposed (b)(3), as discussed in sections II.D.1.c and III.D.3 of this preamble, respectively.⁶¹ The Departments sought comment on this proposed amendment. After consideration of comments, the Departments are finalizing this amendment as proposed.

Many commenters supported the proposal to establish the requirement that a party must provide a written open negotiation notice to the other party and the Departments through the Federal IDR portal to initiate the open negotiation period. Many stated that the use of the Federal IDR portal would be beneficial for all parties. These commenters noted that using the portal to transmit the open negotiation notice and track the initiation of the 30-business-day open negotiation period would encourage meaningful participation in negotiations, improve transparency, support information sharing, and increase administrative efficiency. A few commenters stated that the proposal would improve certified IDR entities' ability to determine the eligibility of an item or service for the Federal IDR process.

Several other commenters generally supporting the proposal suggested additional changes or clarifications. Some of these commenters expressed concern that the current Federal IDR portal infrastructure would require extensive improvements to effectively implement the proposal and should undergo prototype testing to ensure successful implementation. A few commenters urged the Departments to utilize automation to reduce duplicative administrative requirements when submitting an open negotiation notice. Some commenters urged the Departments to clarify that a party initiating open negotiation is not required to submit open negotiation information through any mechanism other than the Federal IDR portal (for instance, through a payor's proprietary portal).

⁶¹ As discussed in section II.D.3 of this preamble, the Departments are finalizing new paragraphs 26 CFR 54.9816–8(b)(3), 29 CFR 2590.716–8(b)(3), and 45 CFR 149.510(b)(3), which describe the manner in which the open negotiation, open negotiation response, and notice of IDR initiation notices must be transmitted. Specifically, a party must furnish to the other party, and the Departments, the notices and supporting documentation described in paragraphs (b)(1)(ii) (open negotiation notice), (b)(1)(iii) (open negotiation response notice), (b)(2)(ii) (notice of IDR initiation), and (b)(2)(iii) (notice of IDR initiation response) through the Federal IDR portal, using the standard forms to be developed by the Departments.

A few commenters opposed the proposal to establish the requirement that to initiate the open negotiation period, a party must provide a written open negotiation notice to the other party and the Departments through the Federal IDR portal. One commenter opposed the addition of any new requirements during the open negotiation process, as it would increase burden on the parties. Another commenter cautioned that this requirement would ultimately raise negotiated costs and increase overall upward pressure on health care prices because sharing additional information before IDR initiation would decrease the overall cost to providers of participating in the Federal IDR process, particularly for eligible disputes, by smoothing information exchanges and making filing easier, and increase provider leverage in pre-IDR negotiations.

After consideration of comments, the Departments are finalizing the proposal to amend paragraph 26 CFR 54.9816–8(b)(1)(i), 29 CFR 2590.716–8(b)(1)(i), and 45 CFR 149.510(b)(1)(i) to establish a requirement that a party must provide a written open negotiation notice to the other party and to the Departments through the Federal IDR portal to initiate the open negotiation period. This will improve communication and transparency between parties while enabling certified IDR entities to determine whether a dispute has completed the required open negotiation period. While the Departments understand the concern regarding upward pressure on healthcare pricing based on increased provider participation in open negotiation, these final rules incentivize parties to negotiate and may therefore discourage over-reliance on disputing claims through the Federal IDR process and help parties identify ineligible disputes prior to initiating IDR. This, in turn, could lower costs for both disputing parties who must pay fees to participate in the Federal IDR process, which could ultimately reduce costs for consumers. Further, prioritizing the negotiation of out-of-network rates before initiation of the Federal IDR process could contribute to improved contract or network negotiations between providers and plans. The Departments expect parties to negotiate in good faith and comply with the requirements finalized in these rules.

The Departments also acknowledge the concerns expressed regarding limited portal functionality and increasing administrative burden, but have determined that the administrative simplicity of having all notices go

through one portal will outweigh the operational burdens of using the portal.

Further, these final rules consolidate the exchange of all required open negotiation notices through the Federal IDR portal and do not require parties to submit multiple notices or submit notices through plan and issuer proprietary portals to initiate open negotiation. It is the Departments' position that a disputing party cannot require and should not expect the other party to also submit any notices under these final rules through such proprietary portals. The Departments will continue to pursue a streamlined open negotiation experience within the Federal IDR portal that collects the relevant information to facilitate negotiations while minimizing duplicative administrative work.

Second, the Departments proposed to amend 26 CFR 54.9816–8(b)(1)(i), 29 CFR 2590.716–8(b)(1)(i), and 45 CFR 149.510(b)(1)(i) to specify that the 30-business-day open negotiation period begins on the day on which the party first submits the open negotiation notice, including the remittance advice documentation specified in proposed 26 CFR 54.9816–8(b)(1)(ii)(A)(12), 29 CFR 2590.716–8(b)(1)(ii)(A)(12), and 45 CFR 149.510(b)(1)(ii)(A)(12), to the other party and the Departments. This amendment does not change the 30-business-day timeframe for engaging in open negotiation, but instead would provide greater clarity for parties engaged in open negotiation and improve the shared understanding of deadlines related to the open negotiation period. After consideration of comments, the Departments are finalizing this amendment as proposed.

A few commenters generally supported this proposed amendment to 26 CFR 54.9816–8(b)(1)(i), 29 CFR 2590.716–8(b)(1)(i), and 45 CFR 149.510(b)(1)(i). One of these commenters noted that the proposal would minimize operational and resource issues for providers by establishing clear expectations about the open negotiation timeframe.

While no commenters explicitly opposed the proposal, a few commenters suggested additional requirements. One commenter suggested that the Departments clarify that the open negotiation period should only be considered to have been initiated once a completed open negotiation notice has been submitted to the Departments and the other party, regardless of whether the remittance advice has been sent.

The Departments are finalizing as proposed the amendment to 26 CFR 54.9816–8(b)(1)(i), 29 CFR 2590.716–8(b)(1)(i), and 45 CFR 149.510(b)(1)(i) to

specify that the 30-business-day open negotiation period begins on the day a party first submits the open negotiation notice, including the remittance advice documentation specified in paragraph (b)(1)(ii)(A)(12) to the other party and the Departments. However, in the event that the party submitting the open negotiation notice did not receive the remittance advice because a plan or issuer failed to comply with the disclosure requirements in 26 CFR 54.9816–6(d)(1), 29 CFR 2590.716–6(d)(1) or (2), and 45 CFR 149.140(d)(1) or (2), that party retains the right to initiate the open negotiation within 30 business days of receiving the initial payment or notice of denial of payment, consistent with *FAQs About Affordable Care Act and Consolidated Appropriations Act, 2021 Implementation Part 55*.⁶² By clarifying the conditions required to initiate open negotiation, the Departments anticipate that the parties will have a better understanding of the requirements to initiate open negotiation and will be able to better allocate resources to negotiation efforts.

Finally, for the proposed amendments to the open negotiation provisions at 26 CFR 54.9816–8(b)(1), 29 CFR 2590.716–8(b)(1), and 45 CFR 149.510(b)(1), a few commenters noted that, if finalized, the open negotiation provisions may exceed the Departments' statutory authority to implement the Federal IDR process, as open negotiation is not explicitly included in the Departments' implementation mandate.

The Departments disagree. Under section 9816(c)(1)(B) of the Code, section 716(c)(1)(B) of ERISA, and section 2799A–1(c)(1)(B) of the PHS Act, the open negotiation period must conclude before a party may initiate IDR, making it a required component of the Federal IDR process. Additionally, the statute directs the Departments to jointly establish one Federal IDR process under which a certified IDR entity must determine the out-of-network rate for any qualified IDR item or service subject to IDR initiation. In implementing the Federal IDR process, the Departments have determined that the current requirements should be improved to facilitate beginning the open negotiation period. As a result, the Departments are finalizing the requirements for disputing parties to furnish the open negotiation notice and

open negotiation response notice through the Federal IDR portal to capture this information.

b. Open Negotiation Response Notice

The Departments proposed language at 26 CFR 54.9816–8(b)(1)(i), 29 CFR 2590.716–8(b)(1)(i), and 45 CFR 149.510(b)(1)(i) to require that the party in receipt of the open negotiation notice provide a written notice and supporting documentation in response to the open negotiation notice (open negotiation response notice) to the other party and the Departments through the Federal IDR portal as soon as practicable, but no later than the 15th business day of the 30-business-day open negotiation period. The Departments solicited comment on this proposed requirement. After consideration of comments, the Departments are finalizing this requirement as proposed.

Many commenters generally supported the proposal to require the party in receipt of the open negotiation notice to provide an open negotiation response notice by the 15th business day of the 30-business-day open negotiation period. A few of these commenters noted that the proposal to require the open negotiation response notice would increase parties' accountability in negotiations and improve transparency of the information relevant to the item or service subject to negotiation.

A few commenters opposed the proposal to require an open negotiation response notice. These commenters shared concerns regarding the burden of such a requirement. One commenter noted that the current Federal IDR portal functionality would not support such a requirement, and that the operational disruption caused by the volume of open negotiation submissions would compromise the entire Federal IDR process.

The Departments requested comment on whether the party in receipt of the open negotiation notice should be required to furnish the open negotiation response notice to the other party and the Departments earlier than proposed to allow additional time for the party submitting the open negotiation notice to review the open negotiation response notice. The Departments also sought comment on imposing a deadline for the open negotiation response notice later than the proposed deadline, such as by the 20th business day or up to the last day of the 30-business-day open negotiation period.

Several commenters advised against extending the deadline to respond with the open negotiation response notice, asserting that the extra time would be

⁶² See *FAQs about Affordable Care Act and Consolidated Appropriations Act, 2021 Implementation Part 55, Q20* (August 19, 2022), available at <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/aca-part-55.pdf> and <https://www.cms.gov/files/document/faqs-part-55.pdf>.

unnecessary. A few commenters also supported the Departments' clarification in the preamble to the 2023 proposed rules that the failure to respond to the open negotiation notice would not extend or otherwise alter the completion of the 30-business-day open negotiation timeframe. One commenter suggested that if a plan or issuer does not respond to the open negotiation notice by the 15th business day of the 30-business-day open negotiation period, the Departments should allow a provider to initiate the Federal IDR process before the end of the 30-business-day open negotiation period. Another commenter opposed the proposed 15-business-day deadline, stating that compliance with the requirement would not be possible due to the high volume of disputes, and suggested instead that the response should be accepted at any time during the 30-business-day open negotiation period. Several commenters recommended a shorter deadline for response. Several commenters were in favor of extending the timeline, stating that more time would be needed to review and meaningfully consider the content of the open negotiation notice. A few commenters suggested extending the timeline to 20 business days. A few commenters made suggestions regarding conditions to be satisfied by the open negotiation notice before the proposed 15-business-day deadline is triggered. These commenters requested that the Departments clarify the expectations for participation in the open negotiation period if either the provider or plan is not furnished with complete information regarding the item or service.

After reviewing comments received, the Departments are finalizing 26 CFR 54.9816–8(b)(1)(i), 29 CFR 2590.716–8(b)(1)(i), and 45 CFR 149.510(b)(1)(i) as proposed. The Departments maintain that the open negotiation response notice will increase transparency and improve the exchange of information during open negotiation. While finalizing this provision adds an additional requirement to the process, the efficiencies achieved by requiring a response from the parties in receipt of the open negotiation notice will likely result in more meaningful participation in open negotiation overall. The Departments have determined that the 15-business-day deadline to respond to the open negotiation notice provides an appropriate amount of time for the party to respond and will encourage a meaningful exchange of information during open negotiation. This deadline provides equal time for each party to review their respective notices, and

either reducing or extending the deadline to submit the open negotiation response notice from 15 business days would disadvantage one of the two parties. Therefore, the Departments have determined that the proposed policy appropriately balances each party's interest and should be finalized.

The Departments note that under section 9816(c)(1) of the Code, section 716(c)(1) of ERISA, and section 2799A–1(c)(1) of the PHS Act, the parties must exhaust the open negotiation period prior to initiating the Federal IDR process. Accordingly, initiation of the Federal IDR process before the end of the 30-business day open negotiation period is not permitted.

The Departments acknowledge the importance of providing a party with complete information before it is expected to respond and note that all open negotiation notice elements in these final rules are required. The Departments reiterate that if a party fails to furnish an open negotiation response notice containing all required information to the other party and the Departments, the Departments may review and determine whether enforcement action may be appropriate. However, failure to timely furnish an open negotiation response notice in any specific open negotiation will not extend the open negotiation period, delay the timeframe for initiation of the Federal IDR process, or affect either party's ability to initiate the Federal IDR process.

Additionally, the Departments sought comment on allowing certified IDR entities, as a means of incentivizing participation in the proposed exchange of notices, to take into consideration a party's good faith compliance with the 15-business-day deadline for the open negotiation response notice when making their payment determinations. The Departments are declining to finalize this policy and therefore are not establishing a "good faith" requirement in regulation.

Many commenters supported this idea. Many of these commenters requested that the Departments allow certified IDR entities to penalize the party for non-compliance and specifically suggested that failure to timely respond to the open negotiation notice should result in a default determination, or the automatic selection of the provider's offer during the Federal IDR process. Several of these commenters also noted that if the Departments were to allow certified IDR entities to consider a party's compliance with the requirement to provide an open negotiation response notice, the Departments should explicitly connect

non-compliance with a failure to engage in good faith negotiations. Some of these commenters suggested that the Departments adopt more explicit standards regarding good faith negotiation to support this interpretation. A few commenters offered that the Departments should establish a good faith requirement in regulation, while a few other commenters suggested that the Departments provide guidance to the certified IDR entities to consider failure to respond to the open negotiation notice as evidence of "bad faith." Further, a few commenters provided recommendations related to the adoption of good faith requirements, specifically, that the Departments should allow certified IDR entities to consider any offers that deviate considerably between open negotiation and IDR offer to be evidence of "bad faith" engagement.

A few commenters opposed allowing certified IDR entities to consider compliance with the proposed requirement when making their payment determinations. One of these commenters noted that since the No Surprises Act does not specify how the parties must engage in open negotiation, parties have the discretion to decide whether to engage in negotiations, and penalizing parties for the way they engage in negotiations would be inappropriate and exceed the Departments' authority. Another commenter stated that certified IDR entities should not be requested to evaluate the substance of negotiations or allegations of failure to negotiate in good faith, as this is inconsistent with normal mediation rules and practices and may have a chilling effect on negotiations. Further, the commenter suggested that for operational ease, if either party fails to furnish required documents during open negotiation, the disputes should be presumed eligible for the Federal IDR process without requiring outreach on the part of the certified IDR entity. Another commenter noted that certified IDR entities are already permitted to consider any relevant information except for the prohibited factors identified in the statute and regulation, and therefore it would be inconsistent with the statute and regulation to suggest that a certified IDR entity could not consider the fact that a party failed to negotiate during open negotiation.

The No Surprises Act does not specify how parties must engage in open negotiation, only that it must occur prior to initiation of the Federal IDR process, and therefore it is more appropriate for disputing parties to

determine how they wish to negotiate. The Departments also agree with the commenter who stated that the proposal would not be consistent with normal mediation rules and practices, and that it could have a chilling effect on negotiation. Under the statute, certified IDR entities are permitted to consider any additional information provided by a disputing party related to the offer to determine the appropriate out-of-network rate, except for the prohibited factors identified in statute.⁶³ Further, a default determination refers only to a situation where one party's offer is not received (including in the circumstance where, under these final rules and as outlined in section II.E.3.d of this preamble, one party fails to timely pay the certified IDR entity fee or administrative fee). It would therefore not be appropriate for a certified IDR entity to render a default judgment based on a party's noncompliance with the 15-business-day deadline for the open negotiation response notice, an activity that precedes initiation of the Federal IDR process.

A few commenters made recommendations about the Departments' enforcement more broadly. A few commenters stated that the Departments should monitor and take enforcement action against non-compliant parties; one commenter suggested that the Departments impose an increased administrative fee for a party's failure to provide the open negotiation response notice. Several other commenters noted that, as proposed, the rules do not contain sufficiently strict enforcement language to prompt parties to comply with the requirement to provide an open negotiation response notice and urged the Departments to clarify the enforcement mechanisms or penalties for failure to respond in the final rule.

Finally, a few commenters encouraged the Departments to take a more active role in monitoring disputing parties' conduct and taking quality assurance measures. They recommended that the Departments monitor party responsiveness during open negotiation and evidence of engagement in pre- and post-IDR communications, such as the requirement to make timely payment. One commenter suggested that additional guidance on the calculation of business days be provided to avoid miscalculations and confusion.

The Departments clarify here that for the purposes of calculating Federal IDR

process timelines, business days do not include Federal holidays and weekends.⁶⁴ In general, all parties are required to comply with the requirements established in these final rules, and the Departments will use existing processes to enforce requirements under the Code, ERISA, and PHS Act that apply to group health plans and health insurance issuers, including requirements under these final rules. The Departments note that disputing parties may report incidents of non-compliance to the No Surprises Help Desk, which will aid in conducting targeted oversight activities as needed. Furthermore, the Departments will evaluate the need for additional guidance and education resources to support interested parties' understanding of the timelines, requirements, and processes established in these final rules.

c. Open Negotiation Notice Content

In the 2023 proposed rules, the Departments proposed to amend 26 CFR 54.9816-8(b)(1)(ii)(A), 29 CFR 2590.716-8(b)(1)(ii)(A), and 45 CFR 149.510(b)(1)(ii)(A) and add 26 CFR 54.9816-8(b)(1)(ii)(A)(1) through (12), 29 CFR 2590.716-8(b)(1)(ii)(A)(1) through (12), and 45 CFR 149.510(b)(1)(ii)(A)(1) through (12) to require that the open negotiation notice include specified information regarding the item or service under dispute and the party sending the open negotiation notice. The proposed amendments would add new elements to the open negotiation notice. The elements that the Departments proposed to be included in the open negotiation notice were:

(1) Information sufficient to identify the provider, facility or provider of air ambulance services, including name and current contact information (including the legal business name, email address, phone number, and mailing address) as provided with the claim form submitted by the provider, facility, or air ambulance provider to the plan or issuer, and the National Provider Identifier (NPI);

(2) Information sufficient to identify the plan or issuer, including the plan's or issuer's registration number as required under § 54.9816-9, § 2590.716-9, and § 149.530, if the plan or issuer is registered under § 54.9816-9, § 2590.716-9, and § 149.530, or an attestation from the party submitting the

open negotiation notice that the plan or issuer was not registered prior to the date it submitted the notice; the legal business name of the plan or issuer, as well as the current contact information (name, email address, phone number, and mailing address) of the plan or issuer as provided with the initial payment or notice of denial of payment; and if the party submitting the open negotiation notice is a plan or issuer, the plan type (for example, self-insured or fully-insured);

(3) The name and contact information (including the legal business name, email address, phone number, and mailing address) for any third party representing the party submitting the open negotiation notice, and an attestation that the third party has the authority to act on behalf of the party it represents in the open negotiation;

(4) Information sufficient to identify the item or service, including: the date(s) the item or service was furnished and, if the party submitting the open negotiation notice is a provider, facility, or provider of air ambulance services, the date(s) that the provider, facility, or provider of air ambulance services received the initial payment or notice of denial of payment for the item or service from the plan or issuer; the type of item or service (specifically, whether the item or service is an emergency service as defined in § 54.9816-4T(c)(2)(i) or (ii), § 2590.716-4(c)(2)(i) or (ii), and § 149.110(c)(2)(i) or (ii), non-emergency item or service as described in § 54.9816-5T(b), § 2590.716-5(b), and § 149.120(b), or an air ambulance service as defined in § 54.9816-3T, § 2590.716-3 and § 149.30); whether the service is a professional service or facility-based service; the State where the item or service was furnished; the claim number; the service code; and information sufficient to identify the location where the item or service was furnished (such as place of service code or bill type code);

(5) The initial payment amount (including \$0 if, for example, payment is denied);

(6) The qualifying payment amount, if provided with the initial payment or notice of denial of payment or if the party submitting the open negotiation notice is a plan or issuer;

(7) An offer of an out-of-network rate for each item or service;

(8) If the party submitting the open negotiation notice is a plan or issuer, the amount of cost sharing imposed for the item or service, if any;

(9) If the party submitting the open negotiation notice is a provider or facility, a statement that the items or services do not qualify for the notice

⁶³ Section 9816(c)(5)(C) and (D) of the Code, section 716(c)(5)(C) and (D) of ERISA, and section 2799A-1(c)(5)(C) and (D) of the PHS Act.

⁶⁴ See Federal Independent Dispute Resolution (IDR) Process Guidance for Certified IDR Entities, Q5 (August 2022), available at <https://www.cms.gov/files/document/ta-certified-independent-dispute-resolution-entities-august-2022.pdf>.

and provide consent exception described at 45 CFR 149.410(b) or 45 CFR 149.420(c) through (i);

(10) A statement that the provider, facility, or provider of air ambulance services was a nonparticipating provider, nonparticipating emergency facility, or nonparticipating provider of air ambulance services on the date the item or service was furnished;

(11) General information listed in the standard open negotiation notice developed by the Secretary under paragraph (b)(3) of this section describing the open negotiation period and the Federal IDR process (including a description of the purpose of the open negotiation period and Federal IDR process and key deadlines in the open negotiation period and Federal IDR process); and

(12) A copy of the initial payment or notice of denial of payment or other remittance advice that is required to include the disclosures under § 54.9816–6T(d)(1) and 54.9816–6(d)(1), § 2590.716–6(d)(1), and § 149.140(d)(1) for the item or service.

After consideration of comments, the Departments are finalizing the required elements on the open negotiation notice as proposed, with two exceptions. The Departments are modifying proposed 26 CFR 54.9816–8(b)(1)(ii)(A)(2) and (12), 29 CFR 2590.716–8(b)(1)(ii)(A)(2) and (12), and 45 CFR 149.510(b)(1)(ii)(A)(2) and (12). Specifically, the Departments are modifying the proposal at 26 CFR 54.9816–8(b)(1)(ii)(A)(2), 29 CFR 2590.716–8(b)(1)(ii)(A)(2), and 45 CFR 149.510(b)(1)(ii)(A)(2) in three ways: (1) regarding the information sufficient to identify a plan or issuer, to remove the language “if the plan or issuer is registered under” § 54.9816–9, § 2590.716–9, and § 149.530; (2) to require, when applicable, that the party submitting the open negotiation notice attest that the plan or issuer’s registration number was not provided on any remittance advice, rather than attest that the plan or issuer was not registered prior to the date the open negotiation notice was submitted; and (3) to require the open negotiation notice to include the legal business name of the plan sponsor when the entity furnishing the open negotiation notice is a self-insured group health plan that does not have a legal business name. With regard to the proposal at the proposal at 26 CFR 54.9816–8(b)(1)(ii)(A)(12), 29 CFR 2590.716–8(b)(1)(ii)(A)(12), and 45 CFR 149.510(b)(1)(ii)(A)(12), the Departments are modifying the proposal by requiring the open negotiation notice to include a copy of any remittance advice associated with the initial

payment or notice of denial of payment for the item or service, rather than a copy of the initial payment or notice of denial of payment or other remittance advice that includes the required disclosures.

The Departments did not receive comments on the proposals outlined at 26 CFR 54.9816–8(b)(1)(ii)(A)(7), (9), (10), and (11), 29 CFR 2590.716–8(b)(1)(ii)(A)(7), (9), (10), and (11), and 45 CFR 149.510(b)(1)(ii)(A)(7), (9), (10), and (11). The Departments are finalizing these provisions as proposed.

Many commenters generally supported the proposed elements on the open negotiation notice, with several stating that the proposed elements would improve engagement in open negotiation and enhance understanding of eligibility for the Federal IDR process. As discussed below, many commenters stated their support for, or opposition to, specific open negotiation notice content elements including required contact information, required payment information and documentation, and required statements.

Several commenters supported the proposal to require the open negotiation notice to include detailed contact information identifying the parties engaged in negotiations under proposed 26 CFR 54.9816–8(b)(1)(ii)(A)(1) through (3), 29 CFR 2590.716–8(b)(1)(ii)(A)(1) through (3), and 45 CFR 149.510(b)(1)(ii)(A)(1) through (3). These commenters specifically supported the provision of enhanced contact information for payers and providers, the NPI, the plan type (if the initiating party is a plan or issuer), and the plan or issuer registration number, and indicated that these elements would help facilitate negotiations between the correct parties. A few commenters stated various concerns regarding the requirement to provide information sufficient to identify the plan or issuer, including the plan’s or issuer’s registration number. One commenter noted that the registration number should be the only required contact information element in the open negotiation notice, while another commenter opposed the addition of this element entirely, asserting that it would increase the burden on providers. Another commenter opposed the proposal that a provider submitting an open negotiation notice should be responsible for attesting that the payer was not registered prior to the date the party submitted its open negotiation notice, stating that the provider should not be held responsible for providing information not in their control or possession.

The requirement to provide enhanced contact information sufficient to identify the provider, facility, or provider of air ambulance services under 26 CFR 54.9816–8(b)(1)(ii)(A)(1), 29 CFR 2590.716–8(b)(1)(ii)(A)(1), and 45 CFR 149.510(b)(1)(ii)(A)(1) will improve communication in open negotiation and assist parties in correctly identifying the other party to engage during open negotiation. Further, the requirement to provide information sufficient to identify the plan or issuer, including the plan’s or issuer’s registration number, would not add undue burden since the registration number will be provided on the remittance advice associated with the initial payment or notice of denial of payment for the item or service and would provide the benefit of access to validated contact information from the plan or issuer. In the Departments’ experience implementing the Federal IDR process, providers have struggled to identify the correct plan or issuer on documentation associated with the initial payment or the notice of denial of payment. The registry requirement, discussed in section II.F of this preamble, and associated registration number will help the provider accurately identify and contact the appropriate plan or issuer to initiate open negotiation, particularly if the plan or issuer fails to clearly disclose such information with its initial payment or denial of payment.

At 26 CFR 54.9816–8(b)(1)(ii)(A)(2), 29 CFR 2590.716–8(b)(1)(ii)(A)(2), and 45 CFR 149.510(b)(1)(ii)(A)(2), the Departments proposed that, in the event the plan or issuer is not registered by the time the provider, facility, or provider of air ambulance services initiates the open negotiation period, the party submitting the open negotiation notice must attest that the party receiving the open negotiation notice was not registered prior to the date the party submitted its open negotiation notice, and would use the contact information currently required by the disclosure requirements for the initial payment or notice of denial of payment in sections 26 CFR 54.9816–6T(d)(1)(v), 29 CFR 2590.716–6(d)(1)(v), and 45 CFR 149.140(d)(1)(v) to complete the open negotiation notice.⁶⁵ The Departments are finalizing paragraph (b)(1)(ii)(A)(2) with a modification that,

⁶⁵ The contact information currently required under 26 CFR 54.9816–6T(d)(1)(v), 29 CFR 2590.716–6(d)(1)(v), and 45 CFR 149.140(d)(1)(v) is “[c]ontact information, including a telephone number and email address, for the appropriate person or office to initiate open negotiations for purposes of determining an amount of payment (including cost sharing) for such item or service.”

if the party submitting the open negotiation notice does not include a registration number in the open negotiation notice, it must provide an attestation that the plan's or issuer's registration number was not provided on any remittance advice associated with the initial payment or notice of denial of payment for the item or service. This modification places appropriate responsibility on the provider as it requires them to attest only to something about which they have direct knowledge (that is, whether the remittance advice contained the plan's or issuer's registration number, rather than whether the plan or issuer registered). Additionally, the Departments recognize that not all self-insured group health plans will have a legal business name, and to ensure that a legal business name is captured in such cases, are finalizing a modification to require the open negotiation notice to include the legal business name of the plan sponsor in the case the party submitting the open negotiation notice is a self-insured group health plan that does not have a legal business name.

In addition, some commenters provided feedback on the requirement to provide information sufficient to identify the item or service under proposed 26 CFR 54.9816–8(b)(1)(ii)(A)(4), 29 CFR 2590.716–8(b)(1)(ii)(A)(4), and 45 CFR 149.510(b)(1)(ii)(A)(4). They stated that this proposal would help the negotiating parties identify the item or service subject to the open negotiation. A few commenters noted that the requirement to provide the claim number would support the correct and timely identification of the item or service subject to negotiation. The Departments agree with the commenters' feedback.

Several commenters supported the proposal requiring that the open negotiation notice include the initial payment amount, the QPA, and the amount of cost-sharing related to the item or service subject to open negotiation under 26 CFR 54.9816–8(b)(1)(ii)(A)(5), (6), and (8), 29 CFR 2590.716–8(b)(1)(ii)(A)(5), (6), and (8), and 45 CFR 149.510(b)(1)(ii)(A)(5), (6), and (8), respectively. A few commenters supported requiring disclosure of the amount of cost sharing if the party submitting the open negotiation notice is a plan or issuer. A few commenters generally supported the proposal to disclose the QPA on the open negotiation notice, if provided with the initial payment or notice of denial of payment, while several other commenters opposed it. Commenters that opposed this proposal also noted that since the plan or issuer already has

the QPA, the provision of this information is duplicative and unnecessary. Further, a few commenters indicated that requiring submission of the QPA with an offer for a different out-of-network rate inappropriately signals that the QPA is the most relevant factor in determining the out-of-network rate during open negotiation. One commenter noted that the Departments should only allow plans or issuers to submit the QPA amount on the remittance advice or provide it upon request.

For 26 CFR 54.9816–8(b)(1)(ii)(A)(6) and (8), 29 CFR 2590.716–8(b)(1)(ii)(A)(6) and (8), and 45 CFR 149.510(b)(1)(ii)(A)(6) and (8), the Departments maintain that submitting the QPA and the amount of cost sharing in the open negotiation notice will support parties in their efforts to negotiate an out-of-network rate and enhance their awareness of factors considered during the Federal IDR process, if they choose to initiate. In particular, because the amount of cost sharing for a qualified IDR item or service is determined by the QPA, requiring the amount of cost sharing paid or owed by the participant, beneficiary, or enrollee could support parties in making informed offers while negotiating. As discussed below, an open negotiation response notice provided by a plan or issuer must state either that the QPA reflected in the open negotiation notice accurately reflects the QPA disclosed with the initial payment for the item or service, or if not, state the QPA it believes to be correct, and documentation to support the statement (for example, the remittance advice confirming the QPA). Therefore, requiring the QPA to be disclosed on the open negotiation notice will facilitate better communication between parties in identifying whether there may be a mistake in the identified QPA, such as a typographical error or the incorrect use of the cost sharing amount rather than the QPA, so that the potential initiating party has the correct information before initiating the Federal IDR process. The purpose of including this element on the open negotiation notice is not to provide the plan or issuer with new information, but rather to provide an opportunity for the plan or issuer to validate that the provider or facility has identified the correct value as the QPA, or provide a correction on the open negotiation response notice as needed. This exchange of information is important to establish a common understanding of the item or service.

In addition, the inclusion of the QPA on the open negotiation notice would not signal that the QPA has

disproportionate significance in determining an out-of-network rate. The amount of the offers made during the open negotiation period are determined by the parties engaged in negotiations. The Departments do not seek to restrict those offers or imply that the parties should consider the QPA in negotiating an out-of-network rate. Rather, the inclusion of the QPA in the open negotiation notice mirrors the requirement to submit the QPA as part of the notice of IDR initiation, which is required because certified IDR entities are required to consider the QPA when making a payment determination. Because the QPA is relevant to the payment determination and must be included in the notice of IDR initiation, it should be included in the open negotiation notice as well to facilitate negotiations.

Some commenters supported the proposal to require a copy of any remittance advice associated with the initial payment or notice of denial of payment for the item or service to be included in the open negotiation notice at proposed 26 CFR 54.9816–8(b)(1)(ii)(A)(12), 29 CFR 2590.716–8(b)(1)(ii)(A)(12), and 45 CFR 149.510(b)(1)(ii)(A)(12). These commenters indicated that such a requirement would support the timely identification of the items and services subject to open negotiation and enable the party in receipt of the open negotiation notice to comply with response deadlines. One of these commenters also suggested that the Departments clarify that all pages of the remittance advice must be submitted, as the remark codes are often located at the end of the document. Several commenters opposed the requirement to submit copies of payment documents with the open negotiation notice, asserting that they are difficult to obtain and administratively burdensome to extract and provide. One of these commenters suggested that if the Departments finalize the requirement to provide a copy of the remittance advice, then the party should not have to manually enter the details of each item or service into the Federal IDR portal as a means of balancing the overall burden associated with submission. A few of the commenters that opposed this requirement noted that the Departments did not explain in the 2023 proposed rules how the uploaded documents would be used, and suggested that, if necessary, the Departments should require only plans and issuers to provide this documentation, as they originate the documents and have access to the information.

For 26 CFR 54.9816–8(b)(1)(ii)(A)(12), 29 CFR 2590.716–8(b)(1)(ii)(A)(12), and 45 CFR 149.510(b)(1)(ii)(A)(12), provision of the remittance advice associated with the initial payment or notice of denial of payment for the item or service will support the shared understanding of the items and services being negotiated and their eligibility for the Federal IDR process. Further, the provision of this documentation will reduce confusion and miscommunication between the parties during open negotiation. In the Departments' experience, many plans and issuers are unable to identify the claims submitted by providers during open negotiation. Requiring disputing parties to include a copy of the remittance advice with the open negotiation notice will enable the party in receipt of the open negotiation notice to quickly identify the item or service subject to negotiation. The exchange of this documentation will also support the goal of reducing ineligible disputes, as the required disclosures will contain information allowing parties to determine whether an item or service is eligible for the Federal IDR process during open negotiation.

The Departments disagree with the commenters' assertion that submission of the remittance advice document with the open negotiation notice should not be finalized because they are difficult to extract and provide. The party initiating the open negotiation process should be prepared to provide the payment details it has received on the items and services subject to negotiation, including the remittance advice. Therefore, the potential burden of providing the remittance advice does not outweigh the benefits of reducing confusion and miscommunication between parties during open negotiation. In addition, the Departments are aware that, currently under the Federal IDR process, providers regularly provide copies of remittance advice documents to certified IDR entities when needed to confirm eligibility. The purpose of requiring these documents at the open negotiation stage is to encourage parties to evaluate the eligibility of an item or service before initiation of the Federal IDR process. As described in section II.B.2 of this preamble, these final rules require that remittance advice include disclosures supporting the accurate identification of whether items and services are subject to the No Surprises Act. Data from the 2024 Federal IDR Public Use Files (PUF) reflect that parties continue to submit disputes for items and services that are ineligible for

the Federal IDR process.⁶⁶ Submission of remittance advice containing eligibility disclosures will ensure that both parties have access to information which clarifies the NSA's applicability to an item or service prior to initiating the Federal IDR process. After considering the comments received, the Departments maintain that the provision of the remittance advice during the open negotiation stage will improve the parties' understanding of IDR eligibility and reduce the submission of ineligible disputes. However, the Departments recognize that 26 CFR 54.9816–8(b)(1)(ii)(A)(12), 29 CFR 2590.716–8(b)(1)(ii)(A)(12), and 45 CFR 149.510(b)(1)(ii)(A)(12), as proposed could have been interpreted to require only the initial payment or notice of denial of payment. Therefore, the Departments are finalizing a modification to the proposal by requiring a copy of any remittance advice associated with the initial payment or notice of denial of payment for the item or service, rather than a copy of the initial payment or notice of denial of payment or other remittance advice that includes the required disclosures.

Finally, a few commenters offered additional recommendations regarding the content of the open negotiation notices. Such additional recommendations were beyond the scope of these final rules, but the Departments agree that provision of this information may enhance communication about the value of the services in the open negotiation process and encourage disputing parties to discuss such information in open negotiation if they so choose.

After consideration of comments, the Departments are finalizing the required elements on the open negotiation notice as proposed, with two exceptions. The Departments are modifying 26 CFR 54.9816–8(b)(1)(ii)(A)(2), 29 CFR 2590.716–8(b)(1)(ii)(A)(2), and 45 CFR 149.510(b)(1)(ii)(A)(2) in three ways:

(1) regarding the information sufficient to identify a plan or issuer, to remove the language “if the plan or issuer is registered under” § 54.9816–9, § 2590.716–9, and § 149.530; (2) to require, when applicable, that the party submitting the open negotiation notice attest that the plan or issuer's registration number was not provided on any remittance advice, rather than attest that the plan or issuer was not registered prior to the date the open

negotiation notice was submitted; and (3) to require the open negotiation notice to include the legal business name of the plan sponsor when the entity furnishing the open negotiation notice is a self-insured group health plan that does not have a legal business name.

At 26 CFR 54.9816–8(b)(1)(ii)(A)(12), 29 CFR 2590.716–8(b)(1)(ii)(A)(12), and 45 CFR 149.510(b)(1)(ii)(A)(12) the Departments are modifying the proposal by requiring the open negotiation notice to include a copy of any remittance advice associated with the initial payment or notice of denial of payment for the item or service, rather than a copy of the initial payment or notice of denial of payment or other remittance advice that includes the required disclosures. Therefore, the elements required as finalized are:

(1) Information sufficient to identify the provider, facility, or provider of air ambulance services, including the name and current contact information (including the legal business name, email address, phone number, and mailing address) as provided with the claim form submitted by the provider, facility, or air ambulance provider to the plan or issuer, and the applicable National Provider Identifier (NPI);

(2) Information sufficient to identify the plan or issuer, including the plan's or issuer's registration number, as required under § 54.9816–9, § 2590.716–9, and § 149.530, or an attestation from the party submitting the open negotiation notice that the plan or issuer's registration number was not provided on any remittance advice associated with the initial payment or notice of denial of payment for the item or service; the legal business name of the plan or issuer (or, in the case of a self-insured group health plan that does not have a legal business name, the legal business name of the plan sponsor), as well as the current contact information (name, email address, phone number, and mailing address) of the plan or issuer as provided with any remittance advice associated with the initial payment or notice of denial of payment for the item or service; and if the party submitting the open negotiation notice is a plan or issuer, the plan type (for example, self-insured or fully-insured);

(3) The name and contact information (including the legal business name, email address, phone number, and mailing address) for any third party representing the party submitting the open negotiation notice, and an attestation that the third party has the authority to act on behalf of the party it represents in the open negotiation;

⁶⁶ According to data published in the IDR PUF for quarters 1 and 2 of 2025, 17 percent of closed disputes were closed by a certified IDR entity due to ineligibility. See <https://www.cms.gov/nosurprises/policies-and-resources/reports>.

(4) Information sufficient to identify the item or service, including: the date(s) the item or service was furnished and, if the party submitting the open negotiation notice is a provider, facility, or provider of air ambulance services, the date(s) that the provider, facility, or provider of air ambulance services received the initial payment or notice of denial of payment for the item or service from the plan or issuer; the type of item or service (specifically, whether the item or service is an emergency service as defined in § 54.9816–4T(c)(2)(i) or (ii), § 2590.716–4(c)(2)(i) or (ii), and § 149.110(c)(2)(i) or (ii), a non-emergency service as described in § 54.9816–5T(b), § 2590.716–5(b), and § 149.120(b), or an air ambulance service as defined in § 54.9816–3T, § 2590.716–3, and § 149.30); whether the service is a professional service or facility-based service; the State where the item or service was furnished; the claim number; the service code; and information to identify the location where the item or service was furnished (such as, place of service code or bill type code);

(5) The initial payment amount (including \$0 if payment is denied);

(6) The qualifying payment amount, if provided in a remittance advice associated with the initial payment or notice of denial of payment, or if the party submitting the open negotiation notice is a plan or issuer;

(7) An offer of an out-of-network rate for each item or service;

(8) If the party submitting the open negotiation notice is a plan or issuer, the amount of cost sharing imposed for the item or service, if any;

(9) If the party submitting the open negotiation notice is a provider or facility, a statement that the items and services do not qualify for the notice and consent exception described at 45 CFR 149.410(b) or 45 CFR 149.420(c) through (i);

(10) A statement that the provider, facility, or provider of air ambulance services was a nonparticipating provider, nonparticipating emergency facility, or nonparticipating provider of air ambulance services on the date the item or service was furnished;

(11) General information listed in the standard open negotiation notice developed by the Secretary pursuant to paragraph (b)(3) of this section describing the open negotiation period and the Federal IDR process (including a description of the purpose of the open negotiation period and Federal IDR process and key deadlines in the open negotiation period and Federal IDR process); and

(12) A copy of any remittance advice associated with the initial payment or notice of denial of payment for the item or service.

Finally, the Departments solicited comment on whether the party submitting the open negotiation notice should be required to provide a statement describing why the party is initiating the open negotiation period, including any of the considerations for certified IDR entity determinations currently described in 29 CFR 2590.716–8(c)(4)(iii) and 2590.717–2(b)(2) and 45 CFR 149.510(c)(4)(iii) and 149.520(b)(2). A few commenters supported requiring the party submitting the open negotiation notice to provide a statement describing why they are pursuing open negotiation, while several commenters opposed the proposal, stating that it is burdensome and unnecessary. Several of these commenters noted that providers generally pursue open negotiation because they are getting reimbursed at a rate below sustainable market clearing rates. One commenter cautioned that any statement regarding their rationale for negotiating should not bind the party in question, and that parties must be allowed to change their assessment of the dispute as information is exchanged. Another commenter noted that requiring such a statement would impose an additional barrier to accessing open negotiation and is beyond the Departments' authority to impose.

After consideration of these comments, the Departments are not adding a requirement for a party to include on the open negotiation notice a statement as to the party's reason for pursuing open negotiation. The Departments are persuaded by commenters' arguments that adding such a requirement would be burdensome and unnecessary, and that a party's assessment of a dispute may reasonably change between open negotiation and initiation of the Federal IDR process.

d. Open Negotiation Response Notice Content

The Departments proposed at 26 CFR 54.9816–8(b)(1)(iii)(A), 29 CFR 2590.716–8(b)(1)(iii)(A), and 45 CFR 149.510(b)(1)(iii)(A) to require that the party receiving an open negotiation notice must provide a response to the open negotiation notice that would include the same information being finalized at 26 CFR 54.9816–8(b)(1)(ii)(A)(1) through (3), 29 CFR 2590.716–8(b)(1)(ii)(A)(1) through (3), and 45 CFR 149.510(b)(1)(ii)(A)(1) through (3), which require that the party initiating open negotiation provide

contact information sufficient to identify the provider, facility, or provider of air ambulance services; information sufficient to identify the plan or issuer; and the name and contact information for any third party representing a party in the open negotiation. The Departments further proposed that the open negotiation response notice would also include the following information under proposed 26 CFR 54.9816–8(b)(1)(iii)(A)(4) through (11), 29 CFR 2590.716–8(b)(1)(iii)(A)(4) through (11), and 45 CFR 149.510(b)(1)(iii)(A)(4) through (11):

(4) Information sufficient to identify the item or service included in the open negotiation notice, including the date(s) the item or service was furnished, and if the party submitting the open negotiation response notice is a provider, facility, or provider of air ambulance services, the date(s) that the provider, facility, or provider of air ambulance services received the initial payment or notice of denial of payment for such item or service from the plan or issuer, and the claim number;

(5) If the party submitting the open negotiation response notice is a plan or issuer, a statement as to whether it agrees that the initial payment amount (including \$0 if, for example, payment is denied) and the qualifying payment amount reflected in the open negotiation notice accurately reflects the initial payment amount and qualifying payment amount disclosed with the initial payment for the item or service, and if not, or if the open negotiation notice indicates that the initial payment amount or qualifying payment amount was not communicated by the plan or issuer with the initial payment or notice of denial of payment or other remittance advice, the initial payment amount (including \$0 if, for example, payment is denied) and/or qualifying payment amount it believes to be correct, and documentation to support the statement (for example, the remittance advice confirming the qualifying payment amount);

(6) If the party in receipt of the open negotiation notice is a plan or issuer, the amount of cost sharing imposed for the item or service, if any;

(7) A counteroffer of an out-of-network rate for each item or service or an acceptance of the other party's offer;

(8) If the party submitting the open negotiation response notice is a provider or facility, a statement that the items and services do not qualify for the notice and consent exception described at 45 CFR 149.410(b) or 149.420(c) through (i);

(9) With respect to each item or service, either a statement and supporting documentation that explains why the item or service is not subject to the Federal IDR process or a statement agreeing that the item or service is subject to the Federal IDR process;

(10) A statement as to whether any of the information provided in the open negotiation notice is inaccurate and the basis for the statement, as well as supporting documentation; and

(11) A statement confirming that the initial payment or notice of denial of payment or other remittance advice provided by the party submitting the open negotiation notice under paragraph (b)(1)(ii)(A)(12) of this section is accurate, and if inaccurate, a copy of the accurate initial payment or notice of denial of payment or other remittance advice required to include the disclosures under § 54.9816–6(d)(1), § 54.9816–6T(d)(1), § 2590.716–6(d)(1), and § 149.140(d)(1), for the item or service.

The Departments sought comment on the content elements of the open negotiation response notice, including the proposed requirement to submit a counteroffer for an out-of-network rate for the item or service or a statement accepting the other party's offer on the open negotiation response notice. Specifically, the Departments sought comment on whether it would hinder meaningful negotiation between the parties outside the Federal IDR portal, or whether it would promote negotiation among parties that might otherwise not negotiate.

After consideration of comments, the Departments are finalizing as proposed the requirements for an open negotiation response notice at 26 CFR 54.9816–8(b)(1)(iii)(A), 29 CFR 2590.716–8(b)(1)(iii)(A), and 45 CFR 149.510(b)(1)(iii)(A), with two exceptions. The Departments are finalizing the proposal at 26 CFR 54.9816–8(b)(1)(iii)(A)(2), 29 CFR 2590.716–8(b)(1)(iii)(A)(2), and 45 CFR 149.510(b)(1)(iii)(A)(2) with three modifications: (1) regarding the information sufficient to identify a plan or issuer, to remove the language “if the plan or issuer is registered under” § 54.9816–9, § 2590.716–9, and § 149.530; (2) to require, when applicable, that the party submitting the open negotiation response notice attest that the plan or issuer's registration number was not provided on any remittance advice, rather than attest that the plan or issuer was not registered prior to the date the open negotiation response notice was submitted; and (3) to require the open negotiation response notice to include the legal business

name of the plan sponsor when the entity furnishing the open negotiation notice is a self-insured group health plan that does not have a legal business name. The Departments are also declining to finalize the proposed requirement at 26 CFR 54.9816–8(b)(1)(iii)(A)(7), 29 CFR 2590.716–8(b)(1)(iii)(A)(7), and 45 CFR 149.510(b)(1)(iii)(A)(7) that an open negotiation response notice include a counteroffer of an out-of-network rate for each item or service or an acceptance of the other party's offer. The Departments did not receive comments on the proposed required elements on the open negotiation response notice at 26 CFR 54.9816–8(b)(1)(iii)(A)(1), (4), (8), (10), and (11), 29 CFR 2590.716–8(b)(1)(iii)(A)(1), (4), (8), (10), and (11), and 45 CFR 149.510(b)(1)(iii)(A)(1), (4), (8), (10), and (11), and therefore are finalizing as proposed. The Departments are finalizing the proposed elements at 26 CFR 54.9816–8(b)(1)(iii)(A)(8) through (11), 29 CFR 2590.716–8(b)(1)(iii)(A)(8) through (11), and 45 CFR 149.510(b)(1)(iii)(A)(8) through (11) at redesignated 26 CFR 54.9816–8(b)(1)(iii)(A)(7) through (10), 29 CFR 2590.716–8(b)(1)(iii)(A)(7) through (10), and 45 CFR 149.510(b)(1)(iii)(A)(7) through (10).

Many commenters generally supported the proposed required elements on the open negotiation response notice, and one commenter opposed the requirement to provide the notice altogether. Of those in support, a few indicated that requiring the proposed elements would encourage meaningful exchange between parties during the open negotiation period. A few commenters stated concern regarding the additional burden and cost to the responding party, and one suggested narrowing the required elements to a subset of the proposed content or providing clear templates and guidance for parties on how to submit the required information. Some commenters provided feedback on specific content elements, as described in greater detail below.

Several commenters supported the proposal under 26 CFR 54.9816–8(b)(1)(iii)(A)(2), 29 CFR 2590.716–8(b)(1)(iii)(A)(2), and 45 CFR 149.510(b)(1)(iii)(A)(2) to require the identification of the plan type on the open negotiation response notice if the party submitting the open negotiation response notice is a plan or issuer. Commenters noted that this element would help providers correctly identify the plan type as fully-insured or self-insured. One commenter recommended the Departments clarify that any required field which relates to

identifying a group health plan is applicable only in the case of a self-insured group health plan, as the identity of the group health plan is not relevant to the Federal IDR process if the plan is fully-insured. Another commenter supported the requirements under proposed 26 CFR 54.9816–8(b)(1)(iii)(A)(2) and (3), 29 CFR 2590.716–8(b)(1)(iii)(A)(2) and (3), and 45 CFR 149.510(b)(1)(iii)(A)(2) and (3) to provide enhanced contact information on the open negotiation response notice.

The Departments agree that the collection of plan or issuer information generally, including information regarding any third party representing a plan or issuer, will improve the exchange of accurate information prior to initiation of the Federal IDR process. In particular, providers receiving correct information during open negotiation about group health plans' fully-insured or self-insured status will help them to determine whether disputed items and services are eligible for a State or Federal process, and, if eligible for the Federal process, enable them to batch correctly. Since this is the only proposed field that would identify group health plans as such, the Departments maintain that this piece of information should be included in the open negotiation response notice. Additionally, the Departments acknowledge that the requirement to provide a legal business name may apply slightly differently to fully-insured group health plans and self-insured group health plans, and therefore are finalizing a modification at 26 CFR 54.9816–8(b)(1)(iii)(A)(2), 29 CFR 2590.716–8(b)(1)(iii)(A)(2), and 45 CFR 149.510(b)(1)(iii)(A)(2) to require group health plans to provide their own legal business name, unless they are a self-insured group health plan without a legal business name, in which case they must provide the legal business name of its plan sponsor. In alignment with the required elements for the open negotiation notice, the Departments are also finalizing paragraph (b)(1)(iii)(A)(2) with a modification to require, when applicable, that the party submitting the open negotiation response notice attest that the plan or issuer's registration number was not provided on any remittance advice, rather than attest that the plan or issuer was not registered prior to the date the open negotiation response notice was submitted. The Departments are finalizing 26 CFR 54.9816–8(b)(1)(iii)(A)(3), 29 CFR 2590.716–8(b)(1)(iii)(A)(3), and 45 CFR 149.510(b)(1)(iii)(A)(3) as proposed. A few commenters supported the requirement at 26 CFR 54.9816–8(b)(1)(iii)(A)(5), 29 CFR 2590.716–

8(b)(1)(iii)(A)(5), and 45 CFR 149.510(b)(1)(iii)(A)(5) that, if the open negotiation notice indicates that the QPA was not communicated by the plan or issuer with the initial payment or notice of denial of payment or other remittance advice, the responding party (if a plan or issuer) must indicate the QPA it believes to be correct, and provide documentation to support the statement (for example, the remittance advice confirming the QPA). These commenters stated that the QPA is sometimes misunderstood or miscommunicated between the parties. Several commenters recommended amendments to the proposed collection of the QPA on the open negotiation response notice. One suggested that if the QPA is not provided with the initial payment or notice of denial of payment, the non-initiating party must provide the QPA related to the claim to the Departments and the provider on the open negotiation response notice. A few other commenters recommended adding the QPA methodology to the response notice. One of these commenters further recommended that the response notice include a certification that the QPA has been calculated in accordance with the regulations invalidated by *TMA III*.⁶⁷

The Departments agree that the requirement to confirm the accuracy of the QPA will assist parties in understanding the QPA and the details of the claim prior to initiating the Federal IDR process. The Departments also agree with commenters who highlighted the importance of ensuring providers receive an accurate QPA, even if one was not included with the initial payment, notice of denial of payment, or other remittance advice. For that reason, the Departments proposed at 26 CFR 54.9816–8(b)(1)(iii)(A)(5), 29 CFR 2590.716–8(b)(1)(iii)(A)(5), and 45 CFR 149.510(b)(1)(iii)(A)(5) that if the open negotiation notice does not accurately reflect the initial payment amount and qualifying payment amount disclosed with the initial payment for the item or service, or the initial payment amount or qualifying payment amount was not communicated by the plan or issuer in a remittance at alle, then the responding party (if a plan or issuer,) must provide the QPA it believes to be correct and provide documentation to support the QPA (for example, the remittance advice confirming the QPA). The goal of this requirement is to build mutual understanding of the claim, and to

correct any mistakes made on the part of the party submitting the open negotiation notice. It is not intended to be an opportunity to recalculate or dispute the QPA or initial payment amount, which are established values and, in the case of the initial payment amount, may be addressed through the negotiation or the Federal IDR process. The Departments acknowledge commenters' recommendations to add the QPA methodology to the open negotiation response notice. However, as noted above, the Departments do not intend the sharing of QPA on the open negotiation response notice to provide an opportunity to dispute the QPA; rather, the purpose is simply to ensure each party is considering the same QPA during the open negotiation process. The Departments will rely on the existing agency processes, such as QPA audits, to ensure plans and issuers are calculating QPAs in accordance with the established methodology.

One commenter supported the proposal to require, if the responding party is a plan or issuer, inclusion of the amount of cost sharing imposed for the item or service at issue under proposed 26 CFR 54.9816–8(b)(1)(iii)(A)(6), 29 CFR 2590.716–8(b)(1)(iii)(A)(6), and 45 CFR 149.510(b)(1)(iii)(A)(6). Another commenter identified a discrepancy between the proposed regulatory text about the open negotiation response notice at 26 CFR 54.9816–8(b)(1)(iii)(A)(6), 29 CFR 2590.716–8(b)(1)(iii)(A)(6), and 45 CFR 149.510(b)(1)(iii)(A)(6), which requires submission of cost sharing “imposed,” whereas the relevant preamble language of the 2023 proposed rules⁶⁸ references cost sharing “paid or owed.” This commenter requested clarification on this point because while plans and issuers would know and could report the cost-sharing imposed, providers are not in a position to know whether the cost-sharing was paid or is owed.

Several commenters supported the proposal to provide a counteroffer on the open negotiation response notice under proposed 26 CFR 54.9816–8(b)(1)(iii)(A)(7), 29 CFR 2590.716–8(b)(1)(iii)(A)(7), and 45 CFR 149.510(b)(1)(iii)(A)(7). These commenters stated that such a requirement would encourage participation in negotiations and prompt settlement prior to initiating the Federal IDR process. A few others noted that it would create a clear record of the parties' negotiation positions for certified IDR entities. Relatedly, a few supportive commenters recommended certain parameters on the provision of

the counteroffers, including that final offers during the Federal IDR process should not be allowed to be more than 10 percent higher than offers submitted during open negotiation. Another commenter recommended that the open negotiation response notice permit the responding party to describe its methodology for arriving at a counteroffer, such as reimbursement calculations, and its sources of information.

Several other commenters opposed requiring a counteroffer on the open negotiation response notice. Some commenters noted that the counteroffer is not required under statute and imposing such a requirement exceeds the Departments' authority, with one of these commenters also stating that this requirement could encourage gaming. Another commenter suggested that the Departments finalize this field as optional, rather than required, to align with statutory authority. A few commenters also stated concerns that such an amount would devalue the QPA. Commenters stated that the QPA or the initial payment amount should always be considered the counteroffer on the part of the plan or issuer. One commenter noted that all offers should be constrained by the QPA. Some commenters stated concerns about the certified IDR entity's ability to see a counteroffer provided during open negotiation for disputes later submitted to the Federal IDR process. These commenters noted that negotiations should be kept private and only limited information should be available to the certified IDR entities through the Federal IDR portal. A few commenters stated that the Departments should not have access to negotiation information.

The Departments appreciate the support for the inclusion of the amount of cost sharing imposed for the item or service at issue, if the responding party is a plan or issuer, under proposed 26 CFR 54.9816–8(b)(1)(iii)(A)(6), 29 CFR 2590.716–8(b)(1)(iii)(A)(6), and 45 CFR 149.510(b)(1)(iii)(A)(6). The Departments clarify that regarding the discrepancy between cost sharing “paid or owed” in the preamble to the 2023 proposed rules⁶⁹ and “imposed” in the regulation, the latter was the intent of the Departments. As a result, the Departments are finalizing this requirement at 26 CFR 54.9816–8(b)(1)(iii)(A)(6), 29 CFR 2590.716–8(b)(1)(iii)(A)(6), and 45 CFR 149.510(b)(1)(iii)(A)(6) as proposed.

As stated above, the Departments are not finalizing the proposed requirement to provide a counteroffer of an out-of-

⁶⁷ *Tex. Med. Ass'n v. U.S. Dep't of Health & Hum. Servs.*, Case No. 6:22-cv-450-JDK (E.D. Tex. August 24, 2023), *Tex. Med. Ass'n v. U.S. Dep't of Health & Hum. Servs.*, 120 F.4th 494 (5th Cir. 2024), and *Tex. Med. Ass'n v. U.S. Dep't of Health & Hum. Servs.*, Case No. 23-40605 (5th Cir. May 30, 2025).

⁶⁸ 88 FR 75744, 75767 (November 3, 2023).

⁶⁹ 88 FR 75744, 75767 (November 3, 2023).

network rate for each item or service or an acceptance of the other party's offer under proposed 26 CFR 54.9816–8(b)(1)(iii)(A)(7), 29 CFR 2590.716–8(b)(1)(iii)(A)(7), and 45 CFR 149.510(b)(1)(iii)(A)(7). The Departments understand commenters' concerns about the private nature of negotiations and agree that neither the Departments nor certified IDR entities need to see the details of the parties' negotiations. The Departments also understand that the provision of this additional information would constitute an additional burden on non-initiating parties. As such, the Departments are not finalizing the requirement to provide a counteroffer in the open negotiation response notice. The Departments note that the parties may share counteroffers via their preferred method of communication during open negotiation, but need not do so at all, or, if they chose to do so, need not use the Federal IDR portal.

Several commenters supported the proposal under 26 CFR 54.9816–8(b)(1)(iii)(A)(9), 29 CFR 2590.716–8(b)(1)(iii)(A)(9), and 45 CFR 149.510(b)(1)(iii)(A)(9) to require a statement on whether and why the item or service subject to open negotiation is or is not eligible for the Federal IDR process. A few commenters noted that it is most useful to require this exchange of information during the open negotiation period because it can prevent the initiation of ineligible disputes. One commenter in support of the requirement suggested that if a responding party fails to raise eligibility concerns (and support them with documentation), any eligibility objections raised by that party during the Federal IDR process should be waived to encourage identification of ineligible items and services prior to IDR initiation and to eliminate time-consuming follow up performed by certified IDR entities in response to eligibility objections raised during the Federal IDR process. One commenter opposed the use of eligibility information submitted during the open negotiation period to prevent a party from initiating the Federal IDR process. Another commenter requested that the Departments clarify what "supporting documentation" under 26 CFR 54.9816–8(b)(1)(iii)(A)(9), 29 CFR 2590.716–8(b)(1)(iii)(A)(9), and 45 CFR 149.510(b)(1)(iii)(A)(9) would be required on the part of the responding party and stated that only previously unavailable information would be useful, while submitting an EOB which is already available to both parties would not be productive. This

commenter suggested that the Departments require supporting documentation such as an explanation of the QPA calculation, eligibility concerns, or reasons why the non-initiating party believes the Federal IDR process does not apply. Another commenter requested that the Departments specify in greater detail documentation that would adequately support an assertion that the 90-day cooling off period was in effect for an item or service.

The requirement under 26 CFR 54.9816–8(b)(1)(iii)(A)(9), 29 CFR 2590.716–8(b)(1)(iii)(A)(9), and 45 CFR 149.510(b)(1)(iii)(A)(9) to provide a statement as to whether the item and service subject to negotiation are eligible for the Federal IDR process and supporting documentation during open negotiation will enhance the efficiency of the parties' communication and reduce the number of ineligible disputes entering the Federal IDR process. Recently published data reflects that parties continue to struggle to correctly identify the eligibility of items and services for the Federal IDR process.⁷⁰ By requiring parties to exchange information during open negotiation on the eligibility of an item or service for the Federal IDR process prior to IDR initiation, both parties will benefit from a mutual understanding of eligibility which will aid them in pursuing negotiations and assessing the cost of participating in the Federal IDR process.

The Departments note that the provisions in these final rules requiring parties to submit a statement as to whether the items or services subject to negotiation are eligible for the Federal IDR process will not prevent a party from initiating the Federal IDR process for an ineligible item or service. While this information is intended to support disputing parties' determination of eligibility prior to the Federal IDR process and avoid initiating ineligible disputes, the provision of this information does not limit either party's ability to initiate the Federal IDR process. Certified IDR entities will make their own eligibility determinations based on the information provided to them via the notices of IDR initiation, initiation response, and certified IDR entity selection. As explained in section II.D.2.b of this preamble, eligibility objections can be raised in the notice of IDR initiation response, and the

⁷⁰ According to the 2025 Federal IDR PUF, 40 percent of disputes initiated were challenged by the non-initiating party as ineligible. As mentioned above, 17 percent of disputes closed were closed due to ineligibility by a certified IDR entity. See: <https://www.cms.gov/nosurprises/policies-and-resources/reports>.

reason(s) for objective can vary from those raised during open negotiation. Further, the provision of supporting documentation is essential to the effective implementation of this requirement to allow non-initiating parties to substantiate an eligibility objection. In implementing the Federal IDR process, the Departments have learned that often when a non-initiating party objects to the eligibility of an item or service in its initial payment or notice of denial of payment, it does not provide sufficient information for the certified IDR entity or the other party to understand the basis for its objection, and when the non-initiating party submits documentation demonstrating ineligibility in the course of the current IDR process, the certified IDR entity may receive this information, but the initiating party may not. Therefore, the Departments will require the party sending the open negotiation response notice to provide both a statement regarding eligibility, and documentation that supports the statement, to the other party and the Departments.

The Departments clarify that examples of such documentation could include, but are not limited to, a remittance advice with a RARC clarifying that an item or service is subject to a specified State law, an EOB reflecting an item or service is subject to payment by Medicare, or an external review decision reflecting an adverse benefit determination due to an item or service not being covered by the plan or issuer. However, these represent illustrative examples, as the Departments do not intend to restrict the types of documents a party may submit to corroborate that an item or service is not subject to the Federal IDR process.

The Departments emphasize that if the Federal IDR process is initiated, the responding party is not confined to raising eligibility concerns in its open negotiation response notice. As explained in section II.D.2.b of this preamble, disputing parties can raise eligibility objections in the notice of IDR initiation response, and the reason(s) for objections can vary from those raised during open negotiation. The Departments are finalizing as proposed 26 CFR 54.9816–8(b)(1)(iii)(A)(9), 29 CFR 2590.716–8(b)(1)(iii)(A)(9), and 45 CFR 149.510(b)(1)(iii)(A)(9), but redesignating this provision as 26 CFR 54.9816–8(b)(1)(iii)(A)(8), 29 CFR 2590.716–8(b)(1)(iii)(A)(8), and 45 CFR 149.510(b)(1)(iii)(A)(8).

The Departments are finalizing as proposed the requirements for an open negotiation response notice at 26 CFR 54.9816–8(b)(1)(iii)(A), 29 CFR

2590.716–8(b)(1)(iii)(A), and 45 CFR 149.510(b)(1)(iii)(A), with two exceptions. The Departments are finalizing 26 CFR 54.9816–8(b)(1)(iii)(A)(2), 29 CFR 2590.716–8(b)(1)(iii)(A)(2), and 45 CFR 149.510(b)(1)(iii)(A)(2) with three modifications: (1) regarding the information sufficient to identify a plan or issuer, to remove the language “if the plan or issuer is registered under” § 54.9816–9, § 2590.716–9, and § 149.530; (2) to require, when applicable, that the party submitting the open negotiation response notice attest that the plan or issuer’s registration number was not provided on any remittance advice, rather than attest that the plan or issuer was not registered prior to the date the open negotiation response notice was submitted; and (3) to require the open negotiation response notice to include the legal business name of the plan sponsor when the entity furnishing the open negotiation notice is a self-insured group health plan that does not have a legal business name. At 26 CFR 54.9816–8(b)(1)(iii)(A)(7), 29 CFR 2590.716–8(b)(1)(iii)(A)(7), and 45 CFR 149.510(b)(1)(iii)(A)(7) the Departments are declining to finalize the proposed requirement to provide a counteroffer of an out-of-network rate for each item or service or an acceptance of the other party’s offer. As a result, the Departments are redesignating 26 CFR 54.9816–8(b)(1)(iii)(A)(8) through (11), 29 CFR 2590.716–8(b)(1)(iii)(A)(8) through (11), and 45 CFR 149.510(b)(1)(iii)(A)(8) through (11) as 26 CFR 54.9816–8(b)(1)(iii)(A)(7) through (10), 29 CFR 2590.716–8(b)(1)(iii)(A)(7) through (10), and 45 CFR 149.510(b)(1)(iii)(A)(7) through (10).

Therefore, the elements required as finalized are:

(1) Information sufficient to identify the provider, facility, or provider of air ambulance services, including the name and current contact information (including the legal business name, email address, phone number, and mailing address) as provided with the claim form submitted by the provider, facility, or provider of air ambulance services to the plan or issuer, and the applicable NPI;

(2) Information sufficient to identify the plan or issuer, including the plan’s or issuer’s registration number, as required under § 54.9816–9, § 2590.716–9, and § 149.530, or an attestation from the party submitting the open negotiation response notice that the plan or issuer’s registration number was not provided on any remittance advice associated with the initial

payment or notice of denial of payment for the item or service, as well as the legal business name of the plan or issuer (or, in the case of a self-insured group health plan that does not have a legal business name, the legal business name of the plan sponsor), the current contact information (name, email address, phone number, and mailing address) of the plan or issuer as provided with any remittance advice associated with the initial payment or notice of denial of payment for the item or service; and if the party submitting the open negotiation response notice is a plan or issuer, the plan type (for example, self-insured or fully-insured);

(3) The name and contact information (including the legal business name, email address, phone number, and mailing address) for any third party representing the party submitting the open negotiation response notice, and an attestation that the third party has the authority to act on behalf of the party it represents in the open negotiation;

(4) Information sufficient to identify the item or service included in the open negotiation notice, including the date(s) the item or service was furnished, and if the party submitting the open negotiation response notice is a provider, facility, or provider of air ambulance services, the date(s) that the provider, facility, or provider of air ambulance services received the initial payment or notice of denial of payment for the item or service from the plan or issuer, and the claim number;

(5) If the party submitting the open negotiation response notice is a plan or issuer, a statement as to whether it agrees that the initial payment amount (including \$0 if payment is denied) and the qualifying payment amount reflected in the open negotiation notice accurately reflect the initial payment amount and qualifying payment amount disclosed with the initial payment for the item or service, and if not, or if the open negotiation notice indicates that the initial payment amount or qualifying payment amount was not communicated by the plan or issuer in a remittance advice associated with the initial payment or notice of denial of payment, the initial payment amount (including \$0 if payment is denied) and/or qualifying payment amount it believes to be correct, and documentation to support the statement (for example, the remittance advice confirming the qualifying payment amount);

(6) If the party submitting the open negotiation response notice is a plan or issuer, the amount of cost sharing imposed for the item or service, if any;

(7) If the party submitting the open negotiation response notice is a provider or facility, a statement that the items and services do not qualify for the notice and consent exception described at 45 CFR 149.410(b) or 45 CFR 149.420(c) through (i);

(8) For each item or service, either a statement and supporting documentation that explains why the item or service is not subject to the Federal IDR process or a statement agreeing that the item or service is subject to the Federal IDR process;

(9) A statement as to whether any of the information provided in the open negotiation notice is inaccurate and the basis for the statement, as well as supporting documentation; and

(10) A statement confirming that the initial payment or notice of denial of payment or other remittance advice reflected in the open negotiation notice under paragraph (b)(1)(ii)(A)(12) of this section is accurate, or if inaccurate, a copy of the accurate remittance advice associated with the initial payment or notice of denial of payment for the item or service.

Finally, the Departments acknowledge commenters’ concerns regarding the visibility of offers, as well as other information shared during open negotiation to certified IDR entities in the event the Federal IDR process is later initiated. The Departments note that certified IDR entities will not be able to access any notices exchanged during open negotiation via the Federal IDR portal. Certified IDR entities are tasked with reviewing information provided on the notice of IDR initiation and notice of IDR initiation response, as well as any requested information to supplement their eligibility review and final determination. The only relevant open negotiation information that certified IDR entities require to conduct their work is confirmation of the open negotiation start date as captured by the Federal IDR portal.

The Departments will monitor compliance with the requirement to submit the open negotiation response notice. As stated in the 2023 proposed rules, a lack of response would not alter the duration of the open negotiation period.⁷¹

e. Technical Amendments

The Departments proposed several technical amendments to the open negotiation regulatory text. These changes correct or remove regulatory text that is being updated by the open negotiation provisions in these final rules. First, the Departments proposed a

⁷¹ 88 FR 75744, 75802 (November 3, 2023).

technical correction to the cross-reference at 26 CFR 54.9816–8T(b)(1)(i), 29 CFR 2590.716–8(b)(1)(i), and 45 CFR 149.510(b)(1)(i), which incorrectly directs readers to the definition of a qualified IDR item or service at paragraph (a)(2)(xii)(A), but should instead reference paragraph (a)(2)(xi)(A), which is the correct citation for the definition of a qualified IDR item or service.

Second, the Departments proposed to remove the current regulatory text that describes the manner in which the open negotiation notice must be provided. The requirements for submitting the open negotiation notice described in current paragraphs 26 CFR 54.9816–8T(b)(1)(ii)(B), 29 CFR 2590.716–8(b)(1)(ii)(B), and 45 CFR 149.510(b)(1)(ii)(B) will be removed because the requirements related to the manner of submission of the open negotiation notice (and under these rules the open negotiation response notice as well), have been updated, as described in section II.D.3 of this preamble.

The Departments did not receive comments on these technical amendments and are finalizing them as proposed.

f. Implementation of Open Negotiation Through the Federal IDR Portal

As discussed in section II.D.3 of the preamble to these final rules, to implement the requirements for submitting the open negotiation notice and the open negotiation response notice, the Departments will modify the Federal IDR portal to allow parties to send the open negotiation notice and open negotiation response notice to the other party and the Departments through the Federal IDR portal.

The Departments sought comment on whether the disputing parties should be required to use the Federal IDR portal for further communication related to open negotiation beyond the initiation of open negotiation and the submission of the open negotiation response notice. The Departments sought comment on what modes of correspondence might be useful to the parties during the open negotiation period (for example, the submission of additional documentation to the other party, live chat, or message exchange, etc.) and if the content of those communications should be accessible to the certified IDR entities through the IDR portal if a dispute is initiated on the relevant item or service. Lastly, the Departments solicited comment on whether there are any additional challenges preventing the parties from, or clarifications needed to assist the parties in, fully engaging in

meaningful negotiations during the open negotiation period.

Many commenters supported the use of the Federal IDR portal as the central communication hub for open negotiation. Most of the commenters in support cited that the use of a centralized platform for negotiating would reduce burden on the parties and simplify the open negotiation process. One commenter noted that the exclusive use of the Federal IDR portal has the potential to improve communication but should not be considered a priority at this time so that the Departments may focus on addressing other challenges to the Federal IDR process. A few commenters recommended building a multi-purpose messaging field within the portal. Another noted that it would be acceptable to allow submission of protected health information through the portal.

Several commenters opposed the use of the Federal IDR portal as the sole platform to conduct open negotiation. A few commenters noted that negotiations would be more productive when conducted between the two parties outside of the Federal IDR portal. Other commenters noted that sole use of the Federal IDR portal could limit the parties' ability to negotiate, and that there may be cases where resolution can best be achieved by face-to-face meetings or other means of negotiation, and therefore, the Federal IDR portal should not be the only permissible venue for open negotiation. Another commenter raised concerns related to the ability to negotiate in the event the Federal IDR portal experiences a system failure. A few commenters stated that a flexible approach would serve parties best, with one of these commenters elaborating that parties should be able to select their method of communication, so long as all communications are documented.

The Departments are finalizing the requirement for disputing parties to exchange the open negotiation notice and the open negotiation response notice through the Federal IDR portal as described earlier in this preamble but are declining to require any other communications to be made through the Federal IDR portal. The Departments note that, in line with commenters' feedback, the greatest benefit of these provisions, as finalized, will be the exchange of the open negotiation and open negotiation response notices through the Federal IDR portal. While the use of a single hub for negotiations and disputes may streamline the user experience, the Departments will continue to prioritize ensuring the smooth and consistent operations of the

Federal IDR portal, and will consider commenters' suggestions regarding new functionality for the future.

2. Changes to the Initiation of the Federal IDR Process

The Departments proposed to amend the IDR initiation provisions at 26 CFR 54.9816–8T(b)(2), 29 CFR 2590.716–8(b)(2), and 45 CFR 149.510(b)(2) to improve communication between parties, accelerate dispute processing, and reduce the burden on certified IDR entities when determining whether a case is eligible for the Federal IDR process. Specifically, at 26 CFR 54.9816–8T(b)(2)(i), 29 CFR 2590.716–8(b)(2)(i), and 45 CFR 149.510(b)(2)(i) the 2023 proposed rules proposed to require the initiating party to submit a written notice of IDR initiation, consistent with 29 CFR 2590.716–8(b)(2)(ii) and 45 CFR 149.510(b)(2)(ii), to the non-initiating party, and to the Departments in the manner specified in paragraph (b)(3), during the 4-business-day period beginning on the first business day after the last day of the open negotiation period (unless it is otherwise required to be submitted in the timeframe specified in 29 CFR 2590.716–8(c)(5)(vii)(C) and 45 CFR 149.510(c)(5)(vii)(C)) and include additional information in the notice of IDR initiation. The 2023 proposed rules also proposed to require non-initiating parties to provide a response to the notice of IDR initiation (notice of IDR initiation response) to the Departments and to the initiating party through the Federal portal within 3 business days after the date of IDR initiation. Section II.D.3 of this preamble describes how the parties would provide both the notice of IDR initiation and notice of IDR initiation response to the other party and the Departments. The Departments are finalizing as proposed the provisions at 26 CFR 54.9816–8T(b)(2)(i), 29 CFR 2590.716–8(b)(2)(i), and 45 CFR 149.510(b)(2)(i).

a. Notice of IDR Initiation

The Departments proposed to amend the content of the notice of IDR initiation and redesignate 26 CFR 54.9816–8T(b)(2)(iii)(A), 29 CFR 2590.716–8(b)(2)(iii)(A), and 45 CFR 149.510(b)(2)(iii)(A) as 26 CFR 54.9816–8(b)(2)(ii)(A), 29 CFR 2590.716–8(b)(2)(ii)(A), and 45 CFR 149.510(b)(2)(ii)(A). Under the 2023 proposed rules, several of the content elements in the notice of IDR initiation would also be required in the open negotiation notice and open negotiation

response notice.⁷² As outlined in section II.D.1.d. of the preamble to the 2023 proposed rules, by restating information on the notices, parties would have an opportunity to confirm or update information necessary to continue negotiations and identify any information discrepancies that could impact eligibility for the Federal IDR process. As noted under the 2023 proposed rules, the open negotiation notice and notice of IDR initiation would often not be identical since disputing parties do not always decide to initiate the Federal IDR process for all items and services included in the open negotiation notice. The Departments anticipated that the Federal IDR portal would be able to prepopulate identifying information from the open negotiation notices and open negotiation response notices, which would mitigate additional burden on the disputing parties.

The elements that the Departments proposed to be included in the notice of IDR initiation were:

(1) Information sufficient to identify the provider, facility, or provider of air ambulance services, including the name and current contact information (including the legal business name, email address, phone number, and mailing address), and the NPI; and if the initiating party is a provider, facility, or provider of air ambulance services, the Tax Identification Number (TIN);

(2) Information sufficient to identify the plan or issuer, including the plan's or issuer's registration number, as required under § 54.9816–9, § 2590.716–9, and § 149.530 if the plan or issuer is registered under § 54.9816–9, § 2590.716–9, and § 149.530, or an attestation from the initiating party that the plan or issuer was not registered prior to the date that it submitted the notice; the legal business name of the plan or issuer, as well as the current contact information (name, email address, phone number, and mailing address) of the plan or issuer as provided with the initial payment or notice of denial of payment; and if the initiating party is a plan or issuer, the plan type (for example, self-insured or fully-insured) and TIN (or, in the case

of a plan that does not have a TIN, the TIN of the plan sponsor);

(3) The name and contact information (including the legal business name, email address, phone number, and mailing address) for any third party representing the initiating party, and an attestation that the third party has the authority to act on behalf of the party it represents in the Federal IDR process;

(4) Information sufficient to identify whether the dispute being initiated includes batched or bundled qualified IDR items or services as described in paragraph (c)(4) of this section;

(5) Information sufficient to identify the qualified IDR item or service that is the subject of the notice of IDR initiation, including the date(s) the qualified IDR item or service was furnished; if the initiating party is a provider, facility, or provider of air ambulance services, the date(s) that the provider, facility, or provider of air ambulance services received the initial payment or notice of denial of payment for such item or service from the plan or issuer; the date the open negotiation period under paragraph (b)(1) of this section began; the type of item or service (specifically, whether the item or service is an emergency service as defined § 54.9816–4T(c)(2)(i) or (ii), § 2590.716–4(c)(2)(i) or (ii), and § 149.110(c)(2)(i) or (ii), non-emergency item or service as described in § 54.9816–5T(b), § 2590.716–5(b), and § 149.120(b), or an air ambulance service as defined in § 54.9816–3T, § 2590.716–3 and § 149.30); whether the service is a professional service or facility-based service; the State where the item or service was furnished; the claim number; the service code; and information to identify the location the item or service was furnished (including place of service code or bill type code);⁷³

(6) The initial payment amount (including \$0 if, for example, payment is denied);

(7) The qualifying payment amount, if provided with the initial payment or notice of denial of payment or if the initiating party is a plan or issuer;

(8) If the initiating party is a provider or facility, a statement that the items and services do not qualify for the notice and consent exception described at 45 CFR 149.410(b) or 149.420(c) through (i);

(9) A statement that the provider, facility, or provider of air ambulance services was a nonparticipating

provider, nonparticipating emergency facility, or nonparticipating provider of air ambulance services on the date the item or service was furnished;

(10) Attestation that the item or service under dispute is a qualified IDR item or service, and the basis for the attestation;

(11) General information listed in the standard notice of IDR initiation developed by the Secretary under paragraph (b)(3) of this section describing the Federal IDR process (including a description of the purpose of the Federal IDR process and key deadlines in the Federal IDR process);

(12) A copy of the initial payment or notice of denial of payment or other remittance advice that is required to include the disclosures under § 54.9816–6(d)(1) and § 54.9816–6T(d)(1), § 2590.716–6(d)(1), and § 149.140(d)(1), for the item or service;

(13) Preferred certified IDR entity; and

(14) A statement describing the key aspects of the claim, such as patient acuity or level of training of the provider, facility, or provider of air ambulance services that furnished the qualified IDR item or service, discussed by the parties during open negotiation that relate to the payment for the disputed claim, whether the reasons for initiating the Federal IDR process are different from the aspects of the claim discussed during the open negotiation period, and an explanation of why the party is initiating the Federal IDR process, including any of the permissible considerations described in §§ 54.9817–2(c)(5)(iii) and 54.9817–2(b)(2), §§ 2590.716–8(c)(5)(iii) and 2590.717–2(b)(2), and §§ 149.510(c)(5)(iii) and 149.520(b)(2) that serve as the party's basis for initiating the Federal IDR process.

Additionally, the Departments proposed to remove paragraphs 26 CFR 54.9816–8T(b)(2)(iii)(B) and (C), 29 CFR 2590.716–8(b)(2)(iii)(B) and (C), and 45 CFR 149.510(b)(2)(iii)(B) and (C), which specify the manner in which the notice of IDR initiation must be provided to the other party and the Departments because the Departments proposed to establish paragraphs 26 CFR 54.9816–8(b)(3), 29 CFR 2590.716–8(b)(3), and 45 CFR 149.510(b)(3) to require the use of the Federal IDR portal for transmission of notices of IDR initiation.

The Departments sought comment on these proposals. Specifically, the Departments sought comment on the new content elements for the notice of IDR initiation and whether additional elements should be required to facilitate the exchange of information necessary to initiate the Federal IDR process. Further, the Departments solicited

⁷² See proposed regulations for the open negotiation notice content at: 26 CFR 54.9816–8(b)(1)(ii)(A)(1) through (6) and (9) through (12); 29 CFR 2590.716–8(b)(1)(ii)(A)(1) through (6) and (9) through (12); and 45 CFR 149.510(b)(1)(ii)(A)(1) through (6) and (9) through (12). See proposed regulations for the open negotiation response content at: 26 CFR 54.9816–8(b)(1)(iii)(A)(1) through (4), (8), and (11); 29 CFR 2590.716–8(b)(1)(iii)(A)(1) through (4), (8), and (11); and 45 CFR 149.510(b)(1)(iii)(A)(1) through (4), (8) and (11).

⁷³ This reflects a redesignation of existing content requirements in the notice of the IDR initiation under 29 CFR 2590.716–8(b)(2)(iii)(A)(1) and 45 CFR 149.510(b)(2)(iii)(A)(1).

comment on the proposed requirement for the initiating party to include in the notice of IDR initiation a statement describing any key aspects of the claim discussed by the parties during open negotiation, whether the considerations for initiating the Federal IDR process are different from the key aspects of the claim discussed during the open negotiation period, and an explanation of why the party is initiating the Federal IDR process, including any of the permissible considerations described at 26 CFR 54.9816–8(c)(4)(iii) and 54.9817–2(b)(2), 29 CFR 2590.716–8(c)(4)(iii) and 2590.717–2(b)(2), and 45 CFR 149.510(b)(2)(ii)(A)(1) and (3) through (5), as proposed.

After considering comments, the Departments are finalizing the required elements for the notice of IDR initiation at 26 CFR 54.9816–8(b)(2)(ii)(A)(1) and (3) through (5), 29 CFR 2590.716–8(b)(2)(ii)(A)(1) and (3) through (5), and 45 CFR 149.510(b)(2)(ii)(A)(1) and (3) through (5), as proposed.

The Departments are finalizing the proposal at 26 CFR 54.9816–8(b)(2)(ii)(A)(2), 29 CFR 2590.716–8(b)(2)(ii)(A)(2), and 45 CFR 149.510(b)(2)(ii)(A)(2) with three modifications: (1) regarding the information sufficient to identify a plan or issuer, to remove the language “if the plan or issuer is registered under” § 54.9816–9, § 2590.716–9, and § 149.530; (2) to require, when applicable, that the party submitting the notice of IDR initiation attest that the plan or issuer’s registration number was not provided on any remittance advice, rather than attest that the plan or issuer was not registered prior to the date the notice of IDR initiation was submitted; and (3) to require the notice of IDR initiation to include the legal business name of the plan sponsor when the entity furnishing the open negotiation notice is a self-insured group health plan that does not have a legal business name. The Departments are also finalizing a technical correction at 26 CFR 54.9816–8(b)(2)(ii)(A)(6), 29 CFR 2590.716–8(b)(2)(ii)(A)(6), and 45 CFR 149.510(b)(2)(ii)(A)(6), to remove the language “for example” from the proposed requirement that the notice of IDR initiation must include “the initial payment amount (including \$0 if, for example, payment is denied)”, but are otherwise finalizing as proposed. The Departments are finalizing at 26 CFR 54.9816–8(b)(2)(ii)(A)(7), 29 CFR 2590.716–8(b)(2)(ii)(A)(7), and 45 CFR 149.510(b)(2)(ii)(A)(7) a requirement that the initiating party provide, if it is a plan or issuer, the amount of cost sharing imposed for the item or service, if any. The Departments included the same requirement in the open

negotiation notice, open negotiation response notice, and notice of IDR initiation response, but accidentally omitted it in the 2023 proposed rules for the notice of IDR initiation. The Departments always intended for this to be a parallel provision across all four notices, similar to many other elements finalized in these final rules, and are therefore correcting its omission from 2023 proposed rules in these final rules. The Departments are not finalizing the requirement at 26 CFR 54.9816–8(b)(2)(ii)(A)(14), 29 CFR 2590.716–8(b)(2)(ii)(A)(14), and 45 CFR 149.510(b)(2)(ii)(A)(14) for the initiating party to provide a statement describing the key aspects of the claim, such as patient acuity or level of training of the provider, facility, or provider of air ambulance services that furnished the qualified IDR item or service discussed by the parties during open negotiation that relate to the payment for the disputed claim, whether the reasons for initiating the Federal IDR process are different from the aspects of the claim discussed during the open negotiation period, and an explanation of why the party is initiating the Federal IDR process, including any of the permissible considerations described in paragraph (c)(5)(iii) of this section and § 54.9817–2(b)(2) that serve as the party’s basis for initiating the Federal IDR process.

As a result of the Departments finalizing new 26 CFR 54.9816–8(b)(2)(ii)(A)(7), 29 CFR 2590.716–8(b)(2)(ii)(A)(7), and 45 CFR 149.510(b)(2)(ii)(A)(7), the Departments are finalizing as proposed, with two minor modifications, the requirements at 26 CFR 54.9816–8(b)(2)(ii)(A)(7) through (13), 29 CFR 2590.716–8(b)(2)(ii)(A)(7) through (13), and 45 CFR 149.510(b)(2)(ii)(A)(7) through (13), but redesignating them as 26 CFR 54.9816–8(b)(2)(ii)(A)(8) through (14), 29 CFR 2590.716–8(b)(2)(ii)(A)(8) through (14), and 45 CFR 149.510(b)(2)(ii)(A)(8) through (14). At redesignated 26 CFR 54.9816–8(b)(2)(ii)(A)(11), 29 CFR 2590.716–8(b)(2)(ii)(A)(11), and 45 CFR 149.510(b)(2)(ii)(A)(11), the Departments are finalizing a technical correction to add “as defined in paragraph (a)(2)(xi) of this section and is eligible for the Federal IDR process” after “qualified IDR item or service”, from the proposal at 26 CFR 54.9816–8(b)(2)(ii)(A)(10), 29 CFR 2590.716–8(b)(2)(ii)(A)(10), and 45 CFR 149.510(b)(2)(ii)(A)(10), which required an attestation that the item or service under dispute is a qualified IDR item or service, and the basis for the attestation.

Finally, the Departments are finalizing at 26 CFR 54.9816–8(b)(2)(ii)(A)(13), 29 CFR 2590.716–8(b)(2)(ii)(A)(13), and 45 CFR 149.510(b)(2)(ii)(A)(13) For 26 CFR 54.9816–8(b)(1)(ii)(A)(12), 29 CFR 2590.716–8(b)(1)(ii)(A)(12), and 45 CFR 149.510(b)(1)(ii)(A)(12), the Departments are modifying the proposal by requiring the notice of IDR initiation to include a copy of any remittance advice associated with the initial payment or notice of denial of payment for the item or service, rather than a copy of the initial payment or notice of denial of payment or other remittance advice that includes the required disclosures. similar to the open negotiation notice outlined in section II.D.1.c of this preamble.

The Departments are not finalizing the requirement at 26 CFR 54.9816–8(b)(2)(ii)(A)(14), 29 CFR 2590.716–8(b)(2)(ii)(A)(14), and 45 CFR 149.510(b)(2)(ii)(A)(14) for the initiating party to provide a statement describing the key aspects of the claim, such as patient acuity or level of training of the provider, facility, or provider of air ambulance services that furnished the qualified IDR item or service discussed by the parties during open negotiation that relate to the payment for the disputed claim, whether the reasons for initiating the Federal IDR process are different from the aspects of the claim discussed during the open negotiation period, and an explanation of why the party is initiating the Federal IDR process, including any of the permissible considerations described in paragraph (c)(5)(iii) of this section and § 54.9817–2(b)(2) that serve as the party’s basis for initiating the Federal IDR process.

The Departments received several comments offering general suggestions about the initiation of the Federal IDR process, including concerns that the process is administratively burdensome. For example, one commenter requested that the Departments verify that the parties engaged in open negotiation prior to permitting an initiating party to submit a notice of IDR initiation. Another commenter indicated that when many disputes are initiated on a given day, non-initiating parties and certified IDR entities may face downstream workflow challenges, and the likelihood of meaningful negotiations in any one dispute is decreased. This commenter suggested that the Departments build in additional flexibilities for responding parties in this circumstance, or impose a reasonable daily limit on the number of initiated disputes per party.

The Departments are confident that the notice of IDR initiation as well as

other changes in these final rules, will minimize ad hoc communications among parties and certified IDR entities to obtain relevant eligibility information and encourage early negotiations, thus increasing the efficiency and accessibility of the Federal IDR process as a whole and reducing the likelihood that initiating parties submit ineligible disputes. Therefore, the benefit of requiring the notices of open negotiation, open negotiation response, IDR initiation, and IDR initiation response greatly outweighs the burden required to submit them. With respect to the comment requesting that the Departments verify that parties engaged in open negotiation prior to permitting an initiating party to submit a notice of IDR initiation, the Departments reiterate that this is one of the benefits of requiring the notice of open negotiation and open negotiation response, and requiring that they be submitted through the IDR portal, as noted previously. The provisions of these notices through the Federal IDR portal will allow certified IDR entities to easily confirm whether open negotiation occurred properly when making an eligibility determination.

Additionally, the Departments received comments on the proposal at 26 CFR 54.9816–8T(b)(2)(i), 29 CFR 2590.716–8(b)(2)(i), and 45 CFR 149.510(b)(2)(i) that the initiating party generally must submit a written notice of IDR initiation to the non-initiating party, and to the Departments during the 4-business-day period beginning on the first business day after the last day of the open negotiation period. Several commenters supported the language included in the 2023 proposed rules, while a few commenters recommended extending the timeframe for initiating the Federal IDR process beyond 4 business days after the close of the open negotiation period due to limited staffing, high dispute volume, and the complexity of IDR submissions. For example, one commenter suggested 10 business days, and another requested 5 business days for consistency with timelines in other aspects of the Federal IDR process.

The Departments note that the 4-business-day timeframe to initiate the Federal IDR process following the open negotiation period is a statutory requirement set forth in section 9816(c)(1)(B) of the Code, section 716(c)(1)(B) of ERISA, and section 2799A–1(c)(1)(B) of the PHS Act that cannot be modified absent extenuating circumstances.⁷⁴

A few commenters stated general support for the Departments' proposal to enhance the notice of IDR initiation by adding new elements. One commenter supported requiring content elements in the notice of IDR initiation that are also required in the open negotiation notice only if the Federal IDR portal would prepopulate such information to mitigate the additional administrative burden. Several commenters supported the proposals requiring the notice of IDR initiation to include information sufficient to identify the items and services under dispute, the QPA, an attestation of the item's or service's eligibility for the Federal IDR process, and a description of factors discussed during open negotiation, at proposed 26 CFR 54.9816–8(b)(2)(ii)(A)(5), (7), (10), and (14), 29 CFR 2590.716–8(b)(2)(ii)(A)(5), (7), (10), and (14), and 45 CFR 149.510(b)(2)(ii)(A)(5), (7), (10), and (14), respectively. The Departments did not receive specific comments regarding the requirements at proposed 26 CFR 54.9816–8(b)(2)(ii)(A)(1) through (4), (6), and (11) through (13), 29 CFR 2590.716–8(b)(2)(ii)(A)(1) through (4), (6), and (11) through (13), and 45 CFR 149.510(b)(2)(ii)(A)(1) through (4), (6), and (11) through (13).

Some commenters recommended that the requirement to include the QPA in a notice of IDR initiation at proposed 26 CFR 54.9816–8(b)(2)(ii)(A)(7), 29 CFR 2590.716–8(b)(2)(ii)(A)(7), and 45 CFR 149.510(b)(2)(ii)(A)(7) be applied only when plans or issuers, but not providers, submit the notice of IDR initiation. Specifically, commenters recommended that providers should have the option to leave the QPA field blank or allow the provider initiating the Federal IDR process to select “not provided” or “unknown” for plan- or issuer-specific information that the plan or issuer has failed to provide. One commenter opposed the requirement that providers include the QPA in the notice of IDR initiation because there is no mechanism for a provider to validate what the payer may represent as a QPA and the QPA may not adequately represent fair reimbursement. Another commenter recommended that all fields must be completed in the notice of IDR initiation for the initiating party to submit the notice. Another commenter suggested that the final rules should clarify that the provider may only submit additional information regarding the dispute if it relates to factors identified in the notice of IDR initiation.

⁷⁴ The statute describes 4 “days” which the Departments have interpreted in regulation to mean business days. See also 26 CFR 54.9816–8T(b)(2)(i), 29 CFR 2590.716–8(b)(2)(i), and 45 CFR 149.510(b)(2)(i).

The Departments understand commenters' reasoning for recommending that providers that submit a notice of IDR initiation not be required to include the QPA. The Departments proposed, and are finalizing, that when the party initiating IDR is a provider, the QPA needs only to be provided if it was included with the initial payment or notice of denial of payment. The Departments have determined that this sufficiently mitigates commenters' concerns. Further, the Departments note that they will require the QPA to be included in the notice of IDR initiation to ensure both parties are aware of the QPA associated with the item or service under dispute, and not to provide providers with the opportunity to dispute the accuracy of the QPA or comment on its fairness as reimbursement. The Departments will rely on the existing agency processes, such as QPA audits, to ensure plans and issuers are calculating QPAs in accordance with the established methodology.

One commenter opposed the proposals at 26 CFR 54.9816–8(b)(2)(ii)(A)(8) and (9), 29 CFR 2590.716–8(b)(2)(ii)(A)(8) and (9), and 45 CFR 149.510(b)(2)(ii)(A)(8) and (9), requiring providers and facilities to confirm that the items and services do not qualify for the notice and consent exception, and provide a statement that the provider, facility, or provider of air ambulance services was a nonparticipating provider, nonparticipating emergency facility, or nonparticipating provider of air ambulance services on the date the item or service was furnished. This commenter stated that providers would have no reason to attempt to avail themselves of the Federal IDR process if these conditions were not met and therefore believed this information is unnecessary.

The Departments note that a statement that the items and services do not qualify for the notice and consent exception, and a statement that the provider, facility, or provider of air ambulance services was a nonparticipating provider, nonparticipating emergency facility, or nonparticipating provider of air ambulance services on the date the item or service was furnished, are information necessary for certified IDR entities to determine eligibility. As outlined further in sections II.E.1.b and II.E.1.c of this preamble, the Departments' experience operating the Federal IDR process has been that eligibility determinations can be extremely complex, and it is in the best

⁷⁴ The statute describes 4 “days” which the Departments have interpreted in regulation to mean

interest of disputing parties, certified IDR entities, and the Departments to identify ineligible disputes as early in the process as possible. Therefore, the burden of supplying this information on the notice of IDR initiation does not outweigh the benefits of providing certified IDR entities with sufficient information to properly determine a dispute's eligibility for the Federal IDR process.

A few commenters opposed the requirement at proposed 26 CFR 54.9816–8(b)(2)(ii)(A)(10), 29 CFR 2590.716–8(b)(2)(ii)(A)(10), and 45 CFR 149.510(b)(2)(ii)(A)(10) that the initiating party must attest that the item or service is a qualified IDR item or service that is eligible for the Federal IDR process and identify the basis for its attestation. These commenters stated that this requirement would impose an unnecessary additional administrative burden, as initiating parties already evaluate eligibility before initiating, and an initiating party would not initiate IDR if they did not believe the item or service was a qualified IDR item or service that is eligible for the Federal IDR process given the costs associated with the Federal IDR process.

The Departments appreciate these commenters' concerns but have determined that the requirement to attest that the item or service is a qualified IDR item or service that is eligible for the Federal IDR process imposes minimal burden because the information needed to attest to eligibility can be found in other fields and attachments of the notice of IDR initiation (for example, the remittance advice containing the No Surprises Act eligibility disclosure). Additionally, this attestation will encourage initiating parties to scrutinize whether their claims are eligible for the Federal IDR process which may reduce the number of ineligible disputes.⁷⁵

Several commenters opposed the requirement at proposed 26 CFR 54.9816–8(b)(2)(ii)(A)(14), 29 CFR 2590.716–8(b)(2)(ii)(A)(14), and 45 CFR 149.510(b)(2)(ii)(A)(14) that the initiating party provide a statement describing the key aspects of the claim discussed by the parties during open negotiation and whether the reasons for initiating the Federal IDR process are different than those discussed during the open negotiation period. A few of these commenters stated that this

information should not be relevant to a certified IDR entity's decisions, and that information required for submission to the certified IDR entity should be strictly limited to information relevant to the certified IDR entity's decision under the statute, which would include evidence of good faith negotiations, or the absence thereof, during the open negotiation period.⁷⁶ A few commenters stated that these requirements would significantly increase the burdens on initiating parties, with little benefit to the efficiency of the Federal IDR process. One commenter further noted that to the extent plans or issuers claim they are often unaware of the reasons why the provider is initiating the Federal IDR process, it is because plans or issuers are not engaging with providers during open negotiation.

After consideration of comments, the Departments are not finalizing the requirement that initiating parties provide a statement as to whether the considerations for the Federal IDR process are different than those discussed during the open negotiation period. In alignment with the discussion in section II.D.1.d of this preamble, the Departments agree that it is not necessary for certified IDR entities to view detailed information related to the open negotiation period beyond the information needed to verify that open negotiation occurred properly prior to initiation of the Federal IDR process.

After considering comments, the Departments are finalizing the required elements for the notice of IDR initiation as proposed at 26 CFR 54.9816–8(b)(2)(ii)(A), 29 CFR 2590.716–8(b)(2)(ii)(A), and 45 CFR 149.510(b)(2)(ii)(A) except as specified below.

Additionally, the Departments are finalizing the proposal at 26 CFR 54.9816–8(b)(2)(ii)(A)(2), 29 CFR 2590.716–8(b)(2)(ii)(A)(2), and 45 CFR 149.510(b)(2)(ii)(A)(2) with three modifications: (1) regarding the information sufficient to identify a plan or issuer, to remove the language “if the plan or issuer is registered under” § 54.9816–9, § 2590.716–9, and § 149.530; (2) to require, when applicable, that the party submitting the notice of IDR initiation attest that the plan or issuer's registration number was not provided on any remittance advice,

rather than attest that the plan or issuer was not registered prior to the date the notice of IDR initiation was submitted; and (3) to require the notice of IDR initiation to include the legal business name of the plan sponsor when the entity furnishing the open negotiation notice is a self-insured group health plan that does not have a legal business name. The Departments are also finalizing a technical correction at 26 CFR 54.9816–8(b)(2)(ii)(A)(6), 29 CFR 2590.716–8(b)(2)(ii)(A)(6), and 45 CFR 149.510(b)(2)(ii)(A)(6), to remove the language “for example” from the proposed requirement that the notice of IDR initiation must include “the initial payment amount (including \$0 if, for example, payment is denied)”, but are otherwise finalizing as proposed. The Departments are finalizing at 26 CFR 54.9816–8(b)(2)(ii)(A)(7), 29 CFR 2590.716–8(b)(2)(ii)(A)(7), and 45 CFR 149.510(b)(2)(ii)(A)(7) a requirement that the initiating party provide, if it is a plan or issuer, the amount of cost sharing imposed for the item or service, if any. The Departments included the same requirement in the open negotiation notice, open negotiation response notice, and notice of IDR initiation response, but failed to include it in the 2023 proposed rules for the notice of IDR initiation. The Departments always intended for this to be a parallel provision across all four notices, similar to many other elements finalized in these final rules, and are therefore correcting its omission from 2023 proposed rules in these final rules. The Departments are not finalizing the requirement at 26 CFR 54.9816–8(b)(2)(ii)(A)(14), 29 CFR 2590.716–8(b)(2)(ii)(A)(14), and 45 CFR 149.510(b)(2)(ii)(A)(14) for the initiating party to provide a statement describing the key aspects of the claim, such as patient acuity or level of training of the provider that furnished the qualified IDR item or service discussed by the parties during open negotiation that relate to the payment for the disputed claim, whether the reasons for initiating the Federal IDR process are different from the aspects of the claim discussed during the open negotiation period, and an explanation of why the party is initiating the Federal IDR process, including any of the permissible considerations described in paragraph (c)(5)(iii) of this section and § 54.9817–2(b)(2) that serve as the party's basis for initiating the Federal IDR process.

As a result of the Departments finalizing new 26 CFR 54.9816–8(b)(2)(ii)(A)(7), 29 CFR 2590.716–8(b)(2)(ii)(A)(7), and 45 CFR 149.510(b)(2)(ii)(A)(7), the Departments

⁷⁵ The IDR PUFs highlight that while the volume of ineligible disputes has declined significantly from 69 percent in the first half of 2022 to 17 percent in quarter 1 and 2 of 2025, submission of ineligible disputes remains a problem. See <https://www.cms.gov/nosurprises/policies-and-resources/reports>.

⁷⁶ The Departments note that neither applicable statute nor regulations require certified IDR entities to consider when making a payment determination whether a party engaged in good faith negotiation during the open negotiation period. Certified IDR entities are directed to consider good faith contract negotiations. See Code section 9816(c)(5)(C)(ii)(V), ERISA section 716(c)(5)(C)(ii)(V), and PHS Act section 2799A–1(c)(5)(C)(ii)(V).

are finalizing the proposed requirements, with two minor modifications, at 26 CFR 54.9816–8(b)(2)(ii)(A)(7) through (13), 29 CFR 2590.7168(b)(2)(ii)(A)(7) through (13), and 45 CFR 149.510(b)(2)(ii)(A)(7) through (13) as 26 CFR 54.9816–8(b)(2)(ii)(A)(8) through (14), 29 CFR 2590.716–8(b)(2)(ii)(A)(8) through (14), and 45 CFR 149.510(b)(2)(ii)(A)(8) through (14). At redesignated 26 CFR 54.9816–8(b)(2)(ii)(A)(11), 29 CFR 2590.716–8(b)(2)(ii)(A)(11), and 45 CFR 149.510(b)(2)(ii)(A)(11), the Departments are finalizing a technical correction to add “as defined in paragraph (a)(2)(xi) of this section and is eligible for the Federal IDR process” after “qualified IDR item or service”, from the proposal at 26 CFR 54.9816–8(b)(2)(ii)(A)(10), 29 CFR 2590.716–8(b)(2)(ii)(A)(10), and 45 CFR 149.510(b)(2)(ii)(A)(10), which required an attestation that the item or service under dispute is a qualified IDR item or service, and the basis for the attestation. Finally, the Departments are finalizing a modification at redesignated 26 CFR 54.9816–8(b)(2)(ii)(A)(13), 29 CFR 2590.716–8(b)(2)(ii)(A)(13), and 45 CFR 149.510(b)(2)(ii)(A)(13) by requiring the notice of IDR initiation to include a copy of any remittance advice associated with the initial payment or notice of denial of payment for the item or service, rather than a copy of the initial payment or notice of denial of payment or other remittance advice that includes the required disclosures., similar to the open negotiation notice outlined in section II.D.1.c of this preamble.

Therefore, the requirements as finalized are:

(1) Information sufficient to identify the provider, facility, or provider of air ambulance services, including the name and current contact information (including the legal business name, email address, phone number, and mailing address), and the NPI; and if the initiating party is a provider, facility, or provider of air ambulance services, the Taxpayer Identification Number (TIN);

(2) Information sufficient to identify the plan or issuer, including the plan's or issuer's registration number, as required under § 54.9816–9, § 2590.716–9, and § 149.530, or an attestation from the initiating party that the plan's or issuer's registration number was not provided on any remittance advice associated with the initial payment or notice of denial of payment for the item or service; the legal business name of the plan or issuer (or, in the case of a self-insured group health plan that does not have a legal business name, the legal business name of the plan sponsor), as

well as the current contact information (name, email address, phone number, and mailing address) of the plan or issuer as provided with any remittance advice associated with the initial payment or notice of denial of payment for the item or service; and if the initiating party is a plan or issuer, the plan type (for example, self-insured or fully-insured) and TIN (or, in the case of a plan that does not have a TIN, the TIN of the plan sponsor);

(3) The name and contact information (including the legal business name, email address, phone number, TIN, and mailing address) for any third party representing the initiating party, and an attestation that the third party has the authority to act on behalf of the party it represents in the Federal IDR process;

(4) Information sufficient to identify whether the dispute being initiated includes batched or bundled qualified IDR items or services as described in paragraph (c)(4) of this section;

(5) Information sufficient to identify the qualified IDR item or service that is the subject of the notice of IDR initiation, including the date(s) the qualified IDR item or service was furnished; if the initiating party is a provider, facility, or provider of air ambulance services, the date(s) that the provider, facility, or provider of air ambulance services received the initial payment or notice of denial of payment for such item or service from the plan or issuer; the date the open negotiation period under paragraph (b)(1) of this section began; the type of item or service (specifically, whether the item or service is an emergency service as defined § 54.9816–4T(c)(2)(i) or (ii), § 2590.716–4(c)(2)(i) or (ii), and § 149.110(c)(2)(i) or (ii), non-emergency item or service as described in § 54.9816–5T(b), § 2590.716–5(b), and § 149.120(b), or an air ambulance service as defined in § 54.9816–3T, § 2590.716–3 and § 149.30); whether the service is a professional service or facility-based service; the State where the item or service was furnished; the claim number; the service code; and information to identify the location the item or service was furnished (including place of service code or bill type code);

(6) The initial payment amount (including \$0 if payment is denied);

(7) If the initiating party is a plan or issuer, the amount of cost sharing imposed for the item or service, if any;

(8) The qualifying payment amount, if provided with the initial payment or notice of denial of payment, or if the initiating party is a plan or issuer;

(9) If the initiating party is a provider or facility, a statement that the items and services do not qualify for the

notice and consent exception described at 45 CFR 149.410(b) or 149.420(c) through (i);

(10) A statement that the provider, facility, or provider of air ambulance services was a nonparticipating provider, a nonparticipating emergency facility, or nonparticipating provider of air ambulance services on the date the item or service was furnished;

(11) Attestation that the item or service under dispute is a qualified IDR item or service as defined in paragraph (a)(2)(xi) of this section and is eligible for the Federal IDR process, and the basis for the attestation;

(12) General information listed in the standard notice of IDR initiation developed by the Secretary under paragraph (b)(3) of this section describing the Federal IDR process (including a description of the purpose of the Federal IDR process and key deadlines in the Federal IDR process);

(13) A copy of any remittance advice associated with the initial payment or notice of denial of payment for the item or service; and

(14) Preferred certified IDR entity.

The Departments are confident that the finalized elements will reduce inefficiencies in communication and the submission of ineligible disputes. The Departments understand the commenters' recommendation that the contents of the notice of IDR initiation be required only if the Federal IDR portal can prepopulate such information from the open negotiation notice. Limiting the administrative burden is a priority for the Departments, as they intend to promote accessibility of the Federal IDR process. The Departments will take these concerns into consideration when implementing these final rules and will explore options to limit data entry burden where possible.

b. Notice of IDR Initiation Response

The Departments proposed to amend 26 CFR 54.9816–8(b)(2)(iii), 29 CFR 2590.716–8(b)(2)(iii), and 45 CFR 149.510(b)(2)(iii) to require that the non-initiating party provide a written notice and supporting documentation in response to the notice of IDR initiation to the initiating party and the Departments within 3 business days after the date of IDR initiation (including any objections regarding preferred certified IDR entity selection and notice of any objection to Federal IDR process eligibility) to increase transparency and improve efficiencies in the Federal IDR process.

The Departments proposed to add 26 CFR 54.9816–8(b)(2)(iii)(A), 29 CFR 2590.716–8(b)(2)(iii)(A), and 45 CFR 149.510(b)(2)(iii)(A) to provide that the

notice of IDR initiation response must include certain information about the item or service that is the subject of the dispute and the party submitting the notice of IDR initiation response.

The elements that the Departments proposed to be included in the notice of IDR initiation response were:

(1) Information sufficient to identify the provider, facility, or provider of air ambulance services, including the name and current contact information (including the legal business name, email address, phone number, and mailing address), and the NPI; and if the non-initiating party is a provider, facility, or provider of air ambulance services, the TIN;

(2) Information sufficient to identify the plan or issuer, including the plan's or issuer's registration number, as required under § 54.9816–9, § 2590.716–9, and § 149.530 if the plan or issuer is registered under § 54.9816–9, § 2590.716–9, and § 149.530 or an attestation from the non-initiating party that the plan or issuer was not registered prior to the date that it submitted the notice; the legal business name of the plan or issuer, as well as the current contact information (name, email address, phone number, and mailing address) of the plan or issuer as provided with the initial payment or notice of denial of payment; and if the non-initiating party is a plan or issuer, the plan type (for example, self-insured or fully-insured) and TIN (or, in the case of a plan that does not have a TIN, the TIN of the plan sponsor);

(3) The name and contact information (including the legal business name, email address, phone number, and mailing address) for any third party representing the non-initiating party, and an attestation that the third party has the authority to act on behalf of the party it represents in the Federal IDR process;

(4) Information sufficient to identify each item or service included in the notice of IDR initiation, including the date(s) the item or service was furnished. If the non-initiating party is a provider, facility, or provider of air ambulance services, the date(s) that the provider, facility, or provider of air ambulance services received the initial payment or notice of denial of payment for such item or service from the plan or issuer, and the claim number;

(5) If the non-initiating party is a plan or issuer, a statement as to whether the non-initiating party agrees that the initial payment (including \$0 if, for example, payment is denied) and the qualifying payment amount reflected in the notice of IDR initiation is accurate for the item or service that is the subject

of the dispute, and if not, the initial payment amount (including \$0 if, for example, payment is denied) and/or qualifying payment amount it believes to be correct, and documentation to support the statement (for example, the remittance advice confirming the qualifying payment amount);

(6) If the non-initiating party is a plan or issuer, the amount of cost sharing imposed for the item or service, if any;

(7) If the non-initiating party is a provider or facility, a statement that the items and services do not qualify for the notice and consent exception described at 45 CFR 149.410(b) or 45 CFR 149.420(c) through (i);

(8) With respect to each item or service that is the subject of the dispute, either an attestation that the item or service is a qualified IDR item or service, or for each item or service that the non-initiating party asserts is not a qualified IDR item or service, an explanation and documentation to support the statement;

(9) A statement confirming that the initial payment or notice of denial of payment or other remittance advice provided by the initiating party under paragraph (b)(2)(ii)(A)(12) of this section is accurate, and if inaccurate, a copy of the accurate initial payment or notice of denial of payment or other remittance advice required to include the disclosures under §§ 54.9816–6(d)(1) and 54.9816–6T(d)(1), § 2590.716–6(d)(1), and § 149.140(d)(1), for the item or service;

(10) A statement as to whether any of the information provided in the notice of IDR initiation is inaccurate and the basis for the statement as well as any supporting documentation; and

(11) A statement as to whether the non-initiating party agrees or objects to the initiating party's preferred certified IDR entity. If the non-initiating party objects to the initiating party's preferred certified IDR entity, the notice of IDR initiation response must include the name of an alternative preferred certified IDR entity and, if applicable, an explanation of any conflict of interest with the initiating party's preferred certified IDR entity.

As outlined in section II.D.2.b of the preamble to the 2023 proposed rules, the Departments proposed that if a non-initiating party were to fail to furnish a notice of IDR initiation response to the initiating party and the Departments, or fail to include all of the required information in bad faith (for example, intentional omission of detail with the intent to advance the process without providing sufficient content), the Departments could review and determine whether enforcement actions

under existing authorities may be appropriate. However, the Departments noted that in failing to furnish a notice of IDR initiation response, whether intentionally or not, non-initiating parties would lose the ability to select an alternative certified IDR entity, assert ineligibility early in the process, and correct incorrect information contained in the notice of IDR initiation.

The Departments sought comment on these proposals, including any administrative burden associated with the additional disclosure requirements. The Departments are finalizing as proposed 26 CFR 54.9816–8(b)(2)(iii); 26 CFR 54.9816–8(b)(2)(iii)(A)(1), (4), (6), (7), (10), and (11); 29 CFR 2590.716–8(b)(2)(iii), 29 CFR 2590.716–8(b)(2)(iii)(A)(1), (4), (6), (7), (10), and (11); 45 CFR 149.510(b)(2)(iii), and 45 CFR 149.510(b)(2)(iii)(A)(1), (4), (6), (7), (10), and (11). The Departments are finalizing with modifications the proposals at 26 CFR 54.9816–8(b)(2)(iii)(A)(2), (3), (5), (8), and (9), 29 CFR 2590.716–8(b)(2)(iii)(A)(2), (3), (5), (8), and (9), 45 CFR 149.510(b)(2)(iii)(A)(2), (3), (5), (8), and (9). Similar to the notice of IDR initiation, the Departments are finalizing the proposal at 26 CFR 54.9816–8(b)(2)(iii)(A)(2), 29 CFR 2590.716–8(b)(2)(iii)(A)(2), and 45 CFR 149.510(b)(2)(iii)(A)(2) with three modifications: (1) to remove the language “if the plan or issuer is registered under” § 54.9816–9, § 2590.716–9, and § 149.530; (2) regarding the information sufficient to identify a plan or issuer, to remove the language “if the plan or issuer is registered under” § 54.9816–9, § 2590.716–9, and § 149.530; (2) to require, when applicable, that the party submitting the notice of IDR initiation response attest that the plan or issuer's registration number was not provided on any remittance advice, rather than attest that the plan or issuer was not registered prior to the date the notice of IDR initiation response was submitted; and (3) to require the notice of IDR initiation response to include the legal business name of the plan sponsor when the entity furnishing the open negotiation notice is a self-insured group health plan that does not have a legal business name. The Departments are also finalizing 26 CFR 54.9816–8(b)(2)(iii)(A)(3), 29 CFR 2590.716–8(b)(2)(iii)(A)(3), and 45 CFR 149.510(b)(2)(iii)(A)(3) with a correction by adding “TIN” to the parenthetical describing the contact information to be provided by any third party representing the non-initiating party. Further, the Departments are finalizing

a technical correction at 26 CFR 54.9816–8(b)(2)(iii)(A)(5), 29 CFR 2590.716–8(b)(2)(iii)(A)(5), and 45 CFR 149.510(b)(2)(iii)(A)(5), to strike the language “for example” from the proposed requirement that the notice of IDR initiation response include “the initial payment amount (including \$0 if, for example, payment is denied)”. Additionally, the Departments are finalizing a modification to add “as defined in paragraph (a)(2)(xi) of this section and is eligible for the Federal IDR process” after “qualified IDR item or service”, from the proposal at 26 CFR 54.9816–8(b)(2)(iii)(A)(8), 29 CFR 2590.716–8(b)(2)(iii)(A)(8), and 45 CFR 149.510(b)(2)(iii)(A)(8), which required an attestation that the item or service under dispute is a qualified IDR item or service, or if the non-initiating party asserts it is not a qualified IDR item or service, an explanation and documentation to support the assertion.

Finally, the Departments are finalizing at 26 CFR 54.9816–8(b)(2)(iii)(A)(9), 29 CFR 2590.716–8(b)(2)(iii)(A)(9), and 45 CFR 149.510(b)(2)(iii)(A)(9) a modification to require the non-initiating party to provide a statement confirming that the remittance advice associated with the initial payment or notice of denial of payment provided by the initiating party under paragraph (b)(2)(ii)(A)(13) of this section is accurate, or, if inaccurate, a copy of the accurate remittance advice associated with the initial payment or notice of denial of payment for the item or service. This final policy would replace the proposed requirement to provide this statement for the initial payment or notice of denial of payment or other remittance advice provided by the initiating party. A statement confirming the initial payment or notice of denial of payment contained in the notice of IDR initiation is accurate, and if not, the initial payment amount (including \$0 if payment is denied) is contained at 26 CFR 54.9816–8(b)(2)(iii)(A)(5), 29 CFR 2590.716–8(b)(2)(iii)(A)(5), and 45 CFR 149.510(b)(2)(iii)(A)(5), as finalized, and therefore, the Departments are finalizing this modification to remove the duplication at 26 CFR 54.9816–8(b)(2)(iii)(A)(9), 29 CFR 2590.716–8(b)(2)(iii)(A)(9), and 45 CFR 149.510(b)(2)(iii)(A)(9).

With regard to the proposal at 26 CFR 54.9816–8(b)(2)(iii), 29 CFR 2590.716–8(b)(2)(iii), and 45 CFR 149.510(b)(2)(iii), and similar to the notice of IDR initiation, several commenters generally supported the proposal for the non-initiating party to submit a notice of IDR initiation response to the initiating party and the

Departments through the Federal IDR portal within 3 business days after the date of IDR initiation. However, some commenters stated that the Departments should extend the timeline to furnish the notice of IDR initiation response. Commenters stated that a longer timeframe was necessary because submitting such a form is administratively burdensome, with one citing the high volume of disputes. Some commenters stated that the 3-business-day timeframe could lead to more ineligible disputes proceeding in the Federal IDR process. Another commenter stated that a longer timeframe would reduce the risk of administrative errors and ensure effective and prompt information sharing. A few commenters expressed that it is important to align with the proposed 5-business-day eligibility determination timeframe such that non-initiating parties are given an equal amount of time as certified IDR entities to consider the dispute initiated.

The Departments note that the proposed timeframe for the notice of IDR initiation response is necessary to meet the statutory requirement under section 9816(c)(4)(F) of the Code, section 716(c)(4)(F) of ERISA, and section 2799A–1(c)(4)(F) of the PHS Act, which requires that the Departments provide a method for the disputing parties subject to the Federal IDR process to jointly select a certified IDR entity no later than 3 business days following the date of the IDR initiation. If the Departments extended the amount of time a non-initiating party has to send a notice of IDR initiation response, the parties would be unable to jointly select a certified IDR entity within the required timeframe. Additionally, because the notice of IDR initiation will include most of the information required to be included in the notice of IDR initiation response, responding to the notice of IDR initiation should not require excessive research or communication between parties.

Several commenters offered additional recommendations regarding the method and timing of the notice of IDR initiation response. Several commenters recommend that non-initiating parties should not be required to respond until all the information has been provided. One commenter urged the Departments to permit partial submissions for the notice of IDR initiation response. Specifically, the commenter noted that the Departments could require that the non-initiating party provide, within 3 business days, information on the dispute’s eligibility, at a minimum, and allow that party to

submit later the other elements required in the notice of IDR initiation response.

Regarding recommendations on the method and timing of the notice of IDR initiation response, the Departments reiterate that the Federal IDR process will not stop if a non-initiating party fails to submit a complete and timely notice of IDR initiation response. Under these final rules at 26 CFR 54.9816–8(b)(2)(ii)(A), 29 CFR 2590.716–8(b)(2)(ii)(A), and 45 CFR 149.510(b)(2)(ii)(A), initiating parties are required to provide certain information about the item or service and the parties, but in some circumstances may not have all the information to do so. In these instances, non-initiating parties are required to submit all information they are able to provide in the notice of IDR initiation response and the Departments will not toll the notice of IDR initiation response timeframe if they are not able to do so or the notice of IDR initiation response is incomplete. Allowing non-initiating parties to submit partial information in the notice of IDR initiation response and submit additional information later would only serve to delay the Federal IDR process from proceeding, which would not support the statutory imperative for selection of the certified IDR entity to occur 3 business days after initiation. The Departments did not propose to make any of the required elements in the notice of IDR initiation response optional, and are not finalizing the requirements as such, as doing so would thwart the intent of these provisions to increase transparency and improve efficiency in the Federal IDR process.

One commenter urged the Departments to clarify in the final rules that providers under no circumstances would be required to submit the same information required in the open negotiation notice and notice of IDR initiation through another mechanism in addition to the Federal IDR portal, either directly to plans and issuers or the Departments, or through a payor-specific portal. The commenter requested that the Departments state that the submission of required notices and supporting documentation through the Federal IDR portal will be the sole means of exchanging information, and that providers will not be required to perform duplicative work. Another commenter requested clarification on how a party will be notified through the Federal IDR portal when information about a relevant dispute has been entered into the portal. The commenter also requested clarification on whether and how parties can log into the portal and track the progress of each dispute

and have access to all supporting information regarding each dispute.

The Departments clarify that under these final rules, a party must furnish to the other party and the Departments the notices and supporting documentation described in proposed paragraphs (b)(1)(ii) (open negotiation notice), (b)(1)(iii) (open negotiation response notice), (b)(2)(ii) (notice of IDR initiation), and (b)(2)(iii) (notice of IDR initiation response) through the Federal IDR portal, using the standard forms developed by the Departments. Disputing parties will only be required to submit these notices to engage in the Federal IDR process, and a disputing party cannot mandate that the other party submit a required notice through their proprietary portals or any other method. However, once the required notices are furnished via the Federal IDR portal, parties may continue negotiating an out-of-network rate via the communication channel of their choosing, including through proprietary portals. The Departments also clarify that they will enhance the Federal IDR portal to allow the parties to transmit notices, including supporting documentation, through the Federal IDR portal, to streamline submission and receipt of information, as outlined further in section II.D.3 of this preamble.

Regarding the information submission requirements, several commenters supported the proposed content elements, and a few commenters opposed certain proposed content elements in the notice of IDR initiation response. A few commenters opposed the proposals at 26 CFR 54.9816–8(b)(2)(iii)(A)(1) through (3), 29 CFR 2590.716–8(b)(2)(iii)(A)(1) through (3), and 45 CFR 149.510(b)(2)(iii)(A)(1) through (3) to require disputing parties to include their TIN in either notice, and to permit its use in collecting debt, because doing so could harm small providers. Another commenter opposed requiring non-initiating parties to restate any information in the notice of IDR initiation response that was included in the notice of IDR initiation unless the non-initiating party believes the information to be incorrect. Another commenter suggested that the notice of IDR initiation response have a required field for the plan type (self-insured, fully-insured, FEHB, etc.) and the “legal business name” of the issuer, or employer group for self-insured plans, if this notice is implemented before the registry is implemented. Another commenter recommended the Departments not finalize any requirements that a party provide information where the missing

information is not in the party’s possession or control, such as requiring providers to furnish the initial payment amount or notice of denial of payment or other remittance advice.

The Departments acknowledge the commenters’ concerns regarding the collection of the TIN and its potential harm to small providers. However, as discussed in section II.E.3.d of this preamble, the Departments require parties’ TINs to facilitate debt collection from a party that failed to pay its administrative fees, where applicable, by serving as a unique identifier for disputing parties.⁷⁷ The Departments also note that by requiring the open negotiation and IDR initiation notices to include some duplicate information, parties will have an opportunity to confirm or update information necessary to continue negotiations and identify information discrepancies that could impact eligibility. While this may be seen as duplicative work, the open negotiation and IDR initiation notices serve two different purposes. Open negotiation is a required precursor to IDR initiation, and the information being required under this rule will facilitate mutual understanding between the parties about the items or service under dispute, and support negotiation in advance of IDR initiation. The notices of IDR initiation and IDR initiation response are required to initiate the Federal IDR process only after open negotiation has failed, and will require information that will be received and reviewed by the selected certified IDR entity, which is not true of the open negotiation notices. As noted previously, the only information related to open negotiation that certified IDR entities require to conduct their work is confirmation of the open negotiation start date as captured by the Federal IDR portal. However, much of the information contained in the open negotiation notices is still required to initiate the Federal IDR process and must be evaluated by selected certified IDR entities to make eligibility and payment determinations, and therefore, is still required in the notices of IDR initiation and initiation response. Further, requiring this information at IDR initiation will reduce the likelihood that additional outreach will be needed to make eligibility or payment determinations, improving IDR dispute processing.

⁷⁷ The authorities applicable to HHS’ debt collection activities generally includes, but are not limited to, 31 U.S.C. 3711, *et seq.*; 45 CFR 156.1215; 42 CFR part 401, subpart F; 31 CFR part 901; 45 CFR part 30; and applicable common law (collectively, “Federal Debt Collection Law”).

Finally, several commenters recommended requiring at 26 CFR 54.9816–8(b)(2)(iii)(A)(8), 29 CFR 2590.716–8(b)(2)(iii)(A)(8), and 45 CFR 149.510(b)(2)(iii)(A)(8) that any objection raised by the non-initiating party to the eligibility of a dispute must be included in the notice of IDR initiation response. One commenter specifically requested that the rules state that the non-initiating party waives any right to object after submitting the notice of IDR initiation response, and further recommended that if the non-initiating party objects after the deadline to submit a notice of IDR initiation response, the objection should only be considered by the certified IDR entity if it relates to No Surprises Act jurisdiction issues. This commenter also recommended that non-jurisdictional objections be waived if evidence supporting the objection is not submitted within 3 business days after the date of IDR initiation.

The Departments understand commenters’ concern over late eligibility objections and the recommendation that disputing parties should not be allowed to contest eligibility after the deadline to submit the notice of IDR initiation response. However, certified IDR entities are statutorily prohibited from making payment determinations for items and services that are not subject to the No Surprises Act, and therefore they cannot ignore eligibility objections made at any point during the IDR process.⁷⁸ The Departments encourage disputing parties to contest eligibility during open negotiation or via the notice of IDR initiation response to avoid outcomes where disputes are later found to be ineligible, which may result in parties paying fees they would not otherwise have to pay, and to minimize unnecessary backlog for certified IDR entities. Therefore, we are finalizing the requirement to provide an attestation that the item or service under dispute is a qualified IDR item or service and is eligible for the Federal IDR process, or an explanation and documentation to support an assertion that the item or service is not a qualified IDR item or service that is eligible for the Federal IDR process, in the notice of IDR initiation response, as proposed. Further

⁷⁸ U.S. Department of Health and Human Services, U.S. Department of Labor, and U.S. Department of the Treasury. (June 2025) (Federal Independent Dispute Resolution (IDR) Technical Assistance for Certified IDR Entities and Disputing Parties: Errors Identified After Dispute Closure. June 2025, available at: <https://www.cms.gov/nosurprises/policies-and-resources/overview-of-rules-fact-sheets>).

discussion of this topic is outlined in section II.E.1.b of this preamble.

The Departments did not receive comments on the proposals at 26 CFR 54.9816–8(b)(2)(iii)(A)(4) through (7), and (9) through (11), 29 CFR 2590.716–8(b)(2)(iii)(A)(4) through (7), and (9) through (11), and 45 CFR 149.510(b)(2)(iii)(A)(4) through (7), and (9) through (11). CFR 149.510(b)(2)(iii)(A)(2), (3), (5), (8), and (9).

After consideration of comments, the Departments are finalizing 26 CFR 54.9816–8(b)(2)(iii), 29 CFR 2590.716–8(b)(2)(iii), and 45 CFR 149.510(b)(2)(iii) to require that the non-initiating party provide a written notice and supporting documentation in response to the notice of IDR initiation to the initiating party and the Departments within 3 business days after the date of IDR initiation (including any objections regarding preferred certified IDR entity selection and notice of any objection to Federal IDR process eligibility). Further, The Departments are finalizing as proposed 26 CFR 54.9816–8(b)(2)(iii)(A)(1), (4), (6), (7), (10), and (11) 29 CFR 2590.716–8(b)(2)(iii), 29 CFR 2590.716–8(b)(2)(iii)(A)(1), (4), (6), (7), (10), and (11), and 45 CFR 149.510(b)(2)(iii), and 45 CFR 149.510(b)(2)(iii)(A)(1), (4), (6), (7), (10), and (11). The Departments are finalizing with modifications the proposals at 26 CFR 54.9816–8(b)(2)(iii)(A)(2), (3), (5), (8), and (9), 29 CFR 2590.716–8(b)(2)(iii)(A)(2), (3), (5), (8), and (9), 45 CFR 149.510(2), (3), (5), (8), and (9).

The requirements as finalized are:

(1) Information sufficient to identify the provider, facility, or provider of air ambulance services, including the name and current contact information (including the legal business name, email address, phone number, and mailing address), and the NPI; and if the non-initiating party is a provider, facility, or provider of air ambulance services, the TIN;

(2) Information sufficient to identify the plan or issuer, including the plan's or issuer's registration number, as required under § 54.9816–9, § 2590.716–9, and § 149.530, or an attestation from the non-initiating party that plan's or issuer's registration number was not provided on any remittance advice associated with the initial payment or notice of denial of payment for the item or service; the legal business name of the plan or issuer (or, in the case of a self-insured group health plan that does not have a legal business name, the legal business name of the plan sponsor), as well as the current contact information (name, email address, phone number,

and mailing address) of the plan or issuer as provided with any remittance advice associated with the initial payment or notice of denial of payment; and if the non-initiating party is a plan or issuer, the plan type (for example, self-insured or fully-insured) and TIN (or, in the case of a plan that does not have a TIN, the TIN of the plan sponsor);

(3) The name and contact information (including the legal business name, email address, phone number, TIN, and mailing address) for any third party representing the non-initiating party, and an attestation that the third party has the authority to act on behalf of the party it represents in the Federal IDR process;

(4) Information sufficient to identify each item or service included in the notice of IDR initiation, including the date(s) the item or service was furnished and if the non-initiating party is a provider, facility, or provider of air ambulance services, the date(s) that the provider, facility, or provider of air ambulance services received the initial payment or notice of denial of payment for such item or service from the plan or issuer, and the claim number;

(5) If the non-initiating party is a plan or issuer, a statement as to whether the non-initiating party agrees that the initial payment (including \$0 if payment is denied) and the qualifying payment amount reflected in the notice of IDR initiation is accurate for the item or service that is the subject of the dispute, and if not, the initial payment amount (including \$0 if payment is denied) and/or qualifying payment amount it believes to be correct, and documentation to support the statement (for example, the remittance advice confirming the qualifying payment amount);

(6) If the non-initiating party is a plan or issuer, the amount of cost sharing imposed for the item or service, if any;

(7) If the non-initiating party is a provider or facility, a statement that the items and services do not qualify for the notice and consent exception described at 45 CFR 149.410(b) or 45 CFR 149.420(c) through (i);

(8) For each item or service that is the subject of the dispute, either an attestation that the item or service is a qualified IDR item or service as defined in paragraph (a)(2)(xi) of this section and is eligible for the Federal IDR process, or for each item or service that the non-initiating party asserts is not a qualified IDR item or service that is eligible for the Federal IDR process, an explanation and documentation to support the assertion;

(9) A statement confirming that the remittance advice associated with the initial payment or notice of denial of payment provided by the initiating party under paragraph (b)(2)(ii)(A)(13) of this section is accurate or, if inaccurate, a copy of the accurate remittance advice associated with the initial payment or notice of denial of payment for the item or service;

(10) A statement as to whether any of the information provided in the notice of IDR initiation is inaccurate and the basis for the statement, as well as any supporting documentation; and

(11) A statement as to whether the non-initiating party agrees or objects to the initiating party's preferred certified IDR entity. If the non-initiating party objects to the initiating party's preferred certified IDR entity, the notice of IDR initiation response must include the name of an alternative preferred certified IDR entity and, if applicable, an explanation of any conflict of interest with the initiating party's preferred certified IDR entity.

3. Manner of Notices

The Departments proposed to remove the regulatory text at 26 CFR 54.9816–8T(b)(1)(ii)(B), (b)(2)(iii)(B), and (b)(2)(iii)(C); 29 CFR 2590.716–8(b)(1)(ii)(B), (b)(2)(iii)(B), and (b)(2)(iii)(C); and 45 CFR 149.510(b)(1)(ii)(B), and (b)(2)(iii)(B), and (b)(2)(iii)(C) and to establish new requirements related to the manner of submission of open negotiation notices and notices of IDR initiation to the Departments and the other party at 26 CFR 54.9816–8(b)(3), 29 CFR 2590.716–8(b)(3), and 45 CFR 149.510(b)(3). The Departments proposed that these requirements would also apply to the open negotiation response notice and the notice of IDR initiation response. Specifically, the Departments proposed that a party must furnish to the other party, and the Departments, the notices and supporting documentation described in proposed paragraphs (b)(1)(ii) (open negotiation notice), (b)(1)(iii) (open negotiation response notice), (b)(2)(ii) (notice of IDR initiation), and (b)(2)(iii) (notice of IDR initiation response) through the Federal IDR portal, using standard forms to be developed by the Departments. After review of comments, the Departments are finalizing these provisions as proposed.

The Departments only received comments in support of the removal of paragraphs 26 CFR 54.9816–8T(b)(1)(ii)(B), (b)(2)(iii)(B), and (b)(2)(iii)(C); 29 CFR 2590.716–8(b)(1)(ii)(B), (b)(2)(iii)(B), and (b)(2)(iii)(C); and 45 CFR

149.510(b)(1)(ii)(B), (b)(2)(iii)(B), and (b)(2)(iii)(C) and the establishment of new requirements related to the manner of submission of open negotiation notices and notices of IDR initiation to the Departments and the other party at 26 CFR 54.9816–8(b)(3), 29 CFR 2590.716–8(b)(3), and 45 CFR 149.510(b)(3). Several commenters stated that all notices related to open negotiation and the Federal IDR process should be submitted through the Federal IDR portal to improve efficiency and reduce miscommunication between the parties.

Though the Departments did not receive any comments opposing the use of the Federal IDR portal for the exchange of the required notices, many comments provided operational recommendations for the exchange of notices and supporting documentation via the Federal IDR portal. Many commenters requested specific functionalities to reduce administrative burden, such as auto-population of the notice of IDR initiation based on information submitted in the notices of open negotiation or open negotiation response. Several commenters also made recommendations regarding incomplete information, and one commenter recommended screening for duplicate submissions. Several commenters also proposed specific technical recommendations regarding the infrastructure of the Federal IDR portal itself, such as the use of application programming interface (API) or bulk upload technology, automated generation of notices, and recommendations to ensure privacy and security of information submitted to the portal.

After consideration of comments, the Departments are finalizing as proposed the new requirements related to the manner of submission of the open negotiation notice, open negotiation response notice, notice of IDR initiation, and notice of IDR initiation response to the Departments and the other party. To implement these final rules, the Departments will enhance the Federal IDR portal to allow the parties to transmit notices, including supporting documentation, through the portal. By streamlining the submission of these notices, the Departments may be able to use information submitted on one notice to pre-populate subsequent notices, reducing the burden of providing duplicative information, while maintaining the parties' ability to edit the notice fields where appropriate. The Departments will consider commenters' technical and operational recommendations as they continue to improve the Federal IDR portal.

E. Federal IDR Process Following Initiation

1. Certified IDR Entity Selection and Eligibility Determinations

a. Certified IDR Entity Selection

Section 9816(c)(4)(F) of the Code, section 716(c)(4)(F) of ERISA, section 2799A–1(c)(4)(F) of the PHS Act, and the October 2021 interim final rules⁷⁹ provide parties to a dispute 3 business days after the initiation date of the Federal IDR process to jointly select a certified IDR entity. If parties to a dispute fail to jointly select a certified IDR entity within the required timeframe, the Departments must select the certified IDR entity no later than 6 business days after the initiation date of the Federal IDR process. More specifically, under the current rules, the non-initiating party may agree or object to the preferred certified IDR entity that the initiating party identifies in its notice of IDR initiation. If the non-initiating party fails to object within 3 business days after the date of IDR initiation, the preferred certified IDR entity identified in the notice of IDR initiation will be selected and will be treated as jointly selected by the parties. The initiating party's preferred certified IDR entity becomes the certified IDR entity for the dispute, provided that the certified IDR entity does not have a conflict of interest. If the non-initiating party objects to the initiating party's preferred certified IDR entity, it must notify the initiating party of the objection and propose an alternative preferred certified IDR entity within 3 business days after the date of IDR initiation. The initiating party must then agree or object to the alternative preferred certified IDR entity within 3 business days after the date of IDR initiation. If the initiating party fails to agree or object to the alternative preferred certified IDR entity within that timeframe, the alternative preferred certified IDR entity selected by the non-initiating party will be selected and will be treated as jointly selected by the parties. If the parties fail to jointly select a certified IDR entity within 3 business days after the date of IDR initiation, the Departments select a certified IDR entity through random selection.⁸⁰

Further, under the current rules, the initiating party must provide a notice of certified IDR entity selection to the Departments indicating whether the

parties have agreed or failed to agree on the selection of a certified IDR entity, as soon as practicable but no later than 1 business day after selection or failure to select a certified IDR entity.⁸¹ The notification must include an attestation by both parties, or by the initiating party if the non-initiating party fails to object to the selection of the certified IDR entity, that the selected certified IDR entity does not have a conflict of interest as specified in 26 CFR 54.9816–8(c)(1)(ii), 29 CFR 2590.716–8(c)(1)(ii), and 45 CFR 149.510(c)(1)(ii).⁸² Under the current rules, after the selection of the certified IDR entity by the parties (including when the initiating party selects a certified IDR entity and the non-initiating party fails to object), or by the Departments when the parties fail to select a certified IDR entity, the certified IDR entity must review the selection and attest that it meets the conflict-of-interest requirements.⁸³ If the certified IDR entity is unable to attest that it meets the conflict-of-interest requirements within 3 business days of selection, the parties, upon notification, must select another certified IDR entity. In such circumstances, the date of the notification sent by the certified IDR entity informing the parties that it cannot attest that it meets the conflict-of-interest requirements is treated as the date of IDR initiation for the purposes of selecting a new certified IDR entity.

Since implementation of the Federal IDR process, the Departments have identified ways to improve the process for selecting a certified IDR entity. First, in the Departments' experience, when a non-initiating party waits until the third business day after the date of IDR initiation to select an alternative preferred certified IDR entity, the initiating party often lacks sufficient time to agree or object to the alternative preferred certified IDR entity. As a result, the alternative preferred certified IDR entity is effectively "jointly" selected by default. The Departments have determined that for a certified IDR entity to be "jointly" selected, the parties must agree on, or be given the opportunity to object to, that certified IDR entity. Therefore, the Departments proposed at 26 CFR 54.9816–8(c)(1)(ii), 29 CFR 2590.716–8(c)(1)(ii), and 45 CFR 149.510(c)(1)(ii) to amend the process for selecting a certified IDR entity when the parties fail to jointly select a certified IDR entity under section

⁷⁹ 86 FR 55980 (October 7, 2021).

⁸⁰ 29 CFR 2590.716–8(c)(1)(iv) and 45 CFR 149.510(c)(1)(iv). See also Federal IDR Process Guidance for Certified IDR Entities (Updated December 2023) <https://www.cms.gov/files/document/federal-idr-guidance-idr-entities-march-2023.pdf>.

⁸¹ 29 CFR 2590.716–8(c)(1)(iii) and (iv) and 45 CFR 149.510(c)(1)(iii) and (iv).

⁸² 29 CFR 2590.716–8(c)(1)(iii)(A)(3) and 45 CFR 149.510(c)(1)(iii)(A)(3).

⁸³ 29 CFR 2590.716–8(c)(1)(v) and 45 CFR 149.510(c)(1)(v).

9816(c)(4)(F)(i) of the Code, section 716(c)(4)(F)(i) of ERISA, and section 2799A–1(c)(4)(F)(i) of the PHS Act.

Second, as part of the current operations, the Federal IDR portal automates the process for selecting the certified IDR entity by requiring the initiating party and the non-initiating party to communicate directly through the Federal IDR portal when selecting, agreeing on, or objecting to a certified IDR entity. Therefore, the Departments are notified automatically through the Federal IDR portal if both parties have agreed on a certified IDR entity. Similarly, when the Departments select a certified IDR entity, the disputing parties are notified automatically, once the selected certified IDR entity attests to having no conflicts of interest. As described in section II.D of this preamble, 26 CFR 54.9816–8(b)(2), 29 CFR 2590.716–8(b)(2), and 45 CFR 149.510(b)(2), as finalized, require initiating parties to submit their preferred certified IDR entity in the notice of IDR initiation, and non-initiating to agree or object by providing the name of an alternate preferred certified IDR entity, and if applicable, an explanation of any conflict of interest with the initiating party's preferred certified IDR entity, in the notice of IDR initiation response. Because the Departments proposed that the notice of IDR initiation and notice of IDR initiation response would collect this information through the Federal IDR portal, the Departments also proposed to amend the notice of certified IDR entity selection requirements at 26 CFR 54.9816–8(c)(1)(iii), 29 CFR 2590.716–8(c)(1)(iii), and 45 CFR 149.510(c)(1)(iii). Specifically, the Departments proposed to amend the mechanism for parties to agree or object and select another alternative preferred certified IDR entity after the non-initiating party submits the notice of IDR initiation response form and before the deadline for parties to jointly select a certified IDR entity, which is within 3 business days after the date of IDR initiation.

Third, the Departments proposed to establish at 26 CFR 54.9816–8(c)(1)(i)(D), 29 CFR 2590.716–8(c)(1)(i)(D), and 45 CFR 149.510(c)(1)(i)(D) a process by which disputing parties could continue the process of jointly selecting a certified IDR entity after the non-initiating party submits the notice of IDR initiation response form and before the deadline for parties to jointly select a certified IDR entity. The Departments proposed that in such circumstances, disputing parties must submit a notice of certified IDR entity selection, and that such

notice must include a statement indicating the party's agreement with, or objection to, the other party's alternative preferred certified IDR entity and, if applicable, an explanation of any conflict of interest with the alternative preferred certified IDR entity. If the party in receipt of a notice of certified IDR entity selection objects to the other party's alternative preferred certified IDR entity and the party submits a notice of certified IDR entity selection by the end of the third business day after the date of IDR initiation, that party's notice of certified IDR entity selection reflecting the objection would be required to include the name of another alternative preferred certified IDR entity.

Several commenters expressed general support for the proposals related to certified IDR entity selection, with some expressing support for their potential to eliminate alleged gaming tactics whereby non-initiating parties wait to object to a certified IDR entity until the initiating party has little to no time to respond. One commenter generally opposed the proposed timeframes for certified IDR entity selection, stating that in cases where non-initiating parties select an alternative preferred certified IDR entity that initiating parties disagree with, initiating parties will not have sufficient time to respond.

The Departments have heard concerns from multiple initiating parties regarding non-initiating parties' attempts at gaming certified IDR entity selection by waiting to object to initiating parties' preferred certified IDR entity until there is little to no time to respond. The Departments' proposals aimed to mitigate this general concern by allowing sufficient time for both parties to meaningfully engage in the process, including in cases where they disagree with an alternative preferred certified IDR entity. Therefore, the Departments are finalizing largely as proposed, with minor modifications to improve readability, the proposals regarding selection of the certified IDR entity at 26 CFR 54.9816–8(c)(1)(ii), 29 CFR 2590.716–8(c)(1)(ii), and 45 CFR 149.510(c)(1)(ii); 26 CFR 54.9816–8(c)(1)(iii), 29 CFR 2590.716–8(c)(1)(iii), and 45 CFR 149.510(c)(1)(iii); and 26 CFR 54.9816–8(c)(1)(i)(D), 29 CFR 2590.716–8(c)(1)(i)(D), and 45 CFR 149.510(c)(1)(i)(D). The Departments have determined that providing an alternative timeline for responses received on the third business day following IDR initiation will incentivize both parties to provide the notices of IDR initiation response and IDR entity selection earlier, giving both parties

recourse to accept or object to the other party's selection. Further, the Departments anticipate that these proposals will strike an appropriate balance between the interests of both parties without delaying the Federal IDR process and will not significantly increase burden on either party.

A few commenters provided general recommendations to the Departments on certified IDR entity selection. One commenter encouraged the Departments to increase transparency regarding certified IDR entities' statistics, such as regular reporting on each entity's backlog, number of disputes resolved including monthly averages, average amount of time from IDR initiation through payment determination, number of ineligible determinations, and win rates by parties, to encourage a more meaningful choice between certified IDR entities. Another commenter stated that the Departments should not allow parties to select any certified IDR entity unless at least 80 percent of its assigned open disputes are less than 90 days old from the certified IDR entity's receipt of the case.

The Departments provide regular updates on the Federal IDR process via the Federal IDR PUF in accordance with section 9816(c)(7)(A) of the Code, section 716(c)(7)(A) of ERISA, and section 2799A–1(c)(7)(A) of the PHS Act, which includes aggregated information regarding payment determinations, number of ineligible disputes, and top disputing parties, among other things.⁸⁴ Further, the Departments now issue bi-monthly IDR reports to provide greater transparency and more current information about volume of disputes received and resolved in the Federal IDR process.⁸⁵ The Departments believe that this information together provides sufficient transparency into the Federal IDR process. At this time, the Departments do not intend to release information at the individual certified IDR entity level. Such information could incline initiating parties to select certified IDR entities based on provider win rates or incentivize certified IDR entities to render determinations that would gain them more disputes, impeding fair, unbiased, and impartial determinations.

Additionally, the Departments did not propose to restrict disputing party selection of a certified IDR entity based on a certified IDR entity's throughput or backlog of disputes, and therefore are

⁸⁴ See Federal IDR PUF, available at <https://www.cms.gov/nosurprises/policies-and-resources/reports>.

⁸⁵ See Federal IDR Bi-Monthly Reports, available at <https://www.cms.gov/nosurprises/policies-and-resources/reports>.

not finalizing such a change. However, at the Departments' direction, or of their own volition, certified IDR entities may temporarily pause receiving new disputes to reduce their backlogs should throughput become a significant concern. Additionally, should a disputing party believe that a certified IDR entity is unable to fulfill its obligations of certification, they may submit a petition to revoke the certification of a certified IDR entity and include supporting documentation.⁸⁶

The Departments also acknowledge the commenter's recommendation to add the collection of parties' rationales for selecting a certain certified IDR entity to the data elements required to be collected when selecting a preferred or alternate preferred certified IDR entity. The Departments have determined that collecting of this information would create additional burden for disputing parties without producing substantial benefits.

After consideration of comments, the Departments are finalizing largely as proposed, with minor modifications to improve readability, the proposals regarding selection of the certified IDR entity at 26 CFR 54.9816–8(c)(1)(ii), 29 CFR 2590.716–8(c)(1)(ii), and 45 CFR 149.510(c)(1)(ii); 26 CFR 54.9816–8(c)(1)(iii), 29 CFR 2590.716–8(c)(1)(iii), and 45 CFR 149.510(c)(1)(iii); and 26 CFR 54.9816–8(c)(1)(i)(D), 29 CFR 2590.716–8(c)(1)(i)(D), and 45 CFR 149.510(c)(1)(i)(D).

i. Preliminary Selection of the Certified IDR Entity

In the 2023 proposed rules, the Departments proposed to amend 26 CFR 54.9816–8T(c)(1)(i), 29 CFR 2590.716–8(c)(1)(i), and 45 CFR 149.510(c)(1)(i) to establish the preliminary selection of the certified IDR entity in accordance with the statutory requirement at section 9816(c)(4)(F) of the Code, section 716(c)(4)(F) of ERISA, and section 2799A–1(c)(4)(F) of the PHS Act. The process proposed in the 2023 proposed rules for preliminary selection of the certified IDR entity would require the non-initiating party to agree or object to the preferred certified IDR entity in the notice of IDR initiation response within 3 business days after the date of IDR initiation, as outlined in section II.D.2.b of the preamble to these final rules. Under the proposal at 26 CFR 54.9816–8(c)(1)(i)(A), 29 CFR 2590.716–8(c)(1)(i)(A), and 45 CFR 149.510(c)(1)(i)(A), if the non-initiating

party agreed or failed to object to the selection of the initiating party's preferred certified IDR entity in its notice of IDR initiation response within 3-business days after the date of IDR initiation, the initiating party's preferred certified IDR entity would be considered jointly selected by the parties on the third business day after the date of IDR initiation.

Under proposed 26 CFR 54.9816–8(c)(1)(i)(B), 29 CFR 2590.716–8(c)(1)(i)(B), and 45 CFR 149.510(c)(1)(i)(B), if the non-initiating party objected to the selection of the initiating party's preferred certified IDR entity by designating an alternative preferred certified IDR entity in its notice of IDR initiation response within the 3-business-day timeframe after the date of IDR initiation, the initiating party would then have the opportunity to agree or object to the alternative preferred certified IDR entity using the notice of certified IDR entity selection in the manner specified in paragraph (c)(1)(i)(D). The Departments then proposed alternative processes depending on the when the notice of IDR initiation response was submitted and initiating party's response. First, the Departments proposed that regardless of when the notice of IDR initiation response was submitted (provided it was within 3 business days after the date of IDR initiation), if the initiating party agreed to the alternative preferred certified IDR entity within 3 business days after the date of IDR initiation the alternative preferred certified IDR entity would be considered jointly selected by the parties. Second, if the notice of IDR initiation response was submitted on or before the second business day after the date of IDR initiation, and the initiating party failed to respond within 3 business days after the date of IDR initiation, the alternative preferred certified IDR entity would be considered jointly selected by the parties. Third, the Departments proposed that if the non-initiating party submitted the notice of IDR initiation response on the third business day after the date of IDR initiation, and the initiating party did not agree on the same day, the parties would have failed to jointly select a certified IDR entity and selection would proceed under proposed 26 CFR 54.9816–8(c)(1)(i)(C), 29 CFR 2590.716–8(c)(1)(i)(C), and 45 CFR 149.510(c)(1)(i)(C). This proposed provision was intended to ensure that initiating parties had sufficient time to respond to the alternative preferred certified IDR entity identified in the notice of IDR initiation response, and that the certified IDR entity was not

effectively jointly selected by default. Under proposed 26 CFR 54.9816–8(c)(1)(i)(C), 29 CFR 2590.716–8(c)(1)(i)(C), and 45 CFR 149.510(c)(1)(i)(C), the Departments proposed to amend the process for parties to respond to each other's selection of an alternative preferred certified IDR entity after the non-initiating party submitted its notice of IDR initiation response within the 3-business-day period after IDR initiation. Specifically, if a certified IDR entity was not jointly selected, the non-initiating party could agree to the alternative preferred certified IDR entity selected in the initiating party's notice of certified IDR entity selection or select another alternative preferred certified IDR entity by submitting a notice of certified IDR entity selection to the initiating party and to the Departments. This back-and-forth could continue until the earlier of the date that the parties agreed on an alternative preferred certified IDR entity or the deadline for joint selection, which is 3 business days after the date of IDR initiation. However, if either the notice of IDR initiation response or the notice of certified IDR entity selection is submitted on the third business day after the date of IDR initiation, the party last in receipt of the applicable notice would not be allowed to select another alternative preferred certified IDR entity, as outlined later in this preamble. Once a party had submitted a notice of certified IDR entity selection, it could not submit another notice of certified IDR entity selection until it had received a responding notice of certified IDR entity selection from the other party.

Under proposed 26 CFR 54.9816–8(c)(1)(i)(C)(1), 29 CFR 2590.716–8(c)(1)(i)(C)(1), and 45 CFR 149.510(c)(1)(i)(C)(1), if a party submitted a notice of certified IDR entity selection to the other party on the first or second day after the date of IDR initiation and the party in receipt of the notice agreed or failed to object to the alternative preferred certified IDR entity by the end of the third business day after the date of IDR initiation, the alternative preferred certified IDR entity would be considered jointly selected by the parties. Under proposed 26 CFR 54.9816–8(c)(1)(i)(C)(2), 29 CFR 2590.716–8(c)(1)(i)(C)(2), and 45 CFR 149.510(c)(1)(i)(C)(2), if a party submitted a notice of certified IDR entity selection to the other party on the third business day after the date of IDR initiation and the party last in receipt of the notice agreed to the alternative preferred certified IDR entity on the same day, the alternative preferred

⁸⁶ See 29 CFR 2590.716–8(e)(5), and 45 CFR 149.510(e)(5); see also <https://www.cms.gov/nosurprises/help-resolve-payment-disputes/submit-feedback-on-certified-organizations>.

certified IDR entity would be considered jointly selected by the parties. Under proposed 26 CFR 54.9816–8(c)(1)(i)(C)(3), 29 CFR 2590.716–8(c)(1)(i)(C)(3), and 45 CFR 149.510(c)(1)(i)(C)(3), if a party submitted a notice of certified IDR entity selection to the other party on the third business day after the date of IDR initiation and the party last in receipt of the notice does not agree to the alternative preferred certified IDR entity on the same day, the parties would have failed to jointly select a certified IDR entity.

The Departments also proposed to provide at 26 CFR 54.9816–8(c)(1)(i)(D), 29 CFR 2590.716–8(c)(1)(i)(D), and 45 CFR 149.510(c)(1)(i)(D) that a party must submit a notice of certified IDR entity selection to notify the Departments and the other party of any subsequent agreement or objection to an alternative preferred certified IDR entity after the non-initiating party submitted the notice of IDR initiation response. The Departments also proposed to require the party to furnish the notice of certified IDR entity selection using the standard form developed by the Departments through the Federal IDR portal within 3 business days after the date of IDR initiation. The Departments also proposed to amend the content of the existing notice of certified IDR entity selection and to specify that the notice must include a statement indicating the party's agreement with or objection to the other party's alternative preferred certified IDR entity and, if applicable, an explanation of any conflict of interest with the other party's alternative preferred certified IDR entity. If the party in receipt of a notice of certified IDR entity selection objected to the other party's alternative preferred certified IDR entity and the party in receipt of the notice submitted its own notice of certified IDR entity selection by the end of the third business day after the date of IDR initiation, that party's notice of certified IDR entity selection reflecting the objection was required to include the name of another alternative preferred certified IDR entity.

The Departments proposed to amend 26 CFR 54.9816–8(c)(1)(iv), 29 CFR 2590.716–8(c)(1)(iv), and 45 CFR 149.510(c)(1)(iv), which describe the certified IDR entity selection process when the disputing parties fail to jointly select a certified IDR entity, and redesignate them as 26 CFR 54.9816–8(c)(1)(ii), 29 CFR 2590.716–8(c)(1)(ii), and 45 CFR 149.510(c)(1)(ii). The Departments proposed that if the parties failed to jointly select a certified IDR entity within 3 business days after the

date of IDR initiation, the Departments would select a certified IDR entity. The parties would have failed to jointly select a certified IDR entity in one of two circumstances: (1) by the end of the third business day after the date of IDR initiation, the party last in receipt of the notice of IDR initiation response or the notice of certified IDR entity selection had objected to the other party's alternative preferred certified IDR entity, or (2) if a party submitted the notice of IDR initiation response or the notice of certified IDR entity selection to the other party on the third business day after the date of IDR initiation, and the party in receipt of the notice does not agree to the alternative preferred certified IDR entity on the same day.

As part of the Departments' proposed process to select a certified IDR entity when the parties do not jointly select one,⁸⁷ the Departments would first confirm whether a party submitted the notice of IDR initiation response or notice of certified IDR entity selection with an alternative preferred certified IDR entity on the third business day after the date of IDR initiation without the other party's agreement to the selection. If either notice was provided on the third business day after the date of IDR initiation without the other party's agreement to the alternative preferred certified IDR entity by the end of third business day after the date of IDR initiation, the Departments would provide the party last in receipt of the applicable notice 2 additional business days to either agree or object to the other party's alternative preferred certified IDR entity selection. In these circumstances, under the proposed rules, if a party last in receipt of the applicable notice agrees with the other party's alternative preferred certified IDR entity and notifies the Departments of the agreement or fails to notify the Departments of its objection in the Federal IDR portal by the fifth business day after the date of IDR initiation, the Departments would select the final alternative preferred certified IDR entity selected in the applicable notice. Once the Departments make their final selection, parties would not be allowed to select another alternative preferred certified IDR entity. If the party last in receipt of the notice notifies the Departments of its objection to the alternative preferred certified IDR entity by the fifth business day after the date of IDR initiation, the Departments would proceed with random selection of the certified IDR entity from among the

certified IDR entities (other than the preferred certified IDR entity and any alternative preferred certified IDR entity previously selected in such dispute by a party, unless there is no other certified IDR entity available to select) that charge a fee within the allowed range of certified IDR entity fees not later than the sixth business day after the date of IDR initiation. If there are insufficient certified IDR entities that charge a fee within the allowed range of certified IDR entity fees available to arbitrate the dispute, the Departments would select a certified IDR entity that has received approval, as described in paragraphs 26 CFR 54.9816–8(e)(2)(vii)(A), 29 CFR 2590.716–8(e)(2)(vii)(A), and 45 CFR 149.510(e)(2)(vii)(A), to charge a fee outside of the allowed range of certified IDR entity fees. In either case, as required under section 9816(c)(4)(F) of the Code, section 716(c)(4)(F) of ERISA, and section 2799A–1(c)(4)(F) of the PHS Act, the Departments would notify the parties of the preliminarily selected certified IDR entity not later than 6 business days after the date of IDR initiation when the parties do not jointly select the certified IDR entity.

The Departments also proposed to amend 26 CFR 54.9816–8(c)(1)(iii), 29 CFR 2590.716–8(c)(1)(iii), and 45 CFR 149.510(c)(1)(iii) to provide that the date of preliminary selection of the certified IDR entity is 3 business days after the date of IDR initiation if the parties jointly selected a certified IDR entity, or 6 business days after the date of IDR initiation if the parties failed to jointly select a certified IDR entity and the Departments instead selected the certified IDR entity.

After consideration of comments, the Departments are finalizing these provisions with the following modifications: (1) revising the definition of failure to jointly select a certified IDR entity; specifying that days refers to "business days"; (2) replacing any uses of the phrases "does not agree" and "fails to object" to "fails to respond"; and (3) moving certain language from proposed 26 CFR 54.9816–8(c)(1)(i)(B), 29 CFR 2590.716–8(c)(1)(i)(B), and 45 CFR 149.510(c)(1)(i)(B) to subordinate paragraphs (c)(1)(i)(B)(1) through (3). These modifications are intended to promote clarity and do not impose any substantive changes from the proposed rule.

With regard to the first modification, the Departments proposed that the party last in receipt of the notice of IDR initiation response or notice of certified IDR entity selection must object to the other party's alternative preferred certified IDR entity. The Departments recognize how requiring the party "last

⁸⁷ Section 9816(c)(4)(F)(ii) of the Code, section 716(c)(4)(F)(ii) of ERISA, and section 2799A–1(c)(4)(F)(ii) of the PHS Act.

in receipt” of the applicable notice to object may be confusing, given that objection changes which party is “last in receipt” of the notice, and are therefore finalizing a modification to proposed 26 CFR 54.9816–8(c)(1)(ii), 29 CFR 2590.716–8(c)(1)(ii), and 45 CFR 149.510(c)(1)(ii). As finalized, the parties will have failed to jointly select a certified IDR entity if, by the end of the third business day after the date of IDR initiation, the party last in receipt of the notice of IDR initiation response or the notice of certified IDR entity selection has received an objection to their preferred or alternative preferred certified IDR entity in the applicable notice, changing the trigger for failure to select to the actual notice received, rather than a notice that requires subsequent objection. The Departments are also adding language to specify the reference to days in 26 CFR 54.9816–8(c)(1)(i)(C)(1), 29 CFR 2590.716–8(c)(1)(i)(C)(1), and 45 CFR 149.510(c)(1)(i)(C)(1) is to ‘business days’ for clarity. The Departments are also finalizing updates throughout 26 CFR 54.9816–8(c)(1)(i) and (ii), 29 CFR 2590.716–8(c)(1)(i) and (ii), and 45 CFR 149.510(c)(1)(i) and (ii) to replace the terms “does not agree” and “fails to object” with “fails to respond” to reduce potential confusion from having multiple terms that mean the same thing. The Departments are confident that this change will improve the clarity of the regulations.

Further, to improve the readability of the regulations and to match the structure of proposed 26 CFR 54.9816–8(c)(1)(ii)(A), 29 CFR 2590.716–8(c)(1)(ii)(A), and 45 CFR 149.510(c)(1)(ii)(A), the Departments have made minor modifications to proposed 26 CFR 54.9816–8(c)(1)(i)(B), 29 CFR 2590.716–8(c)(1)(i)(B), and 45 CFR 149.510(c)(1)(i)(B) to move the specifications regarding the conditions under which a certified IDR entity will be considered jointly selected (or the parties have failed to jointly select) to subordinate paragraphs 26 CFR 54.9816–8(c)(1)(i)(B)(1) through (3), 29 CFR 2590.716–8(c)(1)(i)(B)(1) through (3), and 45 CFR 149.510(c)(1)(i)(B)(1) through (3). Specifically, the Departments are finalizing the clause:

- “If the initiating party agrees to the non-initiating party’s alternative preferred certified IDR entity within 3 business days after the date of IDR initiation, the alternative preferred certified IDR entity will be considered jointly selected by the parties” at 26 CFR 54.9816–8(c)(1)(i)(B)(1), 29 CFR 2590.716–8(c)(1)(i)(B)(1), and 45 CFR 149.510(c)(1)(i)(B)(1);

- “If the non-initiating party submits the notice of IDR initiation response on or before the first or second business day after the date of IDR initiation, and the initiating party fails to respond within 3 business days after the date of IDR initiation, the alternative preferred certified IDR entity will be considered jointly selected by the parties” at 26 CFR 54.9816–8(c)(1)(i)(B)(2), 29 CFR 2590.716–8(c)(1)(i)(B)(2), and 45 CFR 149.510(c)(1)(i)(B)(2); and

- “If the non-initiating party submits the notice of IDR initiation response on the third business day after the date of IDR initiation and the initiating party fails to respond on the same day, selection will proceed pursuant to paragraph (c)(1)(i)(C) of this section” at 26 CFR 54.9816–8(c)(1)(i)(B)(3), 29 CFR 2590.716–8(c)(1)(i)(B)(3), and 45 CFR 149.510(c)(1)(i)(B)(3).

Several commenters supported the Departments’ proposals regarding preliminary selection of a certified IDR entity with some stating the proposal would be an effective response to alleged gaming by non-initiating parties waiting until the last opportunity to object to a preferred certified IDR entity. One commenter supported the provision of two additional business days for certified IDR entity selection if a notice is received on the third business day. Another commenter supported the proposed requirement that both parties agree on the certified IDR entity selection, while allowing initiating parties to select their preferred certified IDR entity when the non-initiating party does not respond. One commenter stated that many non-initiating parties mitigate difficulties with the selection process under the current rules by choosing not to respond. Some commenters stated that the volume of disputes initiated is so high and burdensome for non-initiating parties that they cannot engage in the certified IDR entity selection process.

The Departments’ proposals aimed to mitigate commenters’ concerns about alleged gaming by allowing sufficient time for both parties to meaningfully engage in the process. In addition, the provisions referenced by the commenters above will incentivize both initiating and non-initiating parties to provide the notices of IDR initiation response and the notice of certified IDR entity selection, as applicable, in a timely manner, giving both parties recourse to accept or object to the other party’s selection. Specifically, the Departments are confident that the provisions providing two additional business days for certified IDR entity selection when a notice is received on the third business day, as well as the

requirement that to proceed, both parties must agree on a certified IDR entity, while providing a path forward if one party does not respond, will sufficiently mitigate commenters’ concerns.

The Departments agree that meaningful engagement by non-initiating parties is an important part of the certified IDR entity selection process, as it ensures that non-initiating parties have an opportunity to weigh in on which certified IDR entity is ultimately responsible for determining the out-of-network rate for the items or services under dispute. Without this, initiating parties would have an outsized influence on which certified IDR entity is adjudicating a dispute. The Departments have determined that these proposals strike an appropriate balance between the interests of both parties, mitigate the potential for delays due to nonresponse, and do not significantly increase burden on either party.

Some commenters offered specific recommendations for preliminary selection of the certified IDR entity. Some commenters opposed the Departments’ proposal that the date of preliminary IDR entity selection be 3 business days after the date of IDR initiation or recommended the Departments increase the timeframe. A few commenters indicated that 3 business days is not a sufficient amount of time for preliminary certified IDR entity selection, particularly in light of the significant volume of disputes that non-initiating parties may receive through the Federal IDR process. One commenter recommended that non-initiating parties should be limited to receiving no more than 100 claims per day. Another commenter recommended that the Departments create cross-referencing tracking functionality between the IDR registry and selection, so that certified IDR entities with known conflicts of interest are removed from the selection pool.

The Departments acknowledge commenters’ request for additional time for parties to complete the preliminary selection process and concerns about their ability to engage in preliminary selection of the certified IDR entity given the significant volume of disputes. As outlined in section 9816(c)(4)(F) of the Code, section 716(c)(4)(F) of ERISA, and section 2799A–1(c)(4)(F) of the PHS Act, disputing parties must jointly select a certified IDR entity not later than the last day of the 3-business-day period following the date of the initiation of the process. Consistent with these statutory timelines, the Departments specify in these final rules that parties’ preliminary selection of the certified

IDR entity must occur no later than 3 business days following IDR initiation. Consistent with section 9816(c)(4)(F) of the Code, section 716(c)(4)(F) of ERISA, and section 2799A–1(c)(4)(F) of the PHS Act, when the parties do not jointly select the certified IDR entity, the final rules will ensure that the certified IDR entity selection occurs within 6 business days after the date of IDR initiation. Similarly, the statute does not limit the number of claims that may be the subject of open negotiation or IDR initiation, and the Departments do not intend to artificially limit access to the Federal IDR process in this manner. The Departments also note the commenter's recommendation to incorporate cross-tracking functionality between the IDR registry and selection of the certified IDR entity. As described in section II.F of this preamble, the Departments will consider this suggestion as they establish and implement the IDR registry.

A few commenters offered specific recommendations related to random selection. One commenter requested further information on the percentage of cases the Departments estimate will require random selection. Further, the commenter noted that it would be unreasonable for physician practices to assume the responsibility to engage in the back-and-forth of the selection process if a significant proportion of cases end up in random selection. Another commenter requested that instead of the current proposal for random selection of a certified IDR entity, the Departments should require random selection once each party's first proposed certified IDR entity is rejected by the opposing party. One commenter, despite generally supporting the proposal, opposed random assignment of a certified IDR entity when both parties disagree, stating that it could lead to multiple certified IDR entities over time for different cases, which could be cumbersome and inefficient. Another commenter recommended that automatic emails be sent to all parties within 3 business days of IDR initiation if a certified IDR entity is randomly selected.

As outlined in the information collection requirements (ICR) in section V.F of the preamble to these final rules, the Departments expect, based on internal Federal IDR process data that, for a small proportion of disputes (approximately 2 percent), the initiating party and the non-initiating party will exchange the notice of certified IDR entity selection multiple times within the proposed timeframe before reaching agreement and jointly selecting or defaulting to random selection. As a

result, the volume of cases expected to proceed to random selection is very limited; however, the changes in these final rules encouraging such back and forth may increase this likelihood slightly. Therefore, while the Departments note concerns from commenters regarding the potential burden associated with multiple rounds of back-and-forth only to result in random selection, the Departments anticipate that this would only occur in a limited number of cases.

The Departments also note that in the event disputing parties fail to jointly select a certified IDR entity, and the Departments proceed to random selection, both parties will be notified of the Departments' selection not later than 6 business days after IDR initiation. This will occur via automatic email from the Federal IDR portal.

The Departments acknowledge the commenter's recommendation to proceed to random selection in the event that both parties object to the other party's first preferred or alternate preferred certified IDR entity, as well as the commenter's note that the Departments' proposal could lead to a party's disputes being adjudicated by multiple certified IDR entities over time for different cases, which could be cumbersome and inefficient. The Departments agree that the approach recommended by the commenter could limit the burden associated with the certified IDR entity selection process and allow the process to move more quickly. However, the Departments have determined that those benefits are not outweighed by the adverse effects of limiting parties' choice in selecting a certified IDR entity.

The current proposals effectively strike such a balance, and after consideration of commenters' feedback, the Departments are finalizing as proposed 26 CFR 54.9816–8(c)(1)(ii)(A)(2), 29 CFR 2590.716–8(c)(1)(ii)(A)(2), and 45 CFR 149.510(c)(1)(ii)(A)(2).

ii. Final Selection of the Certified IDR Entity and Certified IDR Entity Conflict-of-Interest Review

In the 2023 proposed rules, the Departments proposed that after the certified IDR entity is preliminarily selected under 26 CFR 54.9816–8(c)(1)(iii), 29 CFR 2590.716–8(c)(1)(iii), and 45 CFR 149.510(c)(1)(iii), the preliminarily selected certified IDR entity would review the selection and attest to the Departments whether it meets the conflict-of-interest requirements as outlined in proposed 26 CFR 54.9816–8(c)(1)(iv)(A)(1) through (3), 29 CFR 2590.716–8(c)(1)(iv)(A)(1)

through (3), and 45 CFR 149.510(c)(1)(iv)(A)(1) through (3). The Departments did not propose new conflict-of-interest requirements; however, the Departments proposed to make non-substantive amendments to improve clarity and align the attestation with the structure of the reorganized provisions so that selection of a certified IDR entity will be finalized only if the certified IDR entity attests as follows: (1) the certified IDR entity does not have a conflict of interest as defined in paragraphs 26 CFR 54.9816–8(a)(2)(iv), 29 CFR 2590.716–8(a)(2)(iv), and 45 CFR 149.510(a)(2)(iv); (2) the certified IDR entity will only assign personnel to a dispute and make decisions regarding hiring, compensation, termination, promotion, or other similar matters related to personnel assigned to the dispute in a manner that is not based upon the likelihood that the assigned personnel will support a particular party to the dispute; and (3) the certified IDR entity will not assign any personnel to a dispute who would have any conflicts of interest, as defined in paragraphs 26 CFR 54.9816–8(a)(2)(iv), 29 CFR 2590.716–8(a)(2)(iv), and 45 CFR 149.510(a)(2)(iv), regarding any party to the dispute or whose relationship with a party within the 1 year immediately preceding the assignment to the dispute would violate the restrictions on aiding or advising a former employer or principal in a manner similar to the restrictions set forth in 18 U.S.C. 207(b).

Under 26 CFR 54.9816–8(c)(1)(iv)(B), 29 CFR 2590.716–8(c)(1)(iv)(B), and 45 CFR 149.510(c)(1)(iv)(B), the Departments also proposed that if the certified IDR entity notified the Departments within 3 business days of the date of preliminary selection of the certified IDR entity that it does not meet the conflict-of-interest requirements, or does not respond within 3 business days after the date of its preliminary selection, the Departments would randomly select another certified IDR entity, as opposed to allowing the parties additional opportunities to jointly select a different certified IDR entity, to create operational efficiencies and minimize delays in processing disputes. The Departments would notify the parties of the new randomly selected certified IDR entity no later than 1 business day after the previously selected certified IDR entity notified the Departments that it had a conflict of interest, or, if the previously selected certified IDR entity failed to respond within 3 business days after the date of its preliminary selection, the Departments would notify the parties no

later than 1 business day after the end of the 3-business-day period.

The Departments also proposed at 26 CFR 54.9816–8(c)(1)(iv)(C), 29 CFR 2590.716–8(c)(1)(iv)(C), and 45 CFR 149.510(c)(1)(iv)(C) that, if the preliminarily selected certified IDR entity attests within 3 business days that it meets the conflict-of-interest requirements, the Departments will notify the parties no later than 1 business day after the certified IDR entity so attests. The date of final selection of the certified IDR entity would be the date that the Departments provide the notice to the parties.

Lastly, the Departments proposed to remove 26 CFR 54.9816–8T(c)(1)(v), 29 CFR 2590.716–8(c)(1)(v), and 45 CFR 149.510(c)(1)(v), as these requirements regarding certified IDR entity conflict-of-interest and Federal IDR process eligibility review would be required under proposed paragraphs 26 CFR 54.9816–8(c)(1)(iv)(A), 29 CFR 2590.716–8(c)(1)(iv)(A), and 45 CFR 149.510(c)(1)(iv)(A) and 26 CFR 54.9816–8(c)(2), 29 CFR 2590.716–8(c)(2), and 45 CFR 149.510(c)(2), respectively.

The Departments sought comment on these proposals and after consideration of comments, the Departments are finalizing these provisions as proposed.

One commenter supported the Departments' proposal to randomly select another certified IDR entity if the selected certified IDR entity does not meet the conflict-of-interest requirements or does not respond within 3 business days of its preliminary selection, as the proposal would require certified IDR entities to timely complete their conflict-of-interest attestation. Another commenter opposed the random selection of another certified IDR entity, as it has the potential to increase backlogs and cause confusion among certified IDR entities if they are unaware of dispute reassignments.

A few commenters provided recommendations related to the conflict-of-interest requirements for certification of an IDR entity. One commenter emphasized that each certified IDR entity must have sufficient medical, legal, and other expertise (including medical coding and billing), while also being free of conflicts of interest. Another commenter recommended that the Departments establish a mechanism to address potential conflicts of interest identified during a certified IDR entity's credentialing process, because eliminating conflicts of interest is essential both to maintain the integrity of the Federal IDR process and protect against potential biases in decision-

making. This commenter further recommended that certified IDR entities be removed from the list of eligible entities when they have a documented conflict of interest with a party.

The Departments maintain that it is important to implement a timeframe that permits a meaningful opportunity for conflict-of-interest review by the certified IDR entity. The Departments note, however, that they encourage certified IDR entities to regularly check the Federal IDR portal to keep up to date on any pending requests, reduce the potential for increasing backlogs, and avoid the potential for confusion if disputes are reassigned. The Departments understand that in many cases, certified IDR entities utilize their own systems to complete conflict-of-interest reviews and that this process may have initially been burdensome or caused delays. However, the Departments have been implementing operational improvements to facilitate the easier transfer of data between such systems and the Federal IDR portal via API technology to reduce operational inefficiencies and support certified IDR entity throughput of disputes. The Departments anticipate that this will help mitigate the concerns of certified IDR entities that rely on their own systems for processing disputes. In addition, many functions are required to be completed in the Federal IDR portal, so regular access to the system is already required.

The Departments acknowledge commenters' recommendations for improvement to the conflict-of-interest requirements related to certification of IDR entities. However, these comments are out of scope as the Departments did not propose changes to IDR entity certification requirements. The Departments note that while a certified IDR entity may have a conflict of interest for a specific party, that does not mean it will have a conflict of interest with every party such that it should be removed from the list of eligible certified IDR entities. Further, under these proposals, certified IDR entities are required to review each selection for a conflict of interest and attest that no such conflict exists to become the finally selected certified IDR entity. As such, a certified IDR entity's failure to meet these requirements will result in the Departments randomly selecting another certified IDR entity.

After consideration of comments, the Departments are finalizing the provisions for the final selection of a certified IDR entity as proposed. As explained in section II.E.3.b.i of these final rules, final selection of the certified IDR entity will trigger the

requirements for administrative fee payment.

b. Federal IDR Process Eligibility Review

i. Federal IDR Process Eligibility Determination by Certified IDR Entity

Section 9816(c)(5)(A) and (B) of the Code, section 716(c)(5)(A) and (B) of ERISA, and section 2799A–1(c)(5)(A) and (B) of the PHS Act specify that “[n]ot later than 10 days after the date of selection of the certified IDR entity for a determination for a qualified IDR item or service,” both parties must submit their offers, and “[n]ot later than 30 days after the date of selection of the certified IDR entity for a determination for a qualified IDR item or service,” the certified IDR entity must select between those two offers. The No Surprises Act does not specify a timeframe or process by which certified IDR entities (or the Departments) must assess whether an item or service that is the subject of a dispute is a “qualified IDR item or service” that is eligible for the Federal IDR process. The No Surprises Act does, however, identify circumstances when the Federal IDR process does not apply to an item or service, such as when a claim is subject to a specified State law or All-Payer Model Agreement.⁸⁸ Therefore, the certified IDR entity (or the Departments) must determine whether an item or service submitted for the Federal IDR process is a “qualified IDR item or service” that is eligible for resolution through the Federal IDR process.

Under the October 2021 interim final rules, certified IDR entities are required to review the information in the notice of IDR initiation to determine whether the dispute is eligible for resolution through the Federal IDR process, and if the dispute is ineligible, to notify the Departments within 3 business days of making that determination.⁸⁹ The Departments further clarified in the *Federal IDR Process Guidance for Certified IDR Entities*⁹⁰ that certified IDR entities must make their eligibility determination within 3 business days after they are selected, which is before the date the parties must submit an offer of an out-of-network rate (not later than

⁸⁸ See PHS Act 2799A–1(c)(1)(A), and 29 U.S.C. 1185e(c)(1)(A) and 29 U.S.C. 1185e(a)(3)(K).

⁸⁹ 26 CFR 54.9816–8T(c)(1)(v), 29 CFR 2590.716–8(c)(1)(v), and 45 CFR 149.510(c)(1)(v).

⁹⁰ U.S. Department of Health and Human Services, U.S. Department of Labor, and U.S. Department of the Treasury. (October 2022). *Federal Independent Dispute Resolution (IDR) Process Guidance for Certified IDR Entities*, available at <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Federal-Independent-Dispute-Resolution-Process-Guidance-for-Certified-IDR-Entities.pdf>.

10 business days after the date of selection of the certified IDR entity) and before the certified IDR entity must make a payment determination (30 business days after the date of selection of the certified IDR entity). The Departments' experience operating the Federal IDR process has been that eligibility determinations can be extremely complex, particularly in States where certain items and services are covered by specified State laws and others are "qualified IDR items and services" eligible for the Federal IDR process. In addition, the time certified IDR entities spend working on disputes found to be ineligible drains resources needed to efficiently operate the Federal IDR process. As such, it is in the best interest of disputing parties, certified IDR entities, and the Departments to identify ineligible disputes as early in the process as possible.

Given that the statute does not contemplate an eligibility determination process, the 2023 proposed rules sought to allow certified IDR entities 2 additional business days to review the notices of IDR initiation, IDR initiation response, and certified IDR entity selection and to make an eligibility determination. The Departments proposed to remove 26 CFR 54.9816–8T(c)(1)(v), 29 CFR 2590.716–8(c)(1)(v), and 45 CFR 149.510(c)(1)(v),⁹¹ and add proposed 26 CFR 54.9816–8(c)(2)(i), 29 CFR 2590.716–8(c)(2)(i), and 45 CFR 149.510(c)(2)(i), which would allow certified IDR entities 5 business days after the date of their final selection to make an eligibility determination. To do so, the selected certified IDR entity would be required to review the information in the notice of IDR initiation, the notice of IDR initiation response, and any additional information set forth in proposed 26 CFR 54.9816–8(c)(2)(ii), 29 CFR 2590.716–8(c)(2)(ii), and 45 CFR 149.510(c)(2)(ii), and make a final determination as to whether the item or service is a qualified IDR item or service that is eligible for the Federal IDR process, and notify the Departments and both parties of its determination no later than 5 business days after the date of its final selection as the certified IDR entity. If the certified IDR entity determined that the item or service was not a qualified IDR item or service that is eligible for the Federal IDR process, the dispute would be closed, and the

selected certified IDR entity would not take any action on the dispute.

The Departments are finalizing this policy as proposed to give certified IDR entities an additional 2 business days to make an eligibility determination. These final rules are intended to facilitate more efficient processing of eligibility reviews, and the Departments therefore expect that, due to the changes being finalized in this rule, 5 business days will be sufficient.

The Departments sought comment on this proposal, including the appropriate amount of time certified IDR entities should be provided to conduct eligibility reviews. A few commenters generally supported the proposals to simplify the process of determining eligibility for the Federal IDR process, while a few commenters opposed the five-business-day period to determine eligibility. Several commenters provided additional recommendations related to eligibility review, for example, that certified IDR entities be provided more standardized training on how to evaluate eligibility for the Federal IDR process, including applicable specified State laws. These commenters stated this would promote consistency and accuracy in eligibility determinations across the certified IDR entities.

A few commenters recommended that a dispute's eligibility be evaluated during open negotiation or prior to the selection of the certified IDR entity, and that automated functionality should be incorporated. A few other commenters recommended that attestations be used to determine eligibility. One of these commenters suggested that certified IDR entities should be authorized to proceed with an eligibility determination based on such attestations without requiring further outreach, absent proof contradicting an attestation. Another commenter requested that certified IDR entities be required to provide a written rationale of their eligibility determination, while another commenter suggested that plans' or issuers' explanations of benefits should contain clear information on whether a claim is eligible for the Federal IDR process under the No Surprises Act. Another commenter noted that batching eligibility depends on multiple factors, and information provided by a payer about eligibility may not be accurate or helpful for these disputes. The commenter further stated that while some providers may disregard the payer's opinion on eligibility, there is a significant likelihood of a chilling effect on small entities, including small rural hospitals, who may read the payer's opinion as fact and lose their

opportunity to seek a more appropriate reimbursement rate.

The Departments acknowledge commenters' recommendation to have disputing parties attest to eligibility. The Departments encourage disputing parties to discuss dispute eligibility during open negotiation prior to initiating the Federal IDR process to minimize the potential that ineligible cases are submitted. Specifically, initiating parties should rely both on the information they receive from non-initiating parties, including the required disclosures, as well as their own analysis to assess eligibility of a dispute for the Federal IDR process. The Departments also encourage non-initiating parties to contest eligibility by providing supporting evidence with the open negotiation response notice and the notice of IDR initiation response in the event they believe a claim is ineligible for the Federal IDR process. The Departments also note that, currently, disputing parties must attest to an item or service being eligible for the Federal IDR process in the notice of IDR initiation. In light of the previous statements, the Departments are not modifying the proposal to allow certified IDR entities to rely on parties' attestation of eligibility.

With respect to the comment requesting that certified IDR entities be required to provide written rationale of their eligibility determination, the Departments note that written rationales are provided via payment determinations and under these final rules, certified IDR entities must notify disputing parties and the Departments within 5 business days of determining a dispute is ineligible, as outlined in 26 CFR 54.9816–8(c)(2)(i), 29 CFR 2590.716–8(c)(2)(i), and 45 CFR 149.510(c)(2)(i), as finalized. Further, requiring certified IDR entities to provide rationale indicating why a dispute has been found eligible or ineligible, for each dispute, would create substantial additional burden for certified IDR entities and may unnecessarily delay the Federal IDR process. Certified IDR entities may need more than 5 business days to conduct eligibility determinations and provide this rationale, given the volume of disputes that have been initiated in the Federal IDR process to date. Therefore, the Departments are not finalizing a requirement for certified IDR entities to provide written rationale of their eligibility determination.

In response to the commenter noting that batching eligibility depends on multiple factors, and information provided by a payer about eligibility may not be accurate or helpful, the

⁹¹ The requirements regarding certified IDR entity conflict-of-interest would be addressed in proposed paragraphs 26 CFR 54.9816–8(c)(1)(iv)(A), 29 CFR 2590.716–8(c)(1)(iv)(A), and 45 CFR 149.510(c)(1)(iv)(A).

Departments proposed and are finalizing, as outlined in sections II.B. through C. of this preamble, multiple changes to promote communication between disputing parties and to ensure certified IDR entities have the information they need to make accurate eligibility determinations, including for batched disputes. Further, the Departments acknowledge that batching eligibility depends on multiple factors, and the proposals regarding early communication and batching, as outlined in sections II.B. through D. and II.E.2. of this preamble will improve clarity around the treatment of batched items and services. The Departments encourage disputing parties to communicate early and often regarding eligibility of a dispute for the Federal IDR process.

The Departments acknowledge commenters' recommendations for further improvements to the eligibility determination process. The Departments provide policy and operational updates to all certified IDR entities to ensure that all certified IDR entities have the necessary information to make consistent eligibility determinations. In addition to the Federal IDR process guidance for certified IDR entities that the Departments have already released,⁹² the Departments have developed a standardized curriculum designed to improve consistency among already-certified IDR entities, and to aid in onboarding newly certified IDR entities. Further, HHS maintains: (1) a repository of the Consolidated Appropriations Act, 2021 (CAA) enforcement letters which capture our understanding of the PHS Act provisions, as extended or added by the CAA, that each State is enforcing either directly or through a collaborative enforcement agreement, and the provisions that CMS is enforcing. These letters also communicate whether the Federal IDR process applies in each State, and in what circumstances, and a chart summarizing applicability for the Federal IDR process.⁹³ The Departments agree that collectively, these actions will increase the efficiency and consistency of eligibility determinations. The Departments also acknowledge commenters' recommendation to incorporate automation into the eligibility determination process. The Departments will explore automation

possibilities when evaluating future enhancements to the Federal IDR portal.

Several commenters suggested that, to the extent a disputing party fails to timely object to a dispute's eligibility, the certified IDR entity should not consider subsequent eligibility challenges. One commenter stated that determining eligibility within five business days is only achievable if no outreach is required by the certified IDR entity, particularly to resolve late eligibility objections.

The Departments understand commenters' concern over late eligibility objections and the recommendation that disputing parties should not be allowed to contest eligibility following an eligibility determination. However, as noted previously, certified IDR entities are statutorily prohibited from making payment determinations for items and services that are not subject to the No Surprises Act, and therefore they cannot ignore eligibility objections made at any point during the IDR process.⁹⁴ The Departments also note that certified IDR entities are routinely making eligibility determinations within 5 business days.

Several commenters recommended that the Departments establish a process through which disputing parties can appeal a final eligibility determination, including those based on demonstrable clerical errors, mistakes during eligibility reviews, or mistakes in a final payment determination. Several commenters suggested that parties be told specifically on what basis the opposing party is contesting eligibility and be given a reasonable amount of time to submit evidence of ineligibility or eligibility.

The Departments note that this is beyond the scope of the rule and the Departments are not establishing a formal appeals process for eligibility determinations. Should either party believe an error or violation has occurred, the Departments encourage parties to contact the No Surprises Help Desk to file a complaint.⁹⁵

After consideration of comments, the Departments are finalizing the removal of 26 CFR 54.9816–8T(c)(1)(v), 29 CFR 2590.716–8(c)(1)(v), and 45 CFR 149.510(c)(1)(v). The Departments are finalizing the addition of 26 CFR

54.9816–8(c)(2)(i), 29 CFR 2590.716–8(c)(2)(i), and 45 CFR 149.510(c)(2)(i) to provide certified IDR entities 5 business days to make an eligibility determination as proposed. However, the Departments are not finalizing the reference to Departmental eligibility review in proposed 26 CFR 54.9816–8(c)(2)(i), 29 CFR 2590.716–8(c)(2)(i), and 45 CFR 149.510(c)(2)(i).

ii. Departmental Eligibility Review for Federal IDR Process Eligibility Determinations

In the 2023 proposed rules, the Departments proposed a departmental eligibility review process to address extenuating circumstances, such as when the volume of disputes outpaces the capacity of certified IDR entities to timely process eligibility determinations, whereby the Departments could facilitate timely payment determinations or the effective processing of disputes. Specifically, the Departments proposed adding 26 CFR 54.9816–8(c)(2)(ii), 29 CFR 2590.716–8(c)(2)(ii), and 45 CFR 149.510(c)(2)(ii), which would establish an eligibility review process whereby, when the conditions set forth in proposed sections 26 CFR 54.9816–8(c)(2)(ii)(A), 29 CFR 2590.716–8(c)(2)(ii)(A), and 45 CFR 149.510(c)(2)(ii)(A) are met (as described in this preamble section II.E.1.b.ii), the Departments would conduct the eligibility review and make the eligibility determination on behalf of the certified IDR entity (departmental eligibility review). The Departments intended for their role in conducting eligibility determinations to be temporary and did not intend to continue this role if the other policies proposed in the 2023 proposed rules, along with ongoing Federal IDR portal improvements, were successful in improving dispute processing and reducing the volume of ineligible disputes.

In addition, before invoking the application of the departmental eligibility review, the Departments proposed to post advance public notification of the date on which the departmental eligibility review would take effect, and the reasons for invoking the application of the departmental eligibility review. Before ending the application of the departmental eligibility review, the Departments also proposed that the Secretary would post advance public notification of the date on which the departmental eligibility review would no longer be in effect and the reasons for ending the application of the departmental eligibility review, as applicable. The Departments sought comment on these proposals, including

⁹² See *supra* note 25.

⁹³ See <https://www.cms.gov/marketplace/about/oversight/other-insurance-protections/consolidated-appropriations-act-2021-caa> and <https://www.cms.gov/files/document/caa-Federal-idr-applicability-chart.pdf>.

⁹⁴ U.S. Department of Health and Human Services, U.S. Department of Labor, and U.S. Department of the Treasury. (June 2025) *Federal Independent Dispute Resolution (IDR) Technical Assistance for Certified IDR Entities and Disputing Parties: Errors Identified After Dispute Closure*, available at: <https://www.cms.gov/nosurprises/policies-and-resources/overview-of-rules-fact-sheets>.

⁹⁵ See <https://www.cms.gov/files/document/nsa-helpdesk.pdf>.

whether the departmental eligibility reviews, when they are applicable, should be applied to all certified IDR entities or if the Departments should apply these proposed rules to only the certified IDR entities with significant dispute backlogs. The Departments are not finalizing this proposal based on certified IDR entities' increased rate of making eligibility determinations and closing disputes since the 2023 proposed rules were published.

Several commenters supported the proposal to establish a departmental eligibility review process during periods of delay or other extenuating circumstances. Several commenters stated this would allow the Federal IDR process to progress for disputing parties in times of high dispute volume and prevent a backlog of disputes. A few commenters opposed the proposal to establish a departmental eligibility review process. One of these commenters raised concerns that the Departments are biased in favor of health plans, while another commenter stated that the Departments should not assist certified IDR entities that cannot perform an essential function of the Federal IDR process and that certified IDR fees already account for complex eligibility review. A few commenters also recommended ways the Departments could administer departmental eligibility review so that it could be most beneficial.

The Departments appreciate commenters' feedback and recommendations regarding the Departmental eligibility review proposal. Based on new data obtained by the Departments following the publication of the 2023 proposed rules, the Departments are not finalizing the proposal, given that certified IDR entities have significantly improved rates of completing eligibility determinations and have closed a record number of disputes.⁹⁶ Absent the substantial backlog that was present when the 2023 proposed rules were drafted, the Departments maintain that certified IDR entities are best positioned to make eligibility determinations. Instead of assisting with eligibility determinations, the Departments will prioritize reviewing IDR entity applications for certification to increase the number of certified IDR entities available to adjudicate disputes, which will help manage the number of disputes in the Federal IDR process.

iii. Application of the Departmental Eligibility Review and Notification Regarding Applicability of the Departmental Eligibility Review

Since the Departments are not finalizing the proposal at 26 CFR 54.9816–8(c)(2)(ii), 29 CFR 2590.716–8(c)(2)(ii), and 45 CFR 149.510(c)(2)(ii) to make Federal IDR process eligibility determinations the responsibility of the Departments in specified circumstances, the Departments are not finalizing 26 CFR 54.9816–8(c)(2)(ii)(A) and (B), 29 CFR 2590.716–8(c)(2)(ii)(A) and (B), and 45 CFR 149.510(c)(2)(ii)(A) and (B) regarding the application and notification of the departmental eligibility review. The Departments will maintain the current regulations so that certified IDR entities continue to determine dispute eligibility for the Federal IDR process. The Departments did not receive comments on these provisions.

c. Request for Additional Information

In the Departments' experience in operating the Federal IDR process, disputing parties have not consistently submitted all information necessary for a certified IDR entity to make a conflict-of-interest assessment, an eligibility determination, or a payment determination. Certified IDR entities must frequently reach out to the disputing parties, sometimes multiple times, to obtain the information needed to effectively carry out their duties. Such outreach is time intensive, inefficient, and costly. Even as the Departments proposed methods in the 2023 proposed rules to promote the exchange of information throughout the Federal IDR process, the Departments anticipated that certified IDR entities and the Departments likely would still need to collect additional information to compensate for disputing parties' failure to provide necessary information and make accurate determinations in a timely fashion.

Thus, the Departments proposed in new 26 CFR 54.9816–8(c)(2)(iii), 29 CFR 2590.716–8(c)(2)(iii), and 45 CFR 149.510(c)(2)(iii) to establish that the Departments and the certified IDR entity may request additional information from either party to a dispute at any time, including for the purpose of assessing whether a conflict of interest exists, conducting an eligibility determination, or making a payment determination. The 2023 proposed rules proposed to codify in regulation existing guidance in the *August 2022 Technical Assistance for Certified IDR Entities* regarding timeframes for certified IDR entities to conduct outreach to gather

additional information.⁹⁷ The 2023 proposed rules proposed to require a party to submit any requested additional information within 5 business days to the Departments or to the selected certified IDR entity, as applicable, through the Federal IDR portal. Following a request for additional information, under the proposed rules, the time period for the applicable stage of the Federal IDR process would be tolled until the earlier of the date all of the requested information is provided or the 5-business-day period expires, and each subsequent timeframe in the Federal IDR process would be determined based on the date of completion of the stage of the Federal IDR process that was tolled for provision of the requested information. Under the 2023 proposed rules, if a party failed to submit the additional information as required, the related determination, including the conflict-of-interest review, eligibility determination, or payment determination would be made without the requested information unless a good-cause extension of the 5-business-day period, as specified in 26 CFR 54.9816–8(g)(1)(i), 29 CFR 2590.716–8(g)(1)(i), and 45 CFR 149.510(g)(1)(i) had been provided, and the party subsequently submits the additional information requested within the extended period. However, the statute does not allow for an extension of the timeframe for parties to make a payment after the certified IDR entity has made its payment determination.⁹⁸ Therefore, payments required by a payment determination must be provided within 30 calendar days of that payment determination.⁹⁹ After consideration of comments, the Departments are finalizing this provision with a modification to remove references to “the Secretary” requesting additional information and an acknowledgement that if the related determination cannot be made because both parties failed to provide the additional information as required, the dispute will be considered withdrawn. As noted previously, since the Departments are not finalizing the proposed provisions related to departmental eligibility review and

⁹⁷ U.S. Department of Health and Human Services, U.S. Department of Labor, and U.S. Department of the Treasury. (October 2022) Federal Independent Dispute Resolution (IDR) Process Technical Assistance for Certified IDR Entities, August 2022, available at <https://www.cms.gov/files/document/TA-certified-independent-dispute-resolution-entities-August-2022.pdf>.

⁹⁸ Section 9816(c)(6) of the Code, section 716(c)(6) of ERISA, and section 2799A–1(c)(6) of the PHS Act.

⁹⁹ 26 CFR 54.9816–8(c)(4)(ix), 29 CFR 2590.716–8(c)(4)(ix), and 45 CFR 149.510(c)(4)(ix)

⁹⁶ See <https://www.cms.gov/nosurprises/policies-and-resources/reports>.

certified IDR entities will continue to be responsible for making eligibility and payment determinations, the Departments are finalizing the proposal at 26 CFR 54.9816–8(c)(2)(iii), 29 CFR 2590.716–8(c)(2)(iii), and 45 CFR 149.510(c)(2)(iii) and redesignating it as 26 CFR 54.9816–8(c)(2)(ii), 29 CFR 2590.716–8(c)(2)(ii), and 45 CFR 149.510(c)(2)(ii), and are finalizing to only allow certified IDR entities to request additional information from disputing parties. The Departments also clarify that should the requested information not be received, certified IDR entities are required to proceed adjudicating the dispute without the requested information, if possible. However, as outlined in section II.E.1.d.ii of this preamble, if proceeding with an eligibility or payment determination is not possible because both parties did not provide the requested information, the dispute will be considered withdrawn.

Several commenters supported the proposal that the Departments or the certified IDR entity may request additional information from either party to a dispute at any time, and the party must submit the requested additional information within 5 business days through the Federal IDR portal.

As explained in the preamble to the 2023 final rules, the Departments determined that a 5-business-day period is sufficient for a response without unduly delaying the Federal IDR process, and is consistent with the 5-business-day outreach period set forth in the *August 2022 Technical Assistance for Certified IDR Entities*.¹⁰⁰ The Departments anticipate that this deadline will incentivize parties to submit information promptly, and that tolling any applicable time periods will give certified IDR entities sufficient time to make such information requests without encroaching on other timeframes.

Several commenters suggested modifications to the proposal requiring disputing parties to provide information requested by the certified IDR entity within 5 business days. One commenter recommended clarifying that the disputing parties waive any objections to eligibility if the certified IDR entity receives no response, or an inadequate response, to outreach by the certified IDR entity within 5 business days. The

commenter also recommended clarifying that parties may show good cause for late responses to outreach in certain circumstances, but also recommended that an allegation that the certified IDR entity used the wrong email to request additional information would not be considered good cause if the email was provided by the initiating party upon dispute initiation and was not corrected by the non-initiating party prior to certified IDR entity selection, or the email was used by the plan or issuers on their disclosures or in the IDR registry.

A few commenters stated that the certified IDR entity should not be able to proceed with the Federal IDR process or make a payment determination until the additional information requested is received. Another commenter stated that the certified IDR entity should assume that the claim is eligible for the Federal IDR process and the appropriate payment for the item or service subject to the dispute is the amount submitted by the initiating party. One commenter stated that the certified IDR entity should be required to document that it gave the initiating party the required five business days to provide additional information.

The Departments disagree with the commenter's recommendation that a disputing party should waive any eligibility objections if it provides no response, or an inadequate response, to outreach by the certified IDR entity within 5 business days. As noted above, certified IDR entities are statutorily prohibited from making payment determinations for items and services that are not subject to the No Surprises Act, and therefore disputing parties must have the opportunity to object to eligibility at any point in the Federal IDR process. However, under these final rules, if a party is nonresponsive to a request for additional information, certified IDR entities are required to proceed adjudicating the dispute without the requested information; therefore, if a party fails to provide requested information to contest the eligibility of a dispute, the certified IDR entity may determine the dispute is eligible for the IDR process. In response to the other comment from the same commenter recommending a clarification that parties may show good cause for late responses to outreach in certain circumstances, the Departments also clarify that most time periods specified in 26 CFR 54.9816–8, 29 CFR 2590.716–8, and 45 CFR 149.510, including the one to provide requested documentation within 5 business days, may be extended in extenuating circumstances, under 26 CFR 54.9816–

8(g)(1)(i), 29 CFR 2590.716–8(g)(1)(i), and 45 CFR 149.510(g)(1)(i).

The Departments acknowledge the commenter's recommendation that if the disputing parties provide the incorrect contact information to the other party via the required disclosures prior to dispute initiation and do not correct it prior to selection of the certified IDR entity, and the disputing party does not receive the certified IDR entity's request for additional information sent to such incorrect contact, the disputing party should not be eligible for a good cause extension to the deadline to respond to the request for additional information on the basis of not receiving the request. Each disputing party is responsible for ensuring that all information in their communications (for example, on the required disclosures, notices of open negotiation or open negotiation response, notices of IDR initiation or initiation response, or registration in the IDR registry) is correct, and that if errors are found, they are corrected immediately. The Departments have received complaints from initiating parties that non-initiating parties intentionally provide inaccurate contact information as a method of gaming the Federal IDR process. In response to these concerns, including the commenter's recommendation, the Departments clarify that in the event that (1) the certified IDR entity sends a request for additional information to the wrong contact; (2) this contact information matches what the disputing party provided in the required disclosures or in the IDR registry outlined in section II.F of this preamble; and (3) the disputing party does not receive the request for information because it was sent to the wrong contact based on information that disputing party provided, the disputing party from whom information was requested would not be eligible for an extension of the deadline to provide requested information on the basis of not receiving the request. The Departments also clarify that good cause extensions may be granted in situations where a party was unable to respond through no fault of their own, such as in the event of a natural disaster, in accordance with 26 CFR 54.9816–8(g)(1)(i), 29 CFR 2590.716–8(g)(1)(i), and 45 CFR 149.510(g)(1)(i).

Under these final rules, if a disputing party does not respond to the request for additional information in a timely manner, the certified IDR entity must continue to process the dispute without the information. However, the certified IDR entity should not assume, in these circumstances, that the claim is eligible for the Federal IDR process. Certified

¹⁰⁰ U.S. Department of Health and Human Services, U.S. Department of Labor, and U.S. Department of the Treasury. (October 2022) Federal Independent Dispute Resolution (IDR) Process Technical Assistance for Certified IDR Entities, August 2022, available at <https://www.cms.gov/files/document/TA-certified-independent-dispute-resolution-entities-August-2022.pdf>.

IDR entities must still conduct their due diligence and evaluate eligibility for the Federal IDR process, even in the absence of the requested information, and should not treat nonresponse as confirmation of eligibility.

Finally, the Departments acknowledge the recommendation to require certified IDR entities to document requests for additional information; however, the Departments did not propose and are not finalizing such a requirement. Requiring each certified IDR entity to document every instance of a request for additional information and each subsequent response would be unnecessarily burdensome, and would not yield significant additional benefits.

The Departments did not receive any comments on the proposal to toll for up to 5 business days the 30-business-day deadline for rendering a payment determination if a certified IDR entity has not received all additional requested information pertinent to a decision, and are therefore finalizing as proposed.

d. Authority To Continue Negotiations or Withdraw

i. Authority To Continue to Negotiate

To correct an omission in the current regulatory language at 45 CFR 149.510(c)(2)(i), HHS proposed a non-substantive change to add the term “enrollee” to references to participants and beneficiaries. HHS proposed to add the term “enrollee” to account for individuals who are enrolled in the individual health insurance market whose cost sharing must be considered as part of the total out-of-network rate agreed upon by both parties and to clarify who may not be billed for additional payments if the agreed upon out-of-network rate exceeds the QPA.

In addition, the Departments also proposed technical revisions to the existing requirements for the authority to continue negotiations, which are currently set forth at 26 CFR 54.9816–8T(c)(2), 29 CFR 2590.716–8(c)(2), and 45 CFR 149.510(c)(2). They also proposed to redesignate paragraph (c)(2) as (c)(3), which includes the non-substantive change to the language at current paragraph (c)(2)(i), and to amend the title at current paragraph (c)(2) by adding to the end of it “or withdraw.”

The Departments did not receive any comments on the proposal to amend 45 CFR 149.510(c)(2)(i) to add the term “enrollee”, to redesignate paragraph (c)(2) to (c)(3), to make non-substantive changes to current paragraph (c)(2)(i), or to change the title at current paragraph (c)(2). Therefore, the Departments are finalizing these changes as proposed.

ii. Withdrawals

The Departments proposed to add 26 CFR 54.9816–8(c)(3)(ii), 29 CFR 2590.716–8(c)(3)(ii), and 45 CFR 149.510(c)(3)(ii) to establish a process for disputes to be withdrawn from the Federal IDR process. Under the 2023 proposed rules, the Departments proposed that a dispute may be withdrawn from the Federal IDR process before a payment determination is made if any one of four conditions at proposed 26 CFR 54.9816–8(c)(3)(ii)(A) through (D), 29 CFR 2590.716–8(c)(3)(ii)(A) through (D), and 45 CFR 149.510(c)(3)(ii)(A) through (D) is met. The 2023 proposed rules proposed to codify and expand upon existing guidance whereby disputing parties can mutually agree to withdraw a dispute from the Federal IDR process.¹⁰¹ The first proposed condition would allow a dispute to be withdrawn when the initiating party provides notification through the Federal IDR portal to the Departments and the certified IDR entity (if selected) that both parties to the dispute agree to withdraw the dispute from the Federal IDR process without agreement on an out-of-network rate. The notification would be required to include the dispute number, a statement about both parties’ agreement to withdraw, and signatures from authorized signatories for both parties. The second proposed condition would allow a dispute to be withdrawn when the initiating party provides a standard withdrawal request notice through the Federal IDR portal to the Departments, the certified IDR entity (if selected), and the non-initiating party, and the non-initiating party notifies the Departments, certified IDR entity (if selected), and the initiating party through the Federal IDR portal of its agreement to withdraw from the Federal IDR process within 5 business days of the initiating party’s request. If the non-initiating party fails to respond within 5 business days of the initiating party’s request, the non-initiating party would be considered to have agreed to the withdrawal, and the dispute would be withdrawn.

The third proposed condition would allow a dispute to be withdrawn when a certified IDR entity or the Departments cannot determine eligibility because both parties are nonresponsive to a request for additional information as described in proposed 26 CFR 54.9816–

8(c)(2)(ii), 29 CFR 2590.716–8(c)(2)(ii), and 45 CFR 149.510(c)(2)(ii). The fourth proposed condition would allow a dispute to be withdrawn when the certified IDR entity cannot make a payment determination because both parties have failed to submit an offer as described in proposed 26 CFR 54.9816–8(c)(5)(i), 29 CFR 2590.716–8(c)(5)(i), and 45 CFR 149.510(c)(5)(i).

The Departments sought comment on these proposals, including whether there are other circumstances for which the Departments should consider a dispute withdrawn. The Departments are finalizing as proposed the addition of paragraphs 26 CFR 54.9816–8(c)(3)(ii), 29 CFR 2590.716–8(c)(3)(ii), and 45 CFR 149.510(c)(3)(ii) to establish a process for disputes to be withdrawn from the Federal IDR process, with modifications. The Departments are adding language to the second proposed condition at 26 CFR 54.9816–8(c)(3)(ii)(B), 29 CFR 2590.716–8(c)(3)(ii)(B), and 45 CFR 149.510(c)(3)(ii)(B) to include timing clarifications where the non-initiating party takes more than 5 business days to affirmatively respond (or fails to respond). The Departments are also adding language to the third and fourth proposed conditions at 26 CFR 54.9816–8(c)(3)(ii)(C) and (D), 29 CFR 2590.716–8(c)(3)(ii)(C) and (D), and 45 CFR 149.510(c)(3)(ii)(C) and (D), respectively, to recognize that the proposed language exemplifies situations in which a certified IDR cannot determine eligibility or make a payment determination, but that there may be other similar situations.

Several commenters generally supported the proposal to establish conditions for dispute withdrawal in regulation. A few commenters stated that the proposal would improve efficiency and reduce administrative burden on all parties. One commenter supported the requirement of the initiating party to send a withdrawal request, proposed in paragraph (c)(3)(ii)(B), but recommended that the Departments clarify that a non-initiating party is required to provide its response to the withdrawal request to the certified IDR entities as soon as possible, but no later than 5 business days, to reduce risk of delay.

After consideration of comments, the Departments have determined that it is appropriate to add language at 26 CFR 54.9816–8(c)(3)(ii)(B), 29 CFR 2590.716–8(c)(3)(ii)(B), and 45 CFR 149.510(c)(3)(ii)(B) so that it states, “Provision of the withdrawal request through the Federal IDR portal pauses the Federal IDR process for 5 business days or until the non-initiating party

¹⁰¹ See *Federal Independent Dispute Resolution (IDR) Process Guidance for Disputing Parties, December 2023 Update to March 2023 Guidance*, available at <https://www.cms.gov/files/document/federal-idr-guidance-disputing-parties-march-2023.pdf>.

responds, whichever happens first.” Tolling Federal IDR process timelines for a maximum of 5 business days or until the non-initiating party responds will help ensure the parties can contemplate withdrawal of a dispute without the pressure to prepare and submit an offer or fees, which is especially important when a non-initiating party takes the full 5 business days to affirmatively respond (or fail to respond). In this scenario, should an initiating party submit a withdrawal request after a certified IDR entity has affirmatively determined eligibility for the Federal IDR process and requested offers and fees, the tolling of this time would pause the offers and fees timeline, so that, if the withdrawal is rejected by the non-initiating party, the remainder of the time is available to both parties to complete submission of offers and fees. If this modification was not made, the 5 business days in which the non-initiating party has to respond to a request to withdraw a dispute would overlap with the time each party has to submit offers and pay required fees. Absent this tolling, parties may be disincentivized to initiate a withdrawal because they would simultaneously be required to be preparing offers and fees in the event the other party declines to withdraw the dispute. These changes align with the language being finalized at 26 CFR 54.9816–8(c)(2)(ii), 29 CFR 2590.716–8(c)(2)(ii), and 45 CFR 149.510(c)(2)(ii), as described in section II.E.1.c of this preamble, regarding the 5-business-day tolling of timelines during requests for information.

One commenter, while generally supportive of establishing a withdrawal process, opposed the proposed ability of the non-initiating party to deny a withdrawal request and indicated that the initiating party should have the ability to unilaterally withdraw a dispute at any time prior to payment determination. The commenter also suggested that if parties move to withdraw a dispute after a certified IDR entity has been selected, the Departments should grant certified IDR entities the authority to approve or deny the withdrawal. Specifically, non-initiating parties should not be able to force initiating parties to continue pursuing a payment determination, thus burdening them with the associated costs and ultimately wasting resources.

The initiating party is responsible for ensuring that, if open negotiation fails, it only submits disputes that it intends to resolve through the Federal IDR process. Allowing the initiating party to unilaterally withdraw disputes could reduce its incentive to ensure it only submits eligible disputes. Further, the

proposed withdrawal process does not limit the ability of the parties to continue to negotiate a settlement on an out-of-network rate, as described in 26 CFR 54.9816–8(c)(3)(i), 29 CFR 2590.716–8(c)(3)(i), and 45 CFR 149.510(c)(3)(i) of these final rules. These final rules at 26 CFR 54.9816–8(c)(3)(ii)(B), 29 CFR 2590.716–8(c)(3)(ii)(B), and 45 CFR 149.510(c)(3)(ii)(B) also provide a path for initiating parties to withdraw disputes in which the non-initiating party does not respond timely to the request for withdrawal.

Additionally, with regard to the commenter’s alternate suggestion to grant certified IDR entities the authority to decide whether to permit a withdrawal after the certified IDR entity has been selected, the Departments have determined that disputing parties are in the best position to determine if a withdrawal is appropriate, because they generally know more details about the dispute based on ongoing negotiations.

After consideration, the Departments have determined that it is appropriate to add language at 26 CFR 54.9816–8(c)(3)(ii)(C) and (D), 29 CFR 2590.716–8(c)(3)(ii)(C) and (D), and 45 CFR 149.510(c)(3)(ii)(C) and (D) to recognize that the proposed instances in which a certified IDR entity cannot determine eligibility or make a payment determination, respectively, may be broader than as proposed. As such, the Departments are modifying the final language at 26 CFR 54.9816–8(c)(3)(ii)(C) and (D), 29 CFR 2590.716–8(c)(3)(ii)(C) and (D), and 45 CFR 149.510(c)(3)(ii)(C) and (D) to include “for example” to indicate that instances of both parties being nonresponsive to a request for additional information or instances in which both parties fail to submit an offer, respectively, exemplify circumstances in which a certified IDR entity cannot move forward with processing a dispute, but that there may be other situations that also impede a certified IDR entity from making a payment determination or determining eligibility.

Additionally, a few commenters provided suggestions on the content of the proposed withdrawal notices. One of these commenters recommended adding a description of why the dispute has been withdrawn, arguing that sharing this information with the other disputing party is important to better inform responding parties of any potential patterns in withdrawals. The other commenter recommended the required notifications include an acknowledgment by the parties that the consumer will not be balance billed if the dispute is withdrawn.

The Departments agree that clear communication regarding withdrawals is important to efficiently remove disputes from the Federal IDR process. The Departments note that requesting parties to provide a description of why the dispute was withdrawn adds additional burden to the disputing parties. On balance, the burden to a party to describe why the dispute has been withdrawn outweighs the benefit to the responding party to identify any potential pattern in withdrawals, especially given that 26 CFR 54.9816–8(c)(2), 29 CFR 2590.716–8(c)(2), and 45 CFR 149.510(c)(2) contemplate allowing parties to continue negotiating after initiation of the Federal IDR process and that the goal of resolving the dispute through negotiation at any point before a final payment determination may be the impetus of a withdrawal after initiation. Specifically, requiring the parties to provide a reason for dispute withdrawal would add additional time and administrative burden and also risks inadvertently disclosing information that could impact future negotiations. These factors may deter disputing parties from continuing to negotiate a resolution before the final payment determination. Additionally, even if a pattern of withdrawals were to emerge from any additional data collected, attributing bad faith to a party in a pattern of withdrawals may be difficult because one of the goals of the Federal IDR process is to resolve a dispute through negotiation at any point before a final payment determination. Further, the Departments recognize that protecting consumers from balance billing is a critical objective of the No Surprises Act. However, if the parties withdraw a dispute from the Federal IDR process before a certified IDR entity determines the dispute is eligible, the dispute may be one that is not subject to the balance billing protections of the No Surprises Act, and therefore the Departments cannot direct a withdrawal notice to indicate that balance billing is prohibited.

2. Treatment of Batched Items and Services and Bundled Payment Arrangements

Under section 9816(c)(3)(A) of the Code, section 716(c)(3)(A) of ERISA, and section 2799A–1(c)(3)(A) of the PHS Act, the Departments are directed to, “under the IDR process . . . specify criteria under which multiple qualified IDR dispute items and services are permitted to be considered jointly as part of a single determination by an entity for purposes of encouraging the efficiency (including minimizing costs) of the IDR process.” The No Surprises

Act sets four criteria for qualified IDR items and services to be considered jointly as part of a single determination (that is, “batched”) at section 9816(c)(3)(A)(i) through (iv) of the Code, section 716(c)(3)(A)(i) through (iv) of ERISA, and section 2799A–1(c)(3)(A)(i) through (iv) of the PHS Act.

Under the October 2021 interim final rules, multiple qualified IDR items and services are required to meet four conditions to be batched and considered as part of a single payment determination.¹⁰² First, the qualified IDR items and services must be billed by the same provider or group of providers, the same facility, or same provider of air ambulance services, which means the items and services must be billed under the same NPI or TIN. Second, payment for the items and services must be made by the same group health plan or health insurance issuer. Third, the qualified IDR items and services must be the same or similar items and services. The October 2021 interim final rules established that qualified IDR items and services were the same or similar items or services if those items and services are billed under the same service code with modifiers (if applicable), or billed under a comparable service code with modifiers (if applicable) under a different procedural code system. As outlined in section I of this preamble, this requirement, set forth at 29 CFR 2590.716–8(c)(3)(i)(C) and 45 CFR 149.510(c)(3)(i)(C), has been vacated by the District Court in *TMA IV*. Fourth, all the qualified IDR items and services must have been furnished within the same 30-business-day period or have open negotiation periods ending within the 90-calendar-day suspension period (also referred to as the “cooling off period”) under 29 CFR 2590.716–8(c)(4)(vii)(B) and 45 CFR 149.510(c)(4)(vii)(B).

Furthermore, section 9816(c)(3)(B) of the Code, section 716(c)(3)(B) of ERISA, and section 2799A–1(c)(3)(B) of the PHS Act direct the Departments, as part of specifying criteria for batched disputes, to provide that qualified IDR items and services included by a provider or facility as part of a bundled payment arrangement may be part of a single determination. The October 2021 interim final rules specify at 26 CFR 54.9816–8T(c)(3)(ii), 29 CFR 2590.716–8(c)(3)(ii), and 45 CFR 149.510(c)(3)(ii), that items and services may be submitted as a bundled payment arrangement when qualified IDR items and services are billed by a provider, facility, or provider of air ambulance

services as part of a bundled payment arrangement, or where a plan or issuer makes or denies an initial payment as a bundled payment. The August 2022 *Technical Assistance for Certified IDR Entities* clarified that for the purposes of the Federal IDR process, a bundled payment arrangement is an arrangement under which: (1) a provider, facility, or provider of air ambulance services bills for multiple items or services under a single service code; or (2) a plan or issuer makes an initial payment or notice of denial of payment to a provider, facility, or provider of air ambulance services under a single service code that represents multiple items or services (for example, a DRG).¹⁰³ As discussed in section I of this preamble, portions of this guidance relating to batched air ambulance disputes were vacated by the District Court in *TMA III*. The Departments also defined bundled payment arrangements at 29 CFR 2590.716–8(c)(3)(ii), and 45 CFR 149.510(c)(3)(ii) as being subject to the rules for batched determinations and the certified IDR entity fee for single determinations.¹⁰⁴

The Departments proposed revisions to the requirements for the treatment of batched items and services, proposed to define “bundled payment arrangement” at 26 CFR 54.9816–3T, 29 CFR 2590.716–3, and 45 CFR 149.30, and proposed technical changes to the treatment of bundled payment arrangements.

a. Treatment of Batched Items and Services

In the 2023 proposed rules, the Departments proposed to amend the batching regulations. The Departments proposed to redesignate paragraph (c)(3) as paragraph (c)(4) under 26 CFR 54.9816–8, 29 CFR 2590.716–8, and 45 CFR 149.510. Newly redesignated paragraph (c)(4)(i) of these sections proposed to provide that up to 25 qualified IDR items and services could be batched and considered jointly as part of one payment determination only if all requirements under paragraphs (c)(4)(i)(A) through (D) were met. The Departments also proposed to amend

certain of the four batching criteria under paragraphs (c)(4)(i)(A) through (D).

First, for newly redesignated paragraph (c)(4)(i)(A), the Departments did not propose any changes to the requirement set forth under the October 2021 interim final rules that batched items and services must be billed by the same provider, facility, or provider of air ambulance services.

Second, for the requirement that batched items and services must be paid by the same plan or issuer, the Departments proposed to amend the October 2021 interim final rules at newly redesignated paragraph (c)(4)(i)(B) to add clarifying language on how to batch claims involving group health plans that are fully-insured versus self-insured.

Third, the Departments proposed to replace the language vacated by the District Court in *TMA IV* under 26 CFR 54.9816–8T(c)(3)(i)(C), 29 CFR 2590.716–8(c)(3)(i)(C), and 45 CFR 149.510(c)(3)(i)(C) of the October 2021 interim final rules at redesignated paragraphs (c)(4)(i)(C)(1) through (3). The proposed, amended language at paragraph (c)(4)(i)(C) sets forth specific criteria under which multiple qualified IDR items and services would be considered to relate to the treatment of a similar condition.

Fourth, for the requirement under the October 2021 interim final rules that batched items and services must have been furnished within the same 30-business-day period, the Departments proposed at paragraph (c)(4)(i)(D) to further clarify that batched qualified IDR items and services must have been furnished within the same 30-business-day period following the date on which the first item or service included in the batched determination was furnished and have been the subjects of a 30-business-day open negotiation period that ended within 4 business days of IDR initiation, except as provided in proposed 26 CFR 54.9816–8(c)(5)(vii), 29 CFR 2590.716–8(c)(5)(vii), and 45 CFR 149.510(c)(5)(vii) (which refers to the 90-calendar-day “cooling off” period).

As discussed in greater detail below, the Departments are generally finalizing these provisions as proposed with a modification to the line-item limit for batched disputes. The Departments are finalizing the proposal to redesignate paragraph (c)(3) as paragraph (c)(4) under 26 CFR 54.9816–8, 29 CFR 2590.716–8, and 45 CFR 149.510. As discussed below in section II.E.2.a.i of this preamble, under these final rules, newly redesignated paragraph (c)(4)(i) of these sections modifies the line-item

¹⁰² 29 CFR 2590.716–8(c)(3)(i) and 45 CFR 149.510(c)(3)(i).

¹⁰³ U.S. Department of Health and Human Services, U.S. Department of Labor, and U.S. Department of the Treasury. (August 2022). *Technical Assistance for Certified IDR Entities*, available at <https://www.cms.gov/files/document/TA-certified-independent-dispute-resolution-entities-August-2022.pdf>.

¹⁰⁴ U.S. Department of Health and Human Services, U.S. Department of Labor, and U.S. Department of the Treasury. (December 2023). *Federal IDR Process Guidance for Disputing Parties*, available at <https://www.cms.gov/files/document/federal-idr-guidance-disputing-parties-march-2023.pdf>.

limit from 25 as proposed to 50, such that a certified IDR entity may consider up to 50 qualified IDR items and services as part of one payment determination if the qualified IDR items and services meet the requirements under paragraphs (c)(4)(i)(A) through (D).

The Departments have determined that based on commenters' feedback and their experience in operating the Federal IDR process, the finalized batching requirements strike an appropriate balance among several important objectives, including: ensuring the batching rules do not unreasonably impede parties' access to the Federal IDR process, minimizing relative costs and administrative burden, and simplifying Federal IDR process operations to minimize dispute backlogs. Further, these provisions will help ensure that qualified IDR items and services included in batched disputes have clear definitional principles that would yield logical eligibility determinations across certified IDR entities, including determinations of whether items or services are properly submitted as batched disputes. Finally, these provisions will reduce potential risk that large and complicated batches would extend the time needed for certified IDR entities to make eligibility and payment determinations.

The Departments solicited comment on the above batching proposals, including whether there are different or additional ways to encourage procedural efficiency and minimize administrative costs through the batching rules.

Many commenters stated their general support for the batching proposals included in the 2023 proposed rules. Several commenters generally opposed the batching proposals. Some of these commenters encouraged the Departments to further refine the proposed batching rules in a way that promotes efficient and timely resolution of disputes. Other commenters stated specific concerns regarding the batching proposals, including that they would lead to excessive batching of claims by initiating parties, would not produce significant efficiencies, and would not align with current billing or reimbursement practices. Another commenter requested that the Departments provide examples in the final rules of the types of claims that can be batched together, with scenarios related to real-world claims processing and various payer types.

Other commenters offered suggestions regarding the batching proposals generally, such as allowing more flexibility in the requirements for which

items and services can be batched, as well as operational considerations to improve efficiency in filing batched disputes in the Federal IDR portal.

The Departments intend to release clarifying guidance regarding the batching provisions, as finalized, and their implementation. The Departments appreciate the commenter's recommendation to provide examples of the types of claims that can be batched together, with scenarios related to real-world claims processing and various payer types, in these final rules. The Departments will consider providing such examples in guidance. The Departments will also consider comments recommending opportunities for improved efficiency in batched dispute submission in the Federal IDR portal in the implementation of these final rules.

In addition to the Departments' batching proposals, the Departments noted in the 2023 proposed rules that they are considering altering current guidance on the resubmission of incorrectly batched disputes to remove this flexibility 90 business days after the applicability date of the finalized batching provisions. As discussed below in section II.E.2.a.v of this preamble, the Departments intend to remove the flexibility to resubmit incorrectly batched disputes 120 days following the applicability of the registry provisions, as finalized.

i. Line-Item Limit for Batched Items and Services

In the 2023 proposed rules, the Departments proposed at 26 CFR 54.9816–8(c)(4)(i), 29 CFR 2590.716–8(c)(4)(i), and 45 CFR 149.510(c)(4)(i) to limit batched disputes to 25 line items in a single dispute. Section 9816(c)(3)(A) of the Code, section 716(c)(3)(A) of ERISA, and section 2799A–1(c)(3)(A) of the PHS Act direct the Departments to “specify criteria under which multiple qualified IDR dispute items and services are permitted to be considered jointly as part of a single determination by an entity for purposes of encouraging the efficiency (including minimizing costs) of the IDR process.” With the goal of improving efficiency, the Departments proposed a 25-line-item limit to ensure that large and complicated batches do not extend the timeframe needed for certified IDR entities to make eligibility and payment determinations, and to ensure that certified IDR entities are able to reasonably forecast and cover their costs through the fees they set for batched disputes.

The Departments sought comment on the proposed limit on the number of

qualified IDR items and services in a batched dispute and whether an alternative line-item limit higher or lower than 25 line items would be more appropriate to promote efficiencies and cost savings in the Federal IDR process. In the 2023 proposed rules, the Departments also indicated they were considering whether a 50-line-item limit would be a more reasonable cap to encourage efficiencies for disputing parties, while still allowing certified IDR entities sufficient time to review the eligibility of batched disputes and make payment determinations within the 30-business-day requirement. The Departments also sought comment on whether a line-item limit should be imposed at all and whether and how such a provision could increase efficiency and allow disputes to be processed in a timelier manner.

Many commenters supported the proposal to limit batched disputes to 25 line items per dispute, citing improved efficiency, consistency, predictability, and prevention of overuse or abuse of the Federal IDR process. A few commenters supported a general cap on the number of items in a batch, while a few other commenters noted that the 25-line-item limit would help certified IDR entities manage disputes effectively. However, one commenter emphasized that efficiencies would only be realized if the limit is enforced and sufficient information is provided to payers regarding which claim number, patient, and group health plan or health insurance policy is responsible for payment. Some commenters indicated that limits higher than 25 line items would be less efficient and create challenges in meeting Federal IDR process timelines. Another commenter noted that each line item requires individual documentation, review, and payment reconciliation which can be time consuming and therefore should be limited.

Several other commenters suggested a cap that is lower than 25 items, noting that 25 line items would continue to create complexity and challenges meeting required timelines. One commenter stated that a number close to the proposed 25-line-item limit is appropriate to process disputes in a timely manner. However, the commenter recommended the Departments consider making the limit an even number close to the original proposed 25 (such as 20 or 30) for ease of operationalizing the proposed provision to split the certified IDR entity fee evenly between the parties, in the event each party prevails in an equal number of determinations for a batched dispute.

Several commenters generally supported increasing the proposed limit above 25 line items, to a cap of 50, 75, or 100 line items. One commenter noted that a 50-line-item cap would both enhance efficiency and reduce wasteful spending. Another commenter noted that consolidation throughout the healthcare marketplace has led to larger issuers and medical practices in most areas, and thus many mid- and large-sized medical practices that bill under one TIN will have the same or similar payment issues for significantly more than 25 items (for example, up to 100 items or services), thus increasing administrative burden.

Many commenters opposed the proposal to establish any line-item limit, describing it as arbitrary and overly restrictive. These commenters stated it would increase administrative burdens, costs, delays, and workloads. A few commenters stated that the statute and existing regulations already provide reasonable batching limits, such as the limit for items and services provided by the same provider or TIN within a 30-business day period. Some commenters stated concerns that the proposed limit would negate efficiencies and cost savings from the expansion of opportunities for batching in the proposed rules.

A few commenters highlighted that the 25-line-item limit is problematic for providers with high volumes of small-dollar claims, making the Federal IDR process economically unfeasible as it would force providers with high volumes of out-of-network claims into multiple negotiations and duplicative IDR disputes, each with fees and strict timeframes. One commenter questioned whether certified IDR entities' recommendations were driven by efficiency or their own financial interests, and suggested the Departments should not have proposed a 25-line-item limit based on feedback from certified IDR entities because of potential conflicts of interest. One commenter noted it would be helpful to better understand why certified IDR entities have reported needing to review individual line items within a batch to make an award determination, as this appears contrary to the purpose of batching.

The Departments maintain their position that a line-item limit, generally, will improve efficiency and consistency among certified IDR entities, as well as predictability in the Federal IDR process. Under current rules, there is no line-item limit, which has proven cumbersome for certified IDR entities, who have at times received disputes with hundreds of line items. The

Departments understand that the line-item limit must be enforced to be effective, and that sufficient information about the items and services within the batch, including the health plan type, must be available to both disputing parties to meaningfully engage in the Federal IDR process.

The Departments understand commenters' concerns related to the 25-line-item limit, including concerns related to potential administrative burden, cost, and difficulty in separating a single patient encounter involving more than 25-line-items into more than one batch. The Departments agree that a 25-line-item limit is too restrictive, may limit the effectiveness of the Departments' batching proposals, could be a cost barrier to accessing the Federal IDR process, and may result in administrative burden. The Departments recognize this is especially true for providers with high volumes of small dollar claims, which could result in the Federal IDR process being economically unviable for certain parties.

Based on internal data on the sizes of batches the Departments have determined that a 50-line item limit will ensure that the vast majority (99 percent) of batched disputes satisfy the line item limit. The Departments acknowledge that certified IDR entities state that batching is complex, and that disputes with high numbers of line items can be unwieldy, difficult to evaluate, and take significantly more time to review, which can slow down the Federal IDR process. This policy will ensure that the outlier batches with hundreds of line items, which certified IDR entities struggle to adjudicate timely, must be broken up, but that most other batched disputes will not. Limiting to 50 line items will therefore balance the needs of all parties involved in the Federal IDR process and will promote efficiency and accessibility of batching without extending timeframes needed for certified IDR entities to render eligibility and payment determinations. Accordingly, based on this data and the comments received, the Departments are finalizing a 50 line-item limit for batched disputes at 26 CFR 54.9816–8(c)(4)(i), 29 CFR 2590.716–8(c)(4)(i), and 45 CFR 149.510(c)(4)(i).¹⁰⁵ The Departments considered higher and lower line-item limits before settling on 50. A lower line-item limit, while improving efficiency of the process for certified IDR entities and simplifying eligibility

and payment determinations, could be overly restrictive to disputing parties, especially providers and facilities with numerous low cost disputes. On the other hand, a higher line-item limit could complicate and delay the eligibility and payment determinations for certified IDR entities. The Departments also concluded that having no line-item limits is also not a tenable solution, as batches containing hundreds of line items would make it difficult for certified IDR entities to make eligibility and payment determinations within statutory timeframes.

Other commenters suggested alternatives to placing an overall cap on the number of line items. One commenter recommended no line-item limit for items and services that accumulate during the 90-day cooling off period, noting that the number of disputes that accumulate during the cooling off period could result in more than 25 line items, and the No Surprises Act allows for these cases to move through IDR together if the initiating party so chooses. Another commenter stated that if a limitation must be placed, then an alternative would be to limit the number of claims (as opposed to line items) allowed to be included in a batched dispute (for example, only allow up to 5 claims per batched dispute). Lastly, one commenter suggested reevaluating the line-item limitation after a year, considering other changes in these proposed rules that would improve efficiency of eligibility determinations and the open negotiation process.

As discussed in section II.E.2.a.v of this preamble, the Departments are finalizing a shortened cooling off period of 30 business days for batched determinations to reduce complexity, inefficiency, administrative burden, and cost in the Federal IDR process. The Departments are not persuaded by the recommendation to limit the number of claims (representing an episode of care with multiple items and services on a single claim form) as opposed to line items (representing a single item or service) allowed to be included in a batched dispute, as batching multiple claims in one dispute could lead to very large, complex batches that could delay the eligibility and payment determination process for certified IDR entities. We note that, as described in section II.E.2.a.iv.A, the Departments will permit disputing parties to batch items and services furnished during a single patient encounter, defined as a patient encounter on one or more consecutive days during which the qualified IDR items or services were

¹⁰⁵ See batch sizes in the Federal IDR PUFs for 2025 quarter 1 and 2, available at <https://www.cms.gov/nosurprises/policies-and-resources/reports>.

furnished to the same patient and billed on the same claim form. The Departments appreciate the suggestion on reevaluating the line-item limitation after a year and will consider doing so accordingly.

The Departments also solicited comment on whether the line-item limit should vary depending on the type of batched dispute. For example, there could be a 25-line-item limit for items and services furnished to a single patient on the same or consecutive dates of service and billed on the same claim, and a 50-line-item limit for items and services furnished to one or more patients under the same service code.

Several commenters recommended that the number of items and services included in a single patient encounter should not be capped at all or should be higher than 25. Several commenters noted that splitting up a single patient encounter into multiple batches could result in multiple IDR entities reviewing the claim associated with the single patient encounter, which would make it difficult for certified IDR entities to consider all the relevant factors and evaluate the episode in its entirety in determining the appropriate out-of-network rate. A few commenters also stated that fragmenting a claim exceeding a 25-line-item limit would raise the provider's submission costs for the Federal IDR process and can sever related items and services furnished during that single patient encounter. One of these commenters noted that separating single patient encounters in other circumstances would be construed as fraudulent billing since it could secure higher payment by circumventing bundling methodologies, since they could submit multiple offers for the same bundled payment split across multiple disputes.

Some commenters recommended that no line-item limit should be applied to items and services with an identical or comparable code or service codes belonging to the same Category I CPT code range. These commenters stated that the facts to be considered by the certified IDR entity (other than claim number and date of service) are essentially the same for all services in the batch. The commenters stated that batches involving hundreds or thousands of claims would not be cumbersome for certified IDR entities, since there would be a single set of facts and a single decision to be made for all services in the batch. One commenter stated that imposing a line-item limit on batches with the same service code reduces the cost and time efficiencies of batching that way. A few commenters supported a 50-line-item limit for items

and services furnished to one or more patients under the same service code or Category I CPT code range, and one commenter recommended a cap of 100 line items.

Several commenters suggested the Departments finalize an alternate framework for particular provider specialties. One commenter stated that emergency physicians, in particular, should be able to submit batched sets of claims with at least 75 claims per batch. A few commenters recommended no line-item limit or a higher line-item limit (for example, 100 line items) to accommodate most hospital- and facility-based claims. One of these commenters shared that, for a single episode of care, their outpatient emergency claims range between 2 and 85 line items and thus advocated a higher line-item limit for emergency room claims. One commenter stated that if the Departments remain concerned that the batching of emergency department (ED) evaluation and management services across similar codes would burden the Federal IDR process, a reasonable line-item limit on batching for these services only (for example, 50 line items per batch) could promote efficiency and address certified IDR entity concerns.

One commenter noted that a maximum batch size of 100 would ensure greater flexibility for anesthesia claims. Another commenter recommended that items and services furnished by the same anesthesia provider or group (with the same TIN) with a single plan or issuer and billed under CPT codes 00100–01999 should be permitted to be batched without a line-item limit. Another commenter supported a ceiling of 50 line items for batching for anesthesia, noting it would create a backstop to ensure batches are a reasonable size for disputing parties and certified IDR entities.

A few commenters opposed varying the line-item limit by the different types of batched disputes outlined in the proposed rules, such as batched disputes that represent a single patient encounter and batched disputes with services in the same CPT code range. These commenters stated that establishing different thresholds for different types of batched disputes is likely to add complexity and confusion among disputing parties about which line-item limit applies. Many commenters supported a 50 line-item limit, either generally, as noted above, or specific to the method of batching, as sufficient to encourage efficient and economical batched disputes.

For single patient encounters, the Departments understand that for

particularly complex cases or those requiring extensive post-stabilization services, a 25 line-item limit could be cumbersome to divide, and agree with commenters supporting 50 line items for all batched disputes as a reasonable cap for such encounters. While internal data shows the vast majority of batched disputes are under 50 line items and the average batch size is 7 line items, some batched disputes are as large as 816 line items. Such disputes need to be divided so that certified IDR entities can timely review them, notwithstanding the burden of splitting the line items into multiple batches. The benefit to certified IDR entities of being able to see the full claim would not outweigh the burden to certified IDR entities of adjudicating over 50 line items in one batched dispute, especially considering that certified IDR entities can request additional information about the claim under dispute if needed. Therefore, the Departments are not finalizing an alternative line-item limit for single patient encounter disputes.

The Departments are similarly not finalizing no line-item limits for items and services with identical or comparable codes or service codes belonging to the same Category I CPT code range, because certified IDR entities must still review each line item for relevant factors such as patient acuity. As a result, batches with many line items would be difficult for certified IDR entities to timely review, and we disagree with the commenter's assertion that batches of this type involving hundreds or thousands of claims would not be cumbersome because there would be a single set of facts and a single decision to be made for all services in the batch. The Departments are not finalizing no line-item limit for certain specialties such as emergency medicine or anesthesiology for the same reasons. While an expanded limit of 100-line items would mitigate concerns for initiating parties about the burden of separating items and services into multiple batches, a 100-line item limit would increase burden for certified IDR entities who would have to evaluate up to double the number of items and services both for eligibility and payment determinations. The Departments have determined that a 50-line item limit appropriately balances burden between certified IDR entities and disputing parties.

The Departments agree with commenters supporting a 50-line-item limit for items and services, either generally or specific to the method of batching (for example, batching by single patient encounter, same or comparable service codes, same

Category I CPT code range, or by specialty) as sufficient to encourage efficient and economical batching. In addition, it would be cumbersome for disputing parties, certified IDR entities, and the Departments to operationalize different line-item limits under different circumstances, even if they provide some efficiencies. After consideration of comments, the Departments are not finalizing an alternative limit for items and services represented by an identical or comparable code or service code belonging to the same Category I CPT code range nor by specialty, and as noted above, are finalizing a 50-line-item limit for all batched disputes.

The Departments also solicited comment on whether the certified IDR entity fee structure for batched determinations should be adjusted given the proposed changes to the batching rules. Under 26 CFR 54.9816–8(e)(2)(viii), 29 CFR 2590.716–8(e)(2)(viii) and 45 CFR 149.510(e)(2)(viii), the current IDR entity fee structure requires fixed fees within a range for both single determinations and batched determinations, as well as a fixed tiered fee for every additional 25 line items within a batched dispute, beginning with the 26th line item.

Several commenters stated concern about the current IDR entity fee structures and suggested alternative IDR entity fee structures. One commenter stated that a 25-line-item limit on batches would reduce complexity and cost in the certified IDR entity fee structure by creating more certainty for certified IDR entities in expected burden for each batch. The commenter stated that if the batches are highly variable, certified IDR entities may need to establish a more graduated fee structure, which could be complicated if any line-items within the batch are ultimately deemed ineligible. The commenter stated concern that certified IDR entities may inflate their fees to account for the potential of very large batches. Another commenter who supported a 25-line-item limit for batched disputes stated that a line-item charge would be more equitable. Another commenter requested that the Departments exempt a single hospital claim (that is, UB–04) or physician claim (that is, CMS1500) with multiple line items from the tiered batched pricing and instead charge a fixed fee for these claims. Another commenter recommended a standard pricing model across all certified IDR entities and types of single or batched submissions at a low and reasonable cost. The commenter stated that the current fee structure often deters providers from submitting an IDR

dispute on lower reimbursement claims to the Federal IDR process. One commenter requested that providers not be charged additional fees for the number of line items that are included in batched disputes, noting that additional fees will significantly limit the number of underpaid claims that providers can submit to the Federal IDR process. A few commenters stated that a line-item limit on batched disputes is unnecessary as the IDR Process Fees final rule included the option of additional certified IDR entity fees for batches over 25 line items to account for additional time and effort for processing larger batches.

The Departments acknowledge comments about adjusting the certified IDR entity fee structure for batched determinations given the proposed changes to the batching rules. After considering the comments, the Departments are declining to modify the existing batched fee structure. Certified IDR entities set their fees annually and, based on the parameters set forth in the IDR Process Fees final rules,¹⁰⁶ they may elect to update their fees one additional time per calendar year. No certified IDR entity has yet to use the option of changing fees an additional time per year, even after the *TMA III* opinion and order resulted in significant changes to batching guidance, as discussed in section I of this preamble. As such, setting fees once per year inclusive of the tiered fee with the option to change fees an additional time per year will be sufficient going forward to accommodate changes to batching.

In addition, the IDR Process Fees final rules finalized a tiered batched fee structure, whereby certified IDR entities are permitted to charge a fixed tiered fee within a specified range for every additional 25 line items within a batched dispute beginning with the 26th line item. Since existing rules set parameters for how much certified IDR entities can charge for batched disputes with 26 to 50 line items, the decision to finalize a 50-line-item limit for batch disputes will not unreasonably inflate certified IDR entity fees. A charge based on the number of line items would be unnecessarily complex as compared to the tiered fee for batched determinations that is already in place.

The Departments were not persuaded by the recommendation to provide an alternative fee structure specifically for batches based on single UB–04 or CMS1500 claim forms. The batched tiered fee structure finalized in the IDR Process Fees final rules¹⁰⁷ was intended

to fairly compensate certified IDR entities for their time in rendering eligibility and payment determinations for batched disputes, which are more complex than single disputes. The use of a single claim form may simplify, but does not eliminate, the need for certified IDR entities to ensure that all line items on the claim form are eligible for the Federal IDR process and similarly does not mitigate the amount of analysis required to render a payment determination.

The Departments understand the commenters' recommendations for a more standardized pricing model across all certified IDR entities, as well as the commenter's concern that the current fee structure may serve to deter providers from utilizing the Federal IDR process, particularly for low-dollar claims. Nevertheless, the Departments have determined that the current fee structure, which allows certified IDR entities to set a fee within a specified range, and for disputing parties to select a certified IDR entity in part based on that fee, is more equitable than uniform fees as it allows certified IDR entities to set their fee based on the time spent adjudicating disputes, the experience of their personnel, and other factors relevant to their role in making eligibility and payment determinations.¹⁰⁸

The Departments disagree with comments asserting that the batched tiered fees finalized in the IDR Process Fees final rules eliminate the need for a line-item limit. The additional cost of submitting larger batches does not invalidate the need for reasonable limits to promote the efficiency of batching.

This current state effectively addresses the commenters' concerns because certified IDR entities can set their fees annually according to the proposed batched rules and can change them, if needed, one additional time per year. After consideration of comments, the Departments are not finalizing changes to certified IDR entities' fee structure for batched disputes.

ii. Batched Items and Services Must Be Billed by the Same Provider, Facility, or Provider of Air Ambulance Services

The Departments proposed to redesignate 26 CFR 54.9816–8(c)(3)(i)(A), 29 CFR 2590.716–8(c)(3)(i)(A), and 45 CFR 149.510(c)(3)(i)(A) as 26 CFR 54.9816–8(c)(4)(i)(A), 29 CFR 2590.716–

¹⁰⁶ Certified IDR entity fees range from \$200 to \$840 for single determinations and \$268 to \$1,173 for batched determinations. Fees charged by certified IDR entity are available at <https://www.cms.gov/nosurprises/help-resolve-payment-disputes/certified-idre-list>.

¹⁰⁶ 88 FR 88494, 88510 (December 21, 2023).

¹⁰⁷ 88 FR 88494, 88513 (December 21, 2023).

8(c)(4)(i)(A), and 45 CFR 149.510(c)(4)(i)(A), respectively. The Departments proposed no changes to this provision, which provides that qualified IDR items and services may be considered as part of a single batched determination only where they were billed by the same provider or group of providers, the same facility, or the same provider of air ambulance services. The provision also provides that qualified IDR items and services are billed by the same provider or group of providers, the same facility, or the same provider of air ambulance services if the items or services are billed with the same NPI or TIN. The Departments did not receive comments on this provision and are finalizing as proposed.

iii. Batched Items and Services Must Be Paid by the Same Plan or Issuer

Section 9816(c)(3)(A)(ii) of the Code, section 716(c)(3)(A)(ii) of ERISA, and section 2799A–1(c)(3)(A)(ii) of the PHS Act state that an item can be batched if payments for such items and services were made by the *same group health plan or health insurance issuer*. The Departments have interpreted this language to permit the batching of claims payable by a health insurance issuer where the issuer is required to make payment for qualified IDR items and services on behalf of different group health plans insured by the issuer.¹⁰⁹ However, for self-insured plans, the term “same group health plan” in the statutory provision expressly limits batching to claims payable by the same self-insured plan and does not permit batching of qualified IDR items and services payable by different self-insured plans, even when payments are made through the same TPA.¹¹⁰ When a self-insured plan contracts with a TPA, the self-insured plan, not the TPA, is obligated to pay for claims incurred under the plan. The TPA may perform administrative functions on behalf of the self-insured plan, but it is not legally obligated to pay claims, except to the extent required under a contract with the self-insured group health plan. Therefore, to satisfy the statutory requirement that items and services may be batched if payment for the items or services are required to be made by the same group health plan or health insurance issuer, the Departments do

not permit a TPA to batch items and services that are payable by different group health plans that contract with the TPA for administrative services.

Under proposed 26 CFR 54.9816–8(c)(4)(i)(B), 29 CFR 2590.716–8(c)(4)(i)(B), and 45 CFR 149.510(c)(4)(i)(B), the Departments proposed to retain the provision established in the October 2021 interim final rules that qualified IDR items and services may be batched and considered jointly as part of one payment determination if payment for the qualified IDR items and services is made by the same group health plan or health insurance issuer. However, because the Departments have received questions about how to batch items and services for disputes involving fully- versus self-insured group health plans, the Departments proposed to clarify in the 2023 proposed rules that for fully-insured group health plans and for individual health insurance coverage, the batching requirement at 26 CFR 54.9816–8(c)(4)(i)(B), 29 CFR 2590.716–8(c)(4)(i)(B), and 45 CFR 149.510(c)(4)(i)(B) would be satisfied if the same issuer is required to make payment for the qualified IDR items and services, even if the qualified IDR items and services relate to claims from different insured group health plans or individual market policies. For self-insured group health plans, this requirement would be satisfied if the same self-insured group health plan is required to make payment for the qualified IDR items and services, including when the plan makes payments through a TPA. The requirement would not be satisfied if multiple self-insured group health plans are required to make payments for the qualified IDR items and services, even if those group health plans make payments through the same TPA. This proposal sought to clarify that while a given TPA may administer multiple self-insured plans, the requirements under ERISA sections 716 and 717 apply to the self-insured group health plan (and not the TPA), including payment or reimbursement of the qualified IDR items and services. The Departments are finalizing these clarifications as proposed.

Several commenters stated their support for the proposal that claims from multiple self-insured group plans using the same TPA may not be batched. One of these commenters stated that while self-insured group health plans may use the same TPA, the plan benefit structures, provider networks, and other aspects of the plan will differ, making comparisons by a certified IDR entity across claims from multiple self-funded

plans difficult. One commenter indicated that, to the extent batching by TPA were permitted, strict requirements for initiating parties to clearly identify the group health plan or health insurance policy would be essential.

Several commenters opposed the proposal to limit batching to the same self-insured plan. Several commenters requested that the Departments allow disputes to be batched when they involve multiple self-insured plans utilizing the same TPA. A few commenters emphasized that the identity of a self-insured group health plan is not a standard data element in the claims process and that remittances often only provide information about the TPA with the initial payment.

One commenter stated that a longer period during which items and services may be batched may help mitigate challenges related to batching by self-insured plans rather than TPAs.

The Departments are finalizing the proposed clarifying amendments to paragraph (c)(4)(i)(B) as proposed, as the Departments’ long-standing interpretation is consistent with the requirements of section 9816(c)(3)(A)(ii) of the Code, section 716(c)(3)(A)(ii) of ERISA, and section 2799A–1(c)(3)(A)(ii) of the PHS Act. While the Departments understand commenters’ desire to batch by TPA to reduce administrative burdens and costs, doing so is not permitted under statute when the items and services are payable by different group health plans. With regard to concerns that commenters lack the information necessary to distinguish self-insured plans from their TPAs, the Departments are finalizing multiple other proposals, such as the requirement to use CARCs and RARCs, enhanced QPA disclosures, and new required data elements on the open negotiation and IDR initiation notices, that will make this information available. In addition, publicly available data in the Departments’ IDR PUFs demonstrate that self-insured plans represent a significant portion of batched disputes, indicating that providers are able to effectively batch disputes by group health plan.

iv. Batched Items and Services Must Be Related to the Treatment of a Similar Condition

Section 9816(c)(3)(A) of the Code, section 716(c)(3)(A) of ERISA, and section 2799A–1(c)(3)(A) of the PHS Act require the Departments to specify criteria under which multiple qualified IDR items and services can be batched for the purposes of encouraging efficiency (and minimizing costs), and sets forth four situations in which

¹⁰⁹ U.S. Department of Health and Human Services, U.S. Department of Labor, and U.S. Department of the Treasury. (October 2023). Technical Assistance for Certified Independent Dispute Resolution Entities, August 2022, available at <https://www.cms.gov/files/document/ta-certified-independent-dispute-resolution-entities-august-2022.pdf>.

¹¹⁰ Ibid.

batching may be permitted. In line with those requirements, the Departments proposed to amend redesignated 26 CFR 54.9816–8(c)(4)(i)(C), 29 CFR 2590.716–8(c)(4)(i)(C), and 45 CFR 149.510(c)(4)(i)(C), to permit initiating parties to batch qualified IDR items and services in three specific circumstances described below.

First, the Departments proposed that the qualified IDR item or service must be furnished to a single patient during a single patient encounter. Under proposed redesignated 26 CFR 54.9816–8(c)(4)(i)(C)(1), 29 CFR 2590.716–8(c)(4)(i)(C)(1), and 45 CFR 149.510(c)(4)(i)(C)(1), the Departments proposed that qualified IDR items and services would be considered to relate to the treatment of a similar condition when they were furnished to a single patient during the same patient encounter. The Departments proposed to define a single patient encounter as a patient encounter on one or more consecutive days during which the qualified IDR items or services were furnished to the same patient and billed on the same claim form.

Second, Departments proposed that the qualified IDR item or service must be billed under the same or comparable service code. At proposed redesignated 26 CFR 54.9816–8(c)(4)(i)(C)(2), 29 CFR 2590.716–8(c)(4)(i)(C)(2), and 45 CFR 149.510(c)(4)(i)(C)(2), the Departments proposed to reestablish, after being vacated in *TMA IV*, the provision that qualified IDR items and services would be considered to relate to the treatment of a similar condition when they were furnished to one or more patients during different patient encounters and were billed under the same service code or a comparable code under a different procedural code system, such as CPT codes with modifiers, if applicable, HCPCS with modifiers, if applicable, or DRG codes with modifiers, if applicable.

Third, the Departments proposed that qualified IDR item or service must be billed under the same Category I CPT code range for anesthesiology, radiology, pathology, and laboratory items and services, as defined by the Departments in guidance. The Departments proposed at 26 CFR 54.9816–8(c)(4)(i)(C)(3), 29 CFR 2590.716–8(c)(4)(i)(C)(3), and 45 CFR 149.510(c)(4)(i)(C)(3) that for anesthesiology, radiology, pathology, and laboratory qualified IDR items and services, items and services would be considered to relate to the treatment of similar conditions when they are furnished to one or more patients and were billed under service codes belonging to the same Category I CPT code ranges, which would be specified

in guidance published by the Departments.

The Departments are finalizing the policy at paragraph (c)(4)(i)(C) as proposed, except that they are making a few technical corrections as described in section II.E.2.a.iv.C below. Several commenters expressed general support for the Departments' proposal to reassess and broaden the criteria under which multiple qualified IDR items or services are considered related to the "treatment of a similar condition." One commenter stated the proposal would enhance the ability to batch claims, increase the efficiency of the Federal IDR process, and expand the circumstances in which it is economically feasible to submit claims to the Federal IDR process. Another commenter requested that the Departments provide additional clarifying guidance, including specific examples of the types of claims that can or cannot be batched under different scenarios (that is, furnished to the same patient and billed on the same claim form or provided to one or more patients and billed under the same or comparable code).

The Departments agree that the various provisions outlined in these final rules will expand the circumstances in which parties are able to batch items and services together when submitting claims to the Federal IDR process and will increase the efficiency of the process and reduce administrative burden and cost of accessing the process. The Departments intend to publish clarifying guidance and will take into consideration commenters' recommendations for what to include in such guidance. More specific comments and responses are discussed below.

A. Items and Services Are Considered To Relate to the Treatment of a Similar Condition if They Are Furnished To a Single Patient During the Same Patient Encounter

The Departments proposed at 26 CFR 54.9816–8(c)(4)(i)(C)(1), 29 CFR 2590.716–8(c)(4)(i)(C)(1), and 45 CFR 149.510(c)(4)(i)(C)(1) that qualified IDR items and services would be considered to relate to the treatment of a similar condition when they are furnished to a single patient during the same patient encounter (hereinafter referred to as "batching by single patient encounter"). The Departments proposed to define a single patient encounter as a patient encounter on one or more consecutive days during which the qualified IDR items or services were furnished to the same patient and billed on the same claim form.

The Departments understand from engagement with providers, medical coding professionals, and certified IDR entities that items and services furnished during a single patient encounter and billed by the same provider, facility, or provider of air ambulance services on one claim form generally relate to the treatment of the same or similar condition. The Departments have determined that the proposed definition of a single patient encounter will simplify and promote efficiency in the Federal IDR process for IDR entities and disputing parties. For example, when making a payment determination, a certified IDR entity must consider information about certain "additional circumstances" described in section 9816(c)(5)(C)(ii) of the Code, section 716(c)(5)(C)(ii) of ERISA, and section 2799A–1(c)(5)(C)(ii) of the PHS Act, if a disputing party provides information about such circumstances. These circumstances, which include the level of training, experience, and quality outcome measurements of the provider or facility that furnished the item or services, and the acuity of the individual receiving the item or service, would be the same for all items and services included in a dispute batched by patient encounter. Therefore, batching items and services by patient encounter will allow certified IDR entities to make one assessment for the additional factors for all the line items in the dispute. Batching by single patient encounter also helps the non-initiating party more readily identify relevant items or services, since each dispute would relate to a single claim form in the non-initiating party's records, as opposed to having to locate and review multiple claim forms.

The Departments further note that the finalized option for batching by single patient encounter would codify existing batching policy for providers of air ambulance services by allowing them to submit a single dispute for a patient's air ambulance transport (provided the other batching requirements are met). This approach is consistent with the *TMA III* opinion and order, which vacated provisions of the *August 2022 Technical Assistance for Certified IDR Entities* that in effect required each air ambulance service code to be submitted as a single dispute, requiring at least two separate IDR disputes for a single air ambulance transport. Under these final rules, mileage and base rates, as well as any other item or service furnished during a single air transport and billed for on the same claim form, could be batched.

The Departments requested comment on this proposal, including any data or

other information that supports or contradicts the Departments' understanding underlying this proposal.

Many commenters supported the Departments' proposal to allow batching by single patient encounter. Some commenters agreed that this proposal would improve efficiency, accuracy, and flexibility; reduce costs; and improve providers' access to the Federal IDR process. A few commenters noted that this proposal would streamline the Federal IDR process. One of those commenters agreed that much of the relevant documentation considered by a certified IDR entity would be the same for a single patient encounter, and the policy would make it easier for non-initiating parties to identify the claims involved as the dispute would relate to a single claim form. Another commenter stated that this proposal better reflects the hospital reimbursement process compared to current batching rules because hospital facility emergency and outpatient claims contracts generally do not specify payment based on one CPT code but rather the whole encounter. Another commenter stated that the proposed policy would be especially relevant for specialties with large code sets and relatively low per-code rates of reimbursement.

The Departments agree that allowing parties to batch by single patient encounter will improve efficiency and flexibility in batching, reduce costs, help streamline the batching process for these claims, and increase disputing parties' access to the Federal IDR process. The Departments also agree that this will be particularly helpful for complex cases involving multiple items and services and those involving relatively low per-code rates of reimbursement.

For air ambulance claims, a few commenters specifically supported the ability to batch the base rate and mileage for air ambulance claims as a single dispute, noting it would create efficiencies for providers and certified IDR entities through a single process. One of these commenters specifically stated they believe air ambulance claims are significantly different in substance and that lumping all claims into a singular process has led to a crisis in the processing of air ambulance claims and reimbursement. The commenter requested that the Departments recognize this structural difference and establish a separate process to initiate single disputes for implementation for air ambulance services.

The Departments agree that allowing batching by single patient encounter will create efficiencies for providers of air ambulance services, thereby

addressing some of the challenges encountered by these providers in the Federal IDR process due to differences in how claims for air ambulance services are structured. The Departments do not intend to create a separate process for providers of air ambulance services.

One commenter opposed the proposal to batch by single patient encounter. Specifically, the commenter recommended that the Departments should treat items and services furnished to a single patient in a single patient encounter and reported on a single claim form as a bundled dispute that is the subject of a single determination. This commenter further noted that the batching rules should be reserved for claims involving more than one episode of care (for example, multiple patients billed under the same code).

The Departments disagree with the commenter's recommendation that items and services furnished to a single patient during the same patient encounter should be treated as a bundled payment arrangement instead of a batched dispute. Items and services furnished during a single patient encounter generally involve multiple service codes that are subject to multiple charges. Therefore, they cannot be considered a bundled payment arrangement which, under the *August 2022 Technical Assistance for Certified IDR Entities* and as finalized in section II.E.2.b of this preamble, must involve multiple items and services under a single service code.

Several commenters suggested changes to the proposal to allow batching by single patient encounter. Some commenters made operational recommendations for implementing these proposals, such as a commenter's suggestion that there should be requirements for every line item to list the same claim number and for the initiating party to attest on the details page or the line-item page of the Federal IDR portal that all line items were provided during the same episode of care.

A few commenters recommended removing the language "consecutive dates of service" from the definition of a single patient encounter. They stated that the requirement that items and services be furnished on consecutive days is unnecessarily restrictive for specialties such as radiology. These commenters were concerned that the proposal would allow items and services for the same patient, same provider, same or consecutive days, with a different CPT code, to be batched, but would not allow for follow-

up imaging related to the same condition on non-consecutive days, even if only a few days apart. The commenter recommended removing the requirement that items and services be furnished on consecutive dates because the same 30-business-day period is already established. Similarly, a commenter recommended that the requirement for batching by single patient encounter read: "the items and services were furnished to a single patient during one or more dates of service within the already established 30-business-day batching criteria." This commenter stated the other batching requirements (including same provider TIN, same group health plan, and same 30-business-day period) would prevent this approach from being overly inclusive.

The Departments understand the commenter's concern that defining a single patient encounter as a "patient encounter on one or more consecutive days" could exclude follow-up care. However, the Departments have determined that this requirement is appropriate to not overly broaden the scope of what could be included in a batch and complicate certified IDR entities' determination of eligibility. Similarly, redefining single patient encounters to "the items and services furnished to a single patient during one or more dates of service within the already established 30-business-day batching criteria" could lead to large, unwieldy batches representing multiple episodes of care with the same patient, if, for example, the patient was readmitted to the hospital more than once in a 30-business-day period.

The Departments understand that batching by single patient encounter may not be efficient for radiology services in some cases. However, the Departments also proposed batching requirements that would allow radiology claims belonging to the same range of Category I CPT codes as defined by the Departments in guidance to be batched together, even if furnished to different patients, as described in section II.E.2.a.iv.C of this preamble. Therefore, the Departments believe that removing the requirement that a single patient encounter occur on one or more non-consecutive days is not necessary to address the commenter's concerns.

A few commenters also recommended the removal of the proposed language "billed on the same claim form." One commenter explained that radiology services can only include one physician per claim. Another commenter recommended allowing batching of multiple claims together for services rendered by neonatologists during a

single hospital stay because limiting batching to a single claim form does not conform with how services are provided and billed for in the neonatal intensive care unit.

In general, requiring items and services to be billed on the same claim form to be considered part of a single patient encounter will simplify and encourage efficiency of the Federal IDR process for disputing parties and certified IDR entities. With regard to services rendered by neonatologists during a single hospital stay, as noted above, neonatology providers have the option to submit a single dispute as a bundled arrangement if: (1) the provider, facility, or provider of air ambulance services bills for multiple items or services under a single service code; or (2) the plan or issuer makes an initial payment or notice of denial of payment to a provider, facility, or provider of air ambulance services under a single service code that represents multiple items or services (for example, a DRG). As such, the Departments do not believe it is necessary to allow batching of multiple claims for services rendered by neonatologists during a single hospital stay beyond the batching and bundling requirements that are being finalized.

A few commenters suggested the Departments consider expanding batching by single patient encounter to include multiple patients and codes when each individual patient's care was sufficiently similar and inclusive of the same codes. For example, a commenter stated if 10 patients with the same payer/provider/Metropolitan Statistical Area (MSA) combination had each received emergency medicine care represented by CPT codes 99284 and 93010, initiating parties should be allowed to submit a single batch for these 10 patient claims inclusive of both CPT codes.

The Departments do not believe that batching of multiple patient encounters would improve efficiency, as it would require certified IDR entities to review multiple patient acuties and multiple other factors affecting the payment determination, adding unreasonable complexity to the determination. Requiring that cases be “sufficiently similar” invites additional complexity and would require certified IDR entities to exercise judgement as to what is considered sufficiently similar. The purpose of paragraphs (c)(4)(i)(C)(1) through (3) is to define what “treatment of a similar condition” means to provide clarity for certified IDR entities and disputing parties, and the commenter's proposed language of “sufficiently similar” would not do so. While other

batching options (including batching together same or comparable service codes or batching together anesthesia, radiology, pathology or laboratory codes within the same Category I CPT code ranges) involve multiple patient encounters, these batching options involve the same or similar service codes within a batch. They are thus less complex compared to batching multiple patient encounters that include disparate service codes from different claims, and will ensure items and services relate to treatment of a similar condition.

A few commenters requested that the Departments provide an option for hospitals and physicians to dispute an entire claim, rather than requiring line-item detail on every disputed claim. One of the commenters noted that providers are already supplying sufficient details, including copies of the remittance advice, a copy of the UB04 claim form, and an itemized bill, so line-item detail should not be required on every dispute.

To properly evaluate disputes for eligibility and payment determinations, certified IDR entities must inspect each line item; therefore, the Departments cannot allow batched disputes to be submitted at the claim level with no line-item details. However, the Departments encourage parties submitting a dispute to the Federal IDR process to rely on single patient encounter batching when possible to simplify the burden associated with entering multiple items as some of the dispute-level information need only be entered once, as compared to splitting a claim across multiple single disputes or batches which would require entering some of the same dispute-level information multiple times.

After consideration of comments and to encourage efficiency in the Federal IDR process, the Departments are finalizing as proposed the policy under which qualified IDR items and services would be considered to relate to the treatment of a similar condition when they were furnished to a single patient during the same patient encounter at 26 CFR 54.9816–8(c)(4)(i)(C)(1), 29 CFR 2590.716–8(c)(4)(i)(C)(1), and 45 CFR 149.510(c)(4)(i)(C)(1).

B. Items and Services Are Considered To Relate to the Treatment of a Similar Condition if They Are Furnished to One or More Patients and Are Billed Under the Same or Comparable Service Code

The Departments proposed at 26 CFR 54.9816–8(c)(4)(i)(C)(2), 29 CFR 2590.716–8(c)(4)(i)(C)(2), and 45 CFR 149.510(c)(4)(i)(C)(2), to reestablish the provision that qualified IDR items and

services would be considered to relate to the treatment of a similar condition when they were furnished to one or more patients and were billed under the same service code or a comparable code under a different procedural code system, such as, if applicable: CPT codes with modifiers, Healthcare Common Procedure Coding System (HCPCS) with modifiers, or DRG codes with modifiers. As outlined in section I.B of this preamble, the District Court's decision in *TMA IV* vacated this previously established provision at 26 CFR 54.9816–8T(c)(3)(i)(C), 29 CFR 2590.716–8(c)(3)(i)(C), 45 CFR 149.510(c)(3)(i)(C) on the grounds that it violated the notice-and-comment requirement under the Administrative Procedure Act.

The Departments proposed to allow qualified IDR items or services billed under the same code or under comparable codes of different coding systems to be considered to relate to treatment of a similar condition because they essentially would be the same item or service. For example, CPT code 93000 and HCPCS code G0403 both correspond to a routine electrocardiogram (with 12 leads). This proposal was intended to simplify and encourage the efficiency of the Federal IDR process by retaining a clearly defined methodology for disputing parties and certified IDR entities to determine whether qualified IDR items and services are appropriately batched, which would contribute to the efficiency and consistency of such determinations across certified IDR entities. The Departments requested comment on this proposal.

The Departments also requested comment on whether there are circumstances in which a single provider, facility, or provider of air ambulance services would bill for the same qualified IDR item or service using different code sets or whether the proposed flexibility could potentially incentivize billing practices specifically intended to circumvent these batching rules or other requirements of the Federal IDR process. The Departments did not receive comments on this comment solicitation and are finalizing this provision as proposed.

Several commenters generally supported the proposal that qualified IDR items and services would be considered to relate to the treatment of a similar condition when they were furnished to one or more patients and were billed under the same service code or a comparable code under a different procedural code system, as described in proposed 26 CFR 54.9816–8(c)(4)(i)(C)(2), 29 CFR 2590.716–

8(c)(4)(i)(C)(2), and 45 CFR 149.510(c)(4)(i)(C)(2). Commenters described the proposed policy as an appropriate way of grouping items and services, and they noted that batching across multiple similar CPT codes could improve efficiency. One commenter stated support for this proposal, provided that multiple other ways to satisfy the requirement that items and services be “related to the treatment of a similar condition”, and that the Departments engage interested parties in implementing the rules.

The Departments agree that the proposed batching requirements that would allow batching by the same service code or comparable service code under a different procedural system would improve efficiency. The Departments also agree with the commenter’s request that there be multiple ways to satisfy the requirement that multiple items and services relate to the treatment of a similar condition, including batching by same service code or comparable code under a different procedural system. The Departments are finalizing these proposals to allow batching by the same service code or comparable code under a different procedural system because this appropriately batches items and services that represent treatment of a similar condition in a way that will improve efficiency.

C. Anesthesiology, Radiology, Pathology, and Laboratory Items and Services Are Considered To Relate to the Treatment of a Similar Condition If They Are Furnished to One or More Patients and Are Billed Under Service Codes Belonging to the Same Category I CPT Code Ranges, as Specified in Guidance

The Departments also proposed at 26 CFR 54.9816–8(c)(4)(i)(C)(3), 29 CFR 2590.716–8(c)(4)(i)(C)(3), and 45 CFR 149.510(c)(4)(i)(C)(3) that anesthesiology, radiology, pathology, and laboratory qualified IDR items and services would be considered to relate to the treatment of similar conditions when they are furnished to one or more patients and billed under service codes belonging to the same Category I CPT code ranges, which would be specified in guidance published by the Departments. As stated in the 2023 proposed rules, the Departments stated their view that, due to the variability of the conditions represented within the broad CPT Category I sub-categories (that is, Anesthesia, Cardiovascular, Diagnostic Radiology, Pathology and

Laboratory, etc.¹¹¹), batching by broad CPT Category I sub-categories would reduce, rather than promote, greater efficiency of the Federal IDR process and would be less likely to relate to the treatment of a similar condition. Thus, the Departments proposed to specify in guidance narrower ranges of CPT codes within sub-categories of CPT Category I codes that may be batched, as they would ensure items and services relate to the treatment of a similar condition, and would promote efficiency in the Federal IDR process.

Many commenters supported the proposal to allow batching for anesthesiology, radiology, pathology, and laboratory items and services under service codes belonging to the same Category I CPT code range as specified in guidance published by the Departments. Commenters stated support for permitting batching by these provider types and specialties who frequently engage with the Federal IDR process, and stated that the additional flexibility would particularly facilitate access to the Federal IDR process for lower-dollar-value claims. Commenters stated that the proposal would further the statute’s goals of encouraging procedural efficiency and minimizing administrative costs. Several commenters indicated that the proposal to permit batching by anesthesia CPT body-part range in particular would help expand the batching criteria for anesthesiology physicians, streamlining the Federal IDR process both for these providers and certified IDR entities.

After reviewing the comments received in response to proposed 26 CFR 54.9816–8(c)(4)(i)(C)(3), 29 CFR 2590.716–8(c)(4)(i)(C)(3), and 45 CFR 149.510(c)(4)(i)(C)(3), the Departments are finalizing this provision as proposed. Furthermore, under these final rules, the Departments will publish guidance for paragraph (c)(4)(i)(C)(3) in the manner set forth in the preamble to the 2023 proposed rules and as described below. However, as discussed below, the Departments have made technical corrections to the Category I CPT code ranges outlined in these final rules.

The Departments proposed to divide Category I CPT codes into ranges based on the Departments’ characterization of those codes as being related to the treatment of a similar condition. Tables 1 through 3 below detail the proposed ranges of Category I CPT sub-categories for anesthesiology, radiology, pathology, and laboratory items or services that an

initiating party may batch together within a single dispute (provided the other batching requirements are met). The Departments proposed to permit batching only of codes within these ranges for anesthesiology, radiology, pathology, and laboratory qualified IDR items and services. These specialties involve furnishing some of the most common ancillary items and services furnished by out-of-network providers that are initiated in the Federal IDR process. By using the more narrowly defined Category I CPT code spans for batched disputes, as indicated in Tables 1 through 3, the Departments could ensure that the items or services in a dispute both relate to the treatment of a similar condition and increase the efficiency of the Federal IDR process, since the associated items or services would share the clinical commonality of pertaining to patients who require diagnostic imaging, radiation oncology, similar laboratory tests, etc. The proposed code ranges include items and services performed on the same or adjacent body parts, ensuring that they relate to treatment of similar conditions.

The Departments are making technical corrections to the Category I CPT code family proposal. In the tables at paragraph II.E.2.a.iv.C. of this section, the Departments have modified the code range for the breast mammography Category I CPT code range to be 77046–77067. The Departments are also making technical corrections to code ranges to align with updates to the 2025 CPT Manual from the American Medical Association (AMA). For pathology and laboratory codes in the tables at paragraph II.E.2.iv.C. of this section, the Departments have modified the code range for the drug assay, therapeutic drug assay Category I CPT code range to delete code 83993; have modified the code range for the immunology, transfusion medicine Category I CPT code range to 8600–86849; and have modified the code range for the proprietary laboratory analysis Category I CPT code range to 0001U–0520U.

The Departments sought comment on the proposal to permit anesthesiology, radiology, pathology, and laboratory qualified IDR items and services that were furnished under service codes belonging to the same Category I CPT code section to be batched together in a single dispute, within the proposed Category I CPT code spans for batched disputes. The Departments also requested any data or other information that supports or contradicts the Departments’ understanding underlying the proposal.

After reviewing comments received, the Departments are finalizing the

¹¹¹ See full list of CPT Category I sub-categories in *Current Procedural Terminology*, 2026. (American Medical Association; 2025).

proposed ranges of Category I CPT sub-categories for anesthesiology, radiology, pathology, and laboratory items or services as detailed in Tables 1 through 3 to be published in guidance. However, the Departments will make technical corrections to some code ranges as described above, and will include in such guidance the appropriate ways to batch or bundle the four anesthesia add-on codes that function as modifiers.

Several commenters in support of the proposed ranges of Category I CPT sub-categories stated that, if batching were permitted by the full Category I division (that is, Evaluation and Management, Anesthesia, Surgery, Radiology, Pathology & Laboratory, or Medicine), it would add variability and thus further complicate the certified IDR entities' determinations. One commenter opposing the proposal requested that batching instead be permitted by provider specialty.

The Departments acknowledge commenters' suggestions and feedback on the proposed Category I CPT code ranges. The Departments agree with commenters that batching by the full Category I division of codes would be overly broad, add unwanted variability to the process, and thus further complicate certified IDR entities' ability to determine eligibility. Batching by specialty would also be overly broad and would likely lead to dissimilar conditions included in the same batch, which is impermissible by statute, complicating certified IDR entities' ability to evaluate the dispute for an appropriate out-of-network amount. For example, if the Departments permitted batching across the entirety of the Category I CPT code subcategory for radiology, an individual dispute could contain an X-ray of the eye for detection of a foreign body (CPT code 70030), a bilateral screening mammography (CPT code 77067), and simple intensity modulated radiation treatment delivery (CPT code 77385). It is the Departments' view that such disparate services cannot be considered to relate to the treatment of a similar condition, as is required under statute.

Several commenters suggested changes to the policy to permit batching of items and services by Category I CPT code range related to radiology and anesthesiology. A few of these commenters noted that batching by the 27 Category I CPT code ranges of the radiology division, in which CPT codes are grouped according to body parts, would add complexity and impose a greater burden on providers and certified IDR entities in identifying the eligibility of the items and services and determining if they were properly batched. One

commenter stated that the sub-categories are not medically based and that there is no medical reason to separate out types of imaging by modality as the 27 sub-categories reflect. Another commenter noted that the sub-categories do not align with standard clinical practice since all diagnostic exams may be used together (for example, ultrasounds are frequently used in conjunction with radiographs, CT, and MRI).

One commenter stated that the Departments should ensure that the appropriate clinical expertise is obtained from the national medical specialty societies as to how feasible the proposed subcategories would be and whether there are alternative categories that may be more practical and efficient for radiologists, pathologists, and anesthesiologists than those proposed in the 2023 proposed rule.

A few commenters requested that the Departments allow items and services within the same four categories of CPT codes to be batched together: diagnostic radiology, interventional radiology, nuclear medicine, and radiation oncology. Some of these commenters further noted that these four categories align with Medicare's existing specialty classification system, with a few of these commenters stating that this would better align clinical practice with the statute.

Another commenter specifically stated that the Departments' proposed groupings by body part is not a good way to identify similar services for purposes of batching. One commenter stated that, within most of the proposed sub-categories, there are x-rays that might involve a \$10 payment to the radiologist, MRIs that might involve a \$100 payment, and other modalities with charges between \$10 and \$100. This commenter suggested that a more reasonable approach would be to group by imaging modality (e.g., CT, MRI, ultrasound, mammography, and x-ray/radiography), where appropriate payment amounts and other relevant facts are more likely to be similar.

In response to commenters who suggested broader batching for particular Category I CPT code ranges, including for diagnostic radiology, interventional radiology, nuclear medicine, radiation oncology, and imaging modality, the Departments note that the Category I CPT code ranges proposed are derived from the AMA CPT code manual. Accordingly, these ranges are medically based, as they are based on standardized AMA definitions and are widely used and accepted. In addition, batched items and services with broader Category I CPT code

ranges, as suggested by some commenters, would not be related to the treatment of a similar condition because they would likely represent a wider range of dissimilar conditions, even if batching such items and services would lead to greater efficiencies for certain types of providers (for example, radiology providers).

One commenter objected to the fact that the Department's proposal to allow items and services in the same Category I CPT code range to be batched together would not allow an x-ray of the orbit performed before an MRI (such as before a breast MRI) and a screening mammogram to be batched together because they belong to different Category I CPT code ranges. The commenter stated that these two services are related to the treatment of a similar condition (a radiologic diagnosis) and are frequently interpreted by the same radiology practice (or even same radiologist), often on the same day. The commenter agreed that it is reasonable to separate CPT 77385, a radiation treatment code, from the diagnostic radiology codes, and that interventional radiology and nuclear medicine should be separated from diagnostic radiology and radiation oncology codes.

The Departments recognize that standard clinical practice may require the use of multiple diagnostic exams for a single patient that correspond to certain radiology code ranges, such as, in the example provided by a commenter, when a provider furnishes an x-ray of the orbit and a screening mammogram. In such situations, the items and services could likely be batched by single patient encounter instead of CPT code range, as described in 26 CFR 54.9816–8 (c)(4)(i)(C)(1), 29 CFR 2590.716–8(c)(4)(i)(C)(1), and 45 CFR 149.510(c)(4)(i)(C)(1) of these final rules. The Departments also note that multiple orbit bone x-rays could be batched together, while multiple screening mammograms could be batched together under 29 CFR 2590.716–8(c)(4)(i)(C)(3) and 45 CFR 149.510(c)(4)(i)(C)(3).

One commenter stated that the Departments should allow the four anesthesia add-on codes (99100, 99116, 99135, 99140) to also be batched with the code or codes for the underlying anesthesia services. The commenter noted that these four codes describe various qualifying circumstances such as age or hypothermia that complicate the furnishing of anesthesia services and accordingly entitle the provider to additional reimbursement. The commenter emphasized that the four

anesthesia add-on codes function as modifiers and should be treated as such.

The Departments agree with the commenter that the four anesthesia add-on codes (99100, 99116, 99135, 99140) function as modifiers and should be treated as such. These codes represent qualifying circumstances such as age, hypothermia, hypotension, or emergency conditions and would not be reported alone but would be reported as additional procedure numbers qualifying an anesthesia procedure or service. Therefore, it would be appropriate to batch or bundle these anesthesia add-on codes together with the underlying anesthesia code. The Departments plan to publish guidance on appropriate ways to batch or bundle these add-on codes.

One commenter indicated that the numbers for “Breast Mammography” included in Tables 2 through 5 of the 2023 proposed rules are reversed, and should read 77067—77076, rather than 77076—77067. Upon further investigation, the Departments have determined that the correct range for breast mammography is 77046—77067, as shown in Table 1.

The Departments also proposed that they would establish descriptions of each sub-category of CPT codes, and would update in guidance periodically as necessary the allowable ranges of

service codes belonging to the same CPT sub-category for purposes of batching under proposed 26 CFR 54.9816–8(c)(4)(i)(C)(3), 29 CFR 2590.716–8(c)(4)(i)(C)(3), and 45 CFR 149.510(c)(4)(i)(C)(3). CPT codes are defined in the AMA’s “CPT Manual,” which is updated and published annually. The AMA releases the CPT manual in the fall of each year to precede their January 1st effective date. The Departments proposed that they would review the modifications made to the CPT manual once available and determine if the modifications necessitate updates to the Category I CPT code spans for batched disputes based on the Departments’ interpretation of the pre-existing descriptive categories with which a new Category I CPT code most closely aligns. The Departments are finalizing this provision as proposed.

Commenters supported the Departments’ proposal to periodically update through guidance the permissible ranges of service codes that may be batched, recommended that interested parties be given the opportunity to submit comments in response to such initial guidance, and suggested that interested parties should be allowed up to 12 months to incorporate any new requirements once approved by the Departments, as payers,

providers, and certified IDR entities will need to adopt administrative and operational changes to implement the CPT code ranges.

The Departments appreciate feedback from interested parties and understand the importance of ongoing engagement on updates to guidance materials. In publishing future guidance, as noted above, the Departments will review updates to the AMA’s CPT Code Manual and make corresponding changes as appropriate, but these code ranges typically do not undergo substantial changes year over year. The AMA typically updates the CPT Code Manual in the fall to allow parties to implement changes, with codes becoming effective January 1st of the following year. When changes are needed, the Departments will issue guidance without delay and will take feedback received from interested parties into consideration when producing this guidance. As such, the CPT code flexibility to allow batching by Category I CPT code ranges outlined in these final rules, solicitation of comment for the baseline code ranges, and consideration of comments in future guidance sufficiently address commenters’ concern regarding the need for a comment period on such guidance.

BILLING CODE 6325–63–4831–GV–4510–29–4120–01–4150–28–P

TABLE 1: Radiology CPT Code Spans for Permissible Batched Determinations-Level I HCPCS Codes (CPT)

Code Span		Description
Level I HCPCS Codes (CPT)		
Diagnostic Radiology (Imaging)		
Diagnostic Radiology (Imaging)	70010 - 71555	Head and Neck, Chest
	72020 - 72295	Spine and Pelvis
	73000 - 73725	Upper Extremities, Lower Extremities
	74018 - 74363	Abdomen, Gastrointestinal Tract
	74400 - 74775	Urinary Tract, Gynecological and Obstetrical
	75557 - 75989	Heart, Vascular
	76000 - 76499	Other Procedures
	R0070 - R0076	Transportation, Portable Radiology Equipment
Diagnostic Ultrasound		
Diagnostic Ultrasound	76506 - 76642	Head and Neck, Chest
	76700 - 76776	Abdomen and Retroperitoneum
	76800 - 76873	Spinal Canal, Pelvis, Genitalia
	76881 - 76886	Extremities
	76392 - 76965	Ultrasonic Guidance Procedures
	76975 - 76999	Other Procedures
Radiologic Guidance		
Radiologic Guidance	77001 - 77003	Fluoroscopic Guidance
	77011 - 77014	CT Guidance
	77021 - 77022	MRI Guidance
Breast Mammography		
Breast Mammography	77046 - 77067 ¹¹²	Mammography
Bone/Joint Studies		
Bone/Joint Studies	77071 - 77092	Bone/Joint Studies
Radiation Oncology		
Radiation Oncology	77261 - 77370	Clinical Treatment Planning, Medical Radiation Physics
	77371 - 77425	Stereotactic Radiation Treatment Delivery, Other, Radiation Treatment Delivery, Neutron Beam Radiation Delivery
	77427 - 77499	Radiation Treatment Management
	77520 - 77525	Proton Beam Treatment Delivery
	77600 - 77620	Hyperthermia, Clinical Intracavitary Hyperthermia
	77750 - 77799	Clinical Brachytherapy
Nuclear Medicine		
Nuclear Medicine	78012 - 78999	Diagnostic Nuclear Medicine
	79005 - 79999	Therapeutic Nuclear Medicine

TABLE 2: Pathology and Laboratory CPT Code Spans for Permissible Batched Determinations

Code Span		Description
Level I HCPCS Codes (CPT)		
Pathology and Laboratory Diagnostic Radiology (Imaging)		
	80047 - 80081	Organ or Disease Oriented Panels
	80305 - 80377, ¹¹³ 80143 - 80299	Drug Assay, Therapeutic Drug Assay
	80400 - 80439	Evocative Suppression Testing
	80503 - 80506	Pathology Clinical Consultations, Molecular Pathology
	81105 - 81383	Molecular Pathology Tier I
	81400 - 81408, 81479	Molecular Pathology Tier II
	81410 - 81471, 81490 - 81599	Genomic Sequencing and Other Molecular Multianalyte Assays, Multianalyte Assays with Algorithmic Analysis
	81000 - 81099	Urinalysis
	82009 - 84999	Chemistry
	85002 - 85999	Hematology and Coagulation
	86000 ¹¹⁴ - 86849, 86850 - 86999	Immunology, Transfusion Medicine
	87003 - 87999	Microbiology
	88104 - 88199, 88230 - 88299	Cytopathology and cytogenetic studies
	88000 - 88099	Anatomic Pathology
	88300 - 88399	Surgical Pathology
	88720 - 88749, 89049 - 89240	In Vivo, Other Procedures
	89250 - 89398	Reproductive Medicine Procedures
	0001U - 0520U ¹¹⁵	Proprietary Laboratory Analysis
	P2028 - P2038, P3000 - P3001, P7001, P9603 - P9604, P9612 - P9615	Laboratory Tests of Blood and Hair, Pap Smears, Urine Bacterial Culture and Sensitivity Studies, Specimen Collection Travel Allowance, Specimen Collection, Catheterization
	P9010 - P9100	Blood and Blood Products

¹¹² As discussed above, the Departments are correcting and amending 77076 through 77067 to 77046 through 77067.

¹¹³ As discussed above, the Departments are deleting code 83992 to align with the 2025 CPT Manual.

¹¹⁴ As discussed above, the Departments are correcting the code range to 86000 through 86849 to align with the 2025 CPT Manual.

¹¹⁵ As discussed above, the Departments are correcting the code range to 0001U through 0520U to align with the 2025 CPT Manual.

TABLE 3: Anesthesiology CPT Code Spans for Permissible Batched Determinations

Code Span		Description
Level I HCPCS Codes (CPT)		
Anesthesiology		
	00100 - 01999	Anesthesia
	00100 - 00222	Head
	00300 - 00352	Neck
	00400 - 00474	Thorax (Chest Wall and Shoulder Girdle)
	00500 - 00580	Intrathoracic
	00600 - 00670	Spine and Spinal Cord
	00700 - 00797	Upper Abdomen
	00800 - 00882	Lower Abdomen
	00902 - 00952	Perineum
	01112 - 01173	Pelvis (Except Hip)
	01200 - 01274	Upper Leg (Except Knee)
	01320 - 01444	Knee and Popliteal Area
	01462 - 01522	Lower Leg (Below Knee, Includes Ankle and Foot)
	01610 - 01680	Shoulder and Axilla
	01710 - 01782	Upper Arm and Elbow
	01810 - 01860	Forearm, Wrist and Hand
	01916 - 01942	Radiological Procedures
	01951 - 01953	Burn Excisions or Debridement
	01958 - 01969	Obstetric
	01990 - 01999	Other Procedures

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The Departments solicited comment in the 2023 proposed rules on whether there were other Category I CPT code subsections (for example, Medicine and Surgery) that would satisfy the statutory requirements that batched items and services relate to the treatment of a similar condition and encourage efficiency of the Federal IDR process. The Departments did not receive comments on this request.

The Departments also sought comment on whether there are ways to provide additional batching flexibility for emergency department services in a way that mitigates the Departments' concerns that claims for treatment of dissimilar conditions would be batched, and that would promote the efficiency of the Federal IDR process. For example, the Departments sought data or estimates related to a potential decrease in the number of disputes involving emergency department services that would be submitted to the IDR process if emergency department providers were permitted to batch items and services across the five evaluation and management Level I CPT codes. The

Departments sought estimates that these efficiencies could be gained without a commensurate increase in the diversity of documentation that certified IDR entities would need to review to evaluate disputes related to different, but similar conditions.

Several commenters responded to the Departments' comment solicitation on whether there are ways to provide additional batching flexibility for emergency department services. Several commenters generally opposed the Departments' decision not to allow emergency medicine specialists who furnish items or services with certain Category 1 CPT code sections to batch such items and services. These commenters stated that significant efficiencies could be gained in allowing batching by emergency medicine services within certain Category I CPT code sections and argued that the proposed requirements that would not allow batching by emergency medicine visits pose a significant barrier for entry into the Federal IDR process. They added that low payments on out-of-network claims for emergency medicine evaluation and management services

may be financially significant in the aggregate but are not cost-effective to dispute on an individual basis.

Additionally, several commenters urged the Departments to provide additional batching flexibility for emergency department services through different methods. Several commenters urged the Departments to either permit batching of evaluation and management CPT codes across levels or allow batching of all emergency medicine evaluation and management codes together, with the suggested alternative that the Departments allow certain codes, including critical care codes (CPT 99284-99285 and CPT 99291-99292) to be batched together in a single dispute. Other commenters suggested batching emergency medicine levels 1-3 together (CPT 99281-99293) and emergency medicine levels 4-5 (CPT 99284-99285), or Levels 4-5 and critical care codes together. Another commenter urged the Departments to allow batching for an emergency medical condition as defined in the No Surprises Act and according to the Act's statutory prudent layperson standard. A few commenters stated that all patients presenting to the

emergency department will receive the required evaluation and clinical stabilization mandated under the Emergency Medical Treatment & Labor Act (EMTALA), regardless of the CPT code that is ultimately billed. Thus, the commenters claimed that the patient's condition and the provider's approach to treating the patient are effectively the same, and the items and services represented by all CPT codes 99281–99285 would be similar. Finally, another commenter opposed batching multiple emergency medicine CPT codes together, stating that there is likely to be confusion among certified IDR entities in determining the proper level of coding for a given service. The commenter recommended the Departments retain single-CPT batching for emergency medicine.

The Departments maintain that batching multiple emergency medicine evaluation and management codes together, or batching of a “family” of emergency services or emergency medical conditions together, would not satisfy the statutory directive under section 9816(c)(3)(A)(iii) of the Code, section 716(c)(3)(A)(iii) of ERISA, and section 2799A–1(c)(3)(A)(iii) of the PHS Act that items and services within a batch must be related to the treatment of a similar condition. The variability of the conditions that are represented across the emergency medicine evaluation and management CPT codes would increase the likelihood for dissimilar conditions to be batched. For instance, if CPT codes 99281–99285 could be batched together, one batched dispute could contain items and services related to such diverse situations as an insect bite and a heart attack. This would still be true even if batching emergency medicine levels 1–3 together (CPT 99281–99293) and emergency medicine levels 4–5 (CPT 99284–99285), or Levels 4–5 and critical care codes together. For example, if two high level emergency medicine evaluation and management codes (99284, 99285) or two critical care codes (99291, 99292) could be batched together, the conditions represented in one batched dispute could include such diverse situations as a patient evaluated for an acute myocardial infarction, respiratory distress, electrocution, or poisoning. Additionally, if permitting batching of multiple emergency medicine evaluation and management codes were permitted under statute, doing so would likely cause significant confusion for certified IDR entities when making eligibility and payment determinations because the dissimilar conditions represented in the batch

would involve significant variation across the factors the certified IDR entity must assess including the acuity of the patient and the level of training and experience of the provider.

The Departments reiterate that the disputing parties are permitted to batch groups of emergency services or emergency medical conditions under 29 CFR 2590.716–8(c)(4)(i)(C)(1) and 45 CFR 149.510(c)(4)(i)(C)(1) of these final rules, provided that they were furnished to a single patient during the same patient encounter.

The Departments do not agree with commenters' argument that all patients presenting to the emergency department will receive the required evaluation and clinical stabilization mandated under the EMTALA, regardless of the CPT code that is ultimately billed, and therefore that all emergency medicine items and services should be permitted to be batched. While it may be true that all patients presenting to an emergency department subject to EMTALA receive a required evaluation and clinical stabilization, they may receive it for very different medical conditions, and such clinical stabilization may encompass very different items and services. Therefore, the Departments disagree that batching all emergency medicine items and services would be consistent with the statutory requirement that batched items be related to the treatment of a similar condition.

The Departments also sought comment on whether there are any items and services similar to pathology, radiology, and laboratory qualified IDR items and services to which this policy should apply. For example, the Departments sought comment on whether additional batching flexibility, consistent with the statutory requirements, is necessary or appropriate for providers of lower-dollar items or services other than laboratory, pathology, or radiology services, to remove impediments and promote reasonable access to the Federal IDR process.

In response, one commenter requested the Departments consider establishing an alternative method for batching claims with the same plan or issuer for multiple patients when the services provided to those patients involve intraoperative neuromonitoring (IONM) modalities, all of which utilize the same 10 or less CPT codes. The commenter explained that if an IONM provider wants to initiate a Federal IDR dispute against a plan or issuer for multiple patients, all of whom underwent a spine surgery and received the same or similar IONM modalities, that IONM provider

must initiate multiple IDR disputes, one for each CPT code. The commenter stated there is a high probability that a range of CPT codes specific to IONM services would relate to the treatment of a similar condition, similar to the proposed ranges for anesthesiology, radiology, pathology, and laboratory items or services, and thus involve clinical commonalities that, when batched together, increase the efficiency of the Federal IDR process.

The Departments acknowledge the commenter drawing attention to IONM modalities as a method of batching. However, much like the evaluation and management emergency medicine codes, IONM code ranges represent a variety of examinations or monitoring techniques that could apply broadly to many different conditions. For instance, there are only three IONM codes (95940, 95941, and G0453) and they could be used for monitoring neurological function in a range of different surgeries including spinal, vascular, orthopedic and brain surgeries. Unlike anesthesiology, radiology, pathology and laboratory services, it is not possible to define narrower code ranges of IONM services related to body part or modality that would ensure the items or services in these code ranges represent similar conditions. Therefore, the Departments have determined that batching by IONM code as the commenter suggested would increase the likelihood that batches would not be related to the treatment of a similar condition, and are not adopting the recommendation to incorporate IONM code ranges into the available Category I CPT code ranges finalized in these rules and issued in future guidance.

The Departments also requested comment on the proposed pathology and laboratory Category I CPT code spans for batched disputes. Specifically, the Departments solicited comment on whether Organ or Disease Oriented Panels, Urinalysis, and Chemistry Category I CPT codes should be combined for batched disputes. The Departments also solicited comment on whether and how items and services that share the same anesthesia conversion factor could be considered to relate to the treatment of similar conditions and, if so, how batching by anesthesia conversion factor could meaningfully encourage efficiency in the Federal IDR process.

Several commenters urged the Departments to provide flexibility to batch anesthesia services that share the same conversion factor, expressing that the proposed rules remain overly restrictive for anesthesia providers. Commenters emphasized that anesthesia

is unlike other medical specialties in several ways: (1) billing and payments for disparate anesthesia procedures are based on the same conversion factor, not the same CPT code; (2) while the CPT code categories describe the location where the surgery or procedure is performed, the location of the surgery or procedure is not directly relevant to the anesthetic care that is being provided; and (3) there is no manifestation of the underlying condition on the calculation of the anesthesia professional service fee. Commenters therefore concluded that batching by CPT code group for anesthesia services is far less consistent with the statute than batching by conversion factor, and that disputing parties are seeking a determination on the out-of-network rate for the anesthesia conversion factor rather than the CPT or similar code.

Commenters urged the Departments to consider the concept of “similar condition” in unique ways. One commenter noted that the Departments should look at the conditions treated by anesthesiologists when determining statutorily appropriate batching criteria. The commenter explained that general anesthesia treats the condition of a patient being under the effects of general anesthesia, regional anesthesia treats the condition of a patient being under the effects of regionalized anesthesia, pain management treats the condition of chronic pain (regardless of the pain’s originating source), and so forth. The commenter stated that these different anesthesia categories have different CPT codes but treat similar conditions.

Another commenter stated that “similar condition” itself could be generalized to include all patients who require or need anesthesia to allow them to receive necessary care. They explained that anesthesia is applied and used with the same intent regardless of the procedure being performed, the body part involved in the procedure, or the patient’s underlying disease or condition. One commenter interpreted the term “similar condition” to include the need for blunting of pain, movements, autonomic responses and memory or consciousness as well as the need to achieve an anesthetic state which renders the patient unaware and insensate so that an invasive therapeutic or diagnostic procedure can be completed.

Batching by anesthesia conversion factor may not necessarily be related to the treatment of a similar condition, as required by section 9816(c)(3)(A)(iii) of the Code, section 716(c)(3)(A)(iii) of ERISA, and section 2799A–1(c)(3)(A)(iii) of the PHS Act, or

encourage efficiency. The suggestion that general anesthesia, regional anesthesia, and pain management could be categories of anesthesia that treat similar conditions fails to consider that general anesthesia could apply broadly to a significant number of medical procedures, and regional anesthesia and pain management could apply to virtually anywhere in the body. The Departments maintain that anesthesia care with the same conversion factor may often relate to dissimilar conditions. It is the Departments’ understanding that conversion factors would be identical for every out-of-network service furnished by an anesthesiologist provider or provider group, and therefore all anesthesiologist services would be permitted to be batched (provided they meet the other batching requirements), which would render 9816(c)(3)(A)(iii) of the Code, section 716(c)(3)(A)(iii) of ERISA, and section 2799A–1(c)(3)(A)(iii) of the PHS Act meaningless.

Permitting anesthesiology qualified IDR items and services that were furnished under service codes belonging to the same Category I CPT code section to be batched will allow anesthesiologists to batch items and services within a related body-part code group, which will ensure the items and services relate to the treatment of a similar condition. Since anesthesia on a particular body part would be related to a similar condition and the payment considerations a certified IDR entity would evaluate would be similar, batching by Category I CPT code section would increase efficiency and satisfy commenters concerns about the ability to effectively batch anesthesia codes together.

Batching based on CPT code categories will lead to greater efficiency under 29 CFR 590.716–8(c)(4)(i)(C)(3) and 45 CFR 149.510(c)(4)(i)(C)(3) of these final rules, more closely align with the statutory requirement that batched items and services relate to the treatment of a similar condition, and lead to less variability among the items and services and factual circumstances that certified IDR entities must consider. Therefore, Departments are not adopting batching by anesthesia conversion factor.

Overall, these batching rules will facilitate access to the Federal IDR process considering the relative costs and administrative burden associated with participating. Consistent with feedback from interested parties, these rules will also allow providers of lower-dollar qualified IDR items and services, such as providers of anesthesiology, radiology, pathology, and laboratory

items or services, to batch more services than were permitted under the October 2021 interim final rules. These final rules will improve the efficiency of the Federal IDR process while avoiding new operational complexities that could create or exacerbate dispute backlogs.

v. Batched Items and Services Must Have Been Furnished Within the Same Time Period

Finally, the Departments proposed at 26 CFR 54.9816–8(c)(4)(i)(D), 29 CFR 2590.716–8(c)(4)(i)(D), and 45 CFR 149.510(c)(4)(i)(D) that, to be batched, qualified IDR items and services must have been furnished within the same 30-business-day period following the date on which the first item or service included in the batched dispute was furnished and have been the subject of a 30-business-day open negotiation period that ended within four business days of IDR initiation, except as provided in proposed 26 CFR 54.9816–8(c)(5)(vii)(B), 29 CFR 2590.716–8(c)(5)(vii)(B), and 45 CFR 149.510(c)(5)(vii)(B), which refer to the 90-calendar-day “cooling off period.” This is consistent with section 9816(c)(3)(A)(iv) of the Code, section 716(c)(3)(A)(iv) of ERISA, and section 2799A–1(c)(3)(A)(iv) of the PHS Act and is, in effect, the same as the current regulations at 29 CFR 2590.716–8(c)(3)(i)(D) and 45 CFR 149.510(c)(3)(i)(D).¹¹⁶ The Departments also proposed technical amendments at 26 CFR 54.9816–8(c)(4)(i)(D), 29 CFR 2590.716–8(c)(4)(i)(D), and 45 CFR 149.510(c)(4)(i)(D) to both remove the redundant language about the 90-calendar-day cooling off period and correct the cross-reference to paragraph 26 CFR 54.9816–8T(c)(5)(vii)(B), 29 CFR 2590.716–8(c)(5)(vii)(B), and 45 CFR 149.510(c)(5)(vii)(B). The Departments did not propose any alternative time periods to the 30-business-day period during which items and services must be furnished to be batched together.

The Departments also considered using their statutory waiver authority under section 9816(c)(9) of the Code, section 716(c)(9) of ERISA, and section 2799A–1(c)(9) of the PHS Act to shorten the 90-calendar-day cooling off period, as specified in 26 CFR 54.9816–8T(c)(5)(vii)(B), 29 CFR 2590.716–8(c)(5)(vii)(B), and 45 CFR 149.510(c)(5)(vii)(B), to between 1 to 30 business days for batched disputes. The Departments also sought comment on alternative lengths of the cooling off period for batched disputes, including zero days. These changes would also

¹¹⁶ This is a non-substantive editorial change to the current regulations.

require the Departments to change the reference to the “90-calendar-day cooling off period” specified at proposed 26 CFR 54.9816–8T(c)(4)(i)(D), 29 CFR 2590.716–8(c)(4)(i)(D), and 45 CFR 149.510(c)(4)(i)(D).

After consideration of comments, the Departments are finalizing as proposed the amendments and technical corrections at 26 CFR 54.9816–8(c)(4)(i)(D), 29 CFR 2590.716–8(c)(4)(i)(D), and 45 CFR 149.510(c)(4)(i)(D). The Departments are also using the statutory waiver authority under section 9816(c)(9) of the Code, section 716(c)(9) of ERISA, and section 2799A–1(c)(9) of the PHS Act to reduce the 90-calendar-day cooling off period at 26 CFR 54.9816–8(c)(5)(vii)(B), 29 CFR 2590.716–8(c)(5)(vii)(B), and 45 CFR 149.510(c)(5)(vii)(B) to 30 business days specifically for batched disputes to mitigate concerns raised by the Departments and commenters regarding the complexities of applying the cooling off period to payment determinations for batched disputes, as well as conforming edits at 26 CFR 54.9816–8(c)(5)(vii)(C), 29 CFR 2590.716–8(c)(5)(vii)(C), and 45 CFR 149.510(c)(5)(vii)(C).

Several commenters urged the Departments to allow items and services furnished during a time period longer than 30 business days from the date the first item or service was furnished to be batched. A few commenters stated the 30-business-day timeline is insufficient to promote efficiency and reduce administrative costs for the disputing parties, and that permitting batching for items and services furnished during longer timeframes, such as 90 business days, would increase efficiency and better align with care episodes. Another commenter recommended that the only service date limitation on a large batch of the same service code or batch of service codes in the same Category I CPT code range be that dates of service occur in the same calendar year, in view of the fact that QPAs are generally fixed per calendar year.

Other comments expressed concerns about the way batching works in practice. One commenter stated that providers may hold claims from the beginning of a 30-business-day period longer than may be necessary and then rush to submit claims to open negotiation and the IDR process from the end of the same 30-business-day period, all to ensure that the IDR initiation timeline is met following the end of the open negotiation period. Another commenter stated it was not unusual for plans and issuers to delay payment on certain claims, or reprocess at a later date, so that such claims

cannot be placed into a 30-business-day batch or an economical size.

Another commenter recommended removing the language at 26 CFR 54.9816–8(c)(3)(i)(D), 29 CFR 2590.716–8(c)(3)(i)(D), and 45 CFR 149.510(c)(3)(i)(D) which says batched items and services must be furnished within the same 30-business-day period, or the same 90-calendar-day period under paragraph (c)(4)(vi)(B), as applicable, because it suggests that all items and services furnished during a 90-calendar day cooling off period may be batched together. The commenter noted that the statute requires items and services to be furnished within 30 business days of the first batched item or service and there is no authorization to expand this timeframe limitation.

In response to these comments, the Departments note that the 30-business day time period is set in statute and cannot be altered absent extenuating circumstances. With regard to the Departments’ consideration of shortening the cooling off period of batched disputes, section 9816(c)(9) of the Code, section 716(c)(9) of ERISA, and section 2799A–1(c)(9) of the PHS Act, provides that the Departments may modify any deadline or timing requirement under subsection (c) (other than the establishment of the IDR process and the timing of payment to prevailing parties) “. . . to ensure that all claims that occur during a 90-day period following a payment determination for which a notification is not permitted to be submitted during such period by reason of the cooling off period requirements are eligible for the Federal IDR process”. The Departments stated they were considering using this statutory waiver authority to shorten the 90-calendar-day cooling off period for qualified IDR items and services for which a certified IDR entity makes a payment determination as part of a batched dispute. In particular, the Departments considered shortening the cooling off period for batched disputes to between 1 to 30 business days. This would allow certain items and services that would otherwise be ineligible for the Federal IDR process during the 90-calendar day cooling off period to be eligible, and create efficiencies for the disputing parties, certified IDR entities, and the Federal IDR process.

The Departments sought comment on their use of the statutory waiver authority to shorten the cooling off period to between 1 and 30 business days for batched disputes and alternative time periods the Departments should consider for the cooling off period in this circumstance.

The Departments also solicited comment on the application of the cooling off period for a dispute consisting of multiple items and services batched by single patient encounter or CPT code ranges. For example, if provider X submitted a notice of IDR initiation that included as part of a batched dispute a single view x-ray of the abdomen (CPT code 74018) to payer Y, and the certified IDR entity made a determination on the dispute, should provider X be allowed to submit another dispute within the 90-day period following such determination that involves a single view x-ray of the abdomen (CPT code 74018) to payer Y? The Departments stated that, under the proposed batching rules, the 90-calendar-day cooling off period could result in operational challenges both to disputing parties and certified IDR entities. In the example above, provider X would have to remove an x-ray of the abdomen (CPT code 74018) from any subsequent notices of IDR initiation to payer Y within the 90-calendar-day period following such determination. If it does not, then those services would be found ineligible by the certified IDR entity and removed from the dispute, while the remaining eligible items or services in the batch would proceed in the Federal IDR process. Where subsequent disputes involve larger numbers of items or services, as is often the case with disputes batched by single patient encounter, this could be extremely burdensome. It would also be burdensome for certified IDR entities who would have to determine that none of the items or services submitted in a batched dispute are subject to the cooling off period.

Some commenters have highlighted that since cooling off periods are allowed to overlap, providers may be required to wait multiple years before the Federal IDR process could be initiated against high volume plans and issuers. This may occur when a party initiates a dispute, and, before a payment determination is made, the party initiates another dispute with respect to the same other party and item or service. In this situation, both determinations will trigger a 90-calendar-day cooling off period, beginning on the date of each payment determination, for subsequent disputes involving the same parties and the same item or service. If the same party initiates a third dispute with respect to the same other party and item or service before a determination on the first two has been made, the dispute will trigger a third 90-calendar-day cooling off

period beginning on the date of payment determination.

As such, when numerous disputes involving the same parties and same item or service are submitted in quick succession, this can result in a “stacking” of cooling off periods whereby one begins before the previous one has ended.

Several commenters stated that the 90-calendar-day cooling off period would present numerous operational, resource, and efficiency challenges, especially for multiple items and services batched by patient encounter or CPT code ranges.

Another commenter noted that, based on the language in the statute, the cooling off period does not apply to batched disputes. A few commenters expressed that extending a cooling off period beyond 90 days of the first decision rendered was not contemplated by the statute, even in the case that another decision is rendered during an existing cooling off period, such that no stacked or overlapping of cooling off periods could lead to delays lasting months or years. One of these commenters stated they could imagine scenarios where significant time is spent by physician practices removing single services from batched submissions to meet the “cooling off” requirements. Another commenter also believed that the same concerns about overlapping cooling off periods and significant delays apply for single and bundled disputes.

Another commenter stated that inconsistent interpretations by various certified IDR entities around when and to which parties and claims the cooling off period applies has led to inefficiencies in the Federal IDR process and unnecessary administrative burden. The commenter stated that some certified IDR entities require multiple cooling off periods for claims, which results in certain claims being subject to a perpetual state of “cooling off.” The commenter recommended that the Departments provide clear guidance about the application of a cooling off period that the certified IDR entities can apply consistently. The commenter also suggested that the Federal IDR portal should include information to allow for the identification and screening of parties and qualified IDR items and services that are subject to the cooling off period.

A few commenters suggested that parties should be required to provide all elements needed to assess the cooling off period, such as proof of payment determination that triggered the cooling off period, and that the Departments should state that if any of the required

elements are not provided by the party asserting the cooling off period, then the cooling off period will not apply. One of these commenters recommended that the cooling off period not apply at all for batched disputes involving different service codes, including batched disputes based on a single patient encounter.

Many commenters supported the proposal for the Departments to use their statutory waiver authority to reduce the length of the 90-day cooling off period for batched disputes, which would aid in reducing complexity and inefficiency in the Federal IDR process. Several commenters supported the Departments shortening the cooling off period from 90 calendar days to 1 business day for all disputes, and some supported the same change only for batched disputes. A few commenters supported the elimination of the cooling off period altogether.

Several commenters supported the Departments shortening of the cooling off period for all disputes to between 30 and 45 business days, with one specifying this should apply to non-batched or single code batched disputes. Additionally, a few commenters supported reducing the cooling off period further to between 1 and 30 business days, with suggestions to limit the timeframe to no more than 10 days or even as short as 7 days.

After review of comments, the Departments have determined that to encourage the efficiency of the Federal IDR process, the Departments should exercise their waiver authority in section 9816(c)(9) of the Code, section 716(c)(9) of ERISA, and section 2799A-1(c)(9) of the PHS Act to reduce the length of the cooling off period to 30 business day for batched disputes. The Departments agree with commenters stating that the 90-calendar-day cooling off period would present significant challenges, particularly for items or services batched by single patient encounter or CPT code ranges, and have determined that finalizing this change will enhance the effectiveness of the batching provisions, as finalized. As noted above, some commenters recommended shortening or eliminating the cooling off period for all claims, rather than only batched claims. The Departments have determined that a 30-business-day cooling off period for batched disputes balances the need to (1) minimize the burden of removing from batched disputes items and services that are subject to the cooling off period, and (2) avoid the re-adjudication of disputes involving the same parties and items and services, which adds volume to the Federal IDR

process. Further shortening or eliminating the cooling off period for all claims would undermine the intended effect of the cooling off period to encourage the early resolution of disputes through open negotiation and reduce the number of disputes that are initiated in the Federal IDR process. A 30-business-day cooling off period for batched disputes is in line with other timelines in the Federal IDR process (for example, the 30-business-day open negotiation period, and the 30-business-day period during which batched items and services must be furnished) and strikes an appropriate balance between minimizing burden and discouraging re-adjudication of similar claims.

For commenters’ concerns regarding the application of the cooling off period to batched disputes and the idea of stacked or overlapping cooling off periods, section 9816(c)(5)(E)(ii) of the Code, section 716(c)(5)(E)(ii) of ERISA, and section 2799A-1(c)(5)(E)(ii) of the PHS Act state that the 90-calendar-day cooling off period applies “for an initial notification submitted under paragraph (1)(B) [the IDR initiation notice].” The Departments interpret this to mean that the cooling off period applies to any otherwise eligible dispute, single or batched, for which a notice of IDR initiation was provided, if the conditions of section 9816(c)(5)(E)(ii) of the Code, section 716(c)(5)(E)(ii) of ERISA, and section 2799A-1(c)(5)(E)(ii) of the PHS Act are met. This includes overlapping cooling off periods, given the 90-day cooling off periods required under statute may sometimes lead to overlap or stack cooling off periods.

The Departments appreciate the commenter’s statement that various certified IDR entities apply the cooling off period inconsistently and requested guidance on how the cooling off period should be applied, as well as the suggestion that additional information be included in the Federal IDR portal to help identify cooling off periods. As noted previously, the Departments intend to publish clarifying guidance about the finalized batching provisions, which will include details regarding the applicability and implementation of the cooling off period. The Departments are confident that such guidance will provide clarity for both certified IDR entities and disputing parties, and will therefore lead to consistent application of the applicable rules. The Departments also remind commenters that, should a disputing party believe a dispute is ineligible for the Federal IDR process due to the application of the cooling off period, the disputing party should provide documentation to support this assertion, including proof of a payment

determination involving the same items or services and same other party, when contesting eligibility during selection of the certified IDR entity.

Finally, the Departments did not solicit comment on whether to shorten the cooling off period for single disputes, and therefore are not finalizing such a policy. The Departments are finalizing a shortened cooling off period for batched disputes to ensure that disputing parties are able to realize the efficiencies (including cost savings) of the batching provisions in these final rules, as finalized, but are not convinced that the same flexibility is required for single disputes since determining whether a cooling off period applies to a single dispute is much more straightforward.

In addition to these proposals, as explained in the preamble to the 2023 proposed rules, the Departments indicated that they were considering altering current guidance on the resubmission of incorrectly batched disputes. In the *August 2022 Technical Assistance for Certified IDR Entities*, the Departments stated that inappropriately batched or bundled disputes may be resubmitted as properly batched or individual disputes if the qualified IDR items and services that are subject to the disputes meet all other applicable requirements, including requirements for timely initiation of the Federal IDR process. The Departments stated in the 2023 proposed rules that they were considering removing this flexibility 90 business days after the proposed batching provisions would become applicable, to give disputing parties sufficient time to adjust to the new proposed batching rules, if finalized.

Several commenters requested that the Departments maintain the option to resubmit inappropriately batched items and services, with some raising concerns that disallowing the resubmission of eligible items and services could incentivize issuers to make eligibility harder to assess. One commenter stated the Departments should permanently maintain this option, while another suggested it should be available “even if only temporarily.” Another commenter agreed in concept with the idea to remove the option to resubmit improperly batched disputes, but suggested the certified IDR entity be allowed to keep any items and services meeting eligibility criteria so that only the remaining items and services that do not meet the criteria would be ineligible.

A few commenters noted that procedural errors or good faith mistakes (such as the inclusion of a single

ineligible claim), should not be fatal to the process or preclude physicians from receiving fair reimbursement for their services. One commenter stated that the Departments should allow initiating parties to cure claims identified by the certified IDR entity as improperly batched to enable the parties to avoid additional administrative fees associated with resubmission. Another commenter suggested clarifying that only certified IDR entities should determine batching appropriateness, and that parties should not challenge batching during open negotiation as grounds for ineligibility.

In response to the comments received regarding this proposal, the Departments are removing the ability to resubmit inappropriately batched or bundled disputes, but are doing so 120 days after plans and issuers are required to register in the IDR registry, instead of 90 business days after the proposed batching provisions would become applicable, as proposed. The Departments note that the flexibility to resubmit inappropriately batched items and services resulted, in part, from a time when the Federal IDR process was new and there was considerable uncertainty around proper batching after the *TMA IV* ruling. During this time, disputing parties were having difficulty determining what constituted a proper batch, and certified IDR entities were familiarizing themselves with making eligibility and payment determinations. However, now both disputing parties and certified IDR entities are much better equipped to engage in the process, greatly limiting the need for this additional flexibility.

As such, the Departments will rescind the flexibility allowing parties to resubmit incorrectly batched disputes effective 120 days after plans and issuers are required to register in the IDR registry. As outlined in section II.F of these final rules, one of the benefits of the IDR registry is to ensure that providers are able to accurately identify plans, issuers, and FEHB carriers as well as their contact information to properly identify the payer against whom they are initiating a dispute, which would allow initiating providers to correctly batch items and services. The implementation of the registry, along with the batching guidance to be published after these final rules, will allow initiating parties to appropriately batch disputes. Therefore, once the registry provisions are implemented, the initiating party should have the information they require to submit an appropriate batch, reducing the need for resubmission flexibility with respect to batched disputes. However, the

Departments want to ensure parties have sufficient time to adapt to the implementation of the registry and the new batching rules, while balancing the Departments’ need to improve efficiency in the Federal IDR process and their desire to eliminate a process that serves to lengthen and increase the cost of using it. The Departments have determined that rescinding the flexibility to resubmit incorrectly batched disputes 120 days after plans and issuers are required to register provides such a balance.

These final rules, including required disclosures and open negotiation, address concerns that disallowing the resubmission of eligible claims would create an incentive for plans and issuers to make claim eligibility more difficult to assess. By improving early communication between providers and plans and issuers, such as the requirement to use CARCs and RARCs, the Departments are confident that efforts by either party to make it more difficult to assess the applicability of the Federal IDR process will be significantly mitigated, if not fully addressed.

In accordance with *August 2022 Technical Assistance for Certified IDR Entities*¹¹⁷ and *Federal Independent Dispute Resolution (IDR) Process Batching and Air Ambulance Policy Frequently Asked Questions (FAQs)*,¹¹⁸ certified IDR entities who determine a dispute to be inappropriately batched are directed to proceed with rendering payment determinations for the items or services that are found to be properly batched. The Departments did not propose to alter this portion of the guidance, and therefore it remains in effect under these final rules.

b. Treatment of Bundled Payment Arrangements

The Departments proposed at 26 CFR 54.9816–8(c)(4)(ii), 29 CFR 2590.716–8(c)(4)(ii), and 45 CFR 149.510(c)(4)(ii) that qualified IDR items and services that meet the definition of a bundled payment arrangement at proposed 26 CFR 54.9816–3, 29 CFR 2590.716–3, and 45 CFR 149.30 may be submitted and considered as a single payment determination for which the certified IDR entity must make one payment determination for the multiple items and services included in the bundled payment arrangement. The Departments further proposed that bundled payment arrangements submitted under paragraph (c)(4)(ii) would continue to be

¹¹⁷ See <https://www.cms.gov/files/document/ta-certified-independent-dispute-resolution-entities-august-2022.pdf>.

¹¹⁸ See <https://www.cms.gov/files/document/faqs-batching-air-ambulance.pdf>.

subject to the certified IDR entity fee for single determinations as described at 29 CFR 2590.716–8(e)(2)(vii) and 45 CFR 149.510(e)(2)(vii). These proposed technical amendments to existing 26 CFR 54.9816–8(c)(3)(ii), 29 CFR 2590.716–8(c)(3)(ii), and 45 CFR 149.510(c)(3)(ii) would include a reference to the definition of “bundled payment arrangement,”¹¹⁹ a correction that the certified IDR entity must make one payment determination for the multiple qualified IDR items and services included in the bundled payment arrangement, removal of the language that bundled payment arrangements are subject to the rules for batched determinations, and an updated cross-reference to paragraph (c)(4)(ii).

The Departments did not receive comments on this provision and are finalizing as proposed.

3. Administrative and Certified IDR Entity Fee Collection

The Departments proposed to amend the administrative and certified IDR entity fee provisions of 26 CFR 54.9816–8(d), 29 CFR 2590.716–8(d), and 45 CFR 149.510(d) to adjust the timing of collection of the administrative and certified IDR entity fees and make changes to the administrative fee methodology. These proposals were intended to be consistent with the requirement that total administrative fees paid are estimated to be equal to the amount of expenditures estimated to be made by the Departments to carry out the Federal IDR process, to accelerate dispute processing, and to reduce the burden on certified IDR entities.

After consideration of comments, and as discussed in detail below, the Departments are finalizing, with modifications, the proposals related to the establishment of the administrative fee amount, the timing of certified IDR entity fee collection, and the application of Federal IDR process guidance in circumstances involving failure to pay administrative and certified IDR entity fees. However, the Departments are not finalizing the proposals regarding the timing and manner of administrative fee collection or the reduced administrative fees for low-dollar and ineligible disputes.

a. Establishment of the Administrative Fee Amount

Under section 9816(c)(8)(B) of the Code, section 716(c)(8)(B) of ERISA, section 2799A–1(c)(8)(B) of the PHS Act, and the October 2021 interim final

rules, the administrative fee is established annually in a manner so that the total administrative fees paid for a year are estimated to be equal to the amount of expenditures estimated to be made by the Departments to carry out the Federal IDR process for that year. In December 2023, in an effort to provide additional guidance and promote transparency in the administrative fee calculation and certified IDR entity fee ranges, the Departments finalized the IDR Process Fees final rules.¹²⁰ These final rules were published after the 2023 proposed rules.¹²¹ In the IDR Process Fees final rules, the Departments stated that the administrative fee provisions finalized in IDR Process Fees final rules are effective, and unchanged by the proposals in the 2023 proposed rules, unless and until the administrative fee provisions in the 2023 proposed rules are finalized. In these final rules, the Departments are not finalizing the proposal included in the 2023 proposed rules which would have modified the administrative fee methodology set forth in the IDR Process Fees final rules. Accordingly, the methodology as finalized in the IDR Process Fees final rules will continue to be effective. Under that methodology, the Departments calculate the administrative fee by dividing the estimated annual expenditures to be made by the Departments in carrying out the Federal IDR process by the estimated annual number of administrative fees to be paid by the disputing parties to certified IDR entities (who then remit such fees to the Departments).¹²²

In the 2023 proposed rules, the Departments proposed changes to the administrative fee methodology and the administrative fee amount to reflect the impact of other proposed provisions in the 2023 proposed rules that, if finalized as proposed, would affect the administrative fee collections process and the Departments’ expenditures to

carry out the Federal IDR process.¹²³ The Departments proposed using the number of disputes initiated to estimate the total number of administrative fees paid in the administrative fee methodology to reflect the proposal to collect the administrative fee earlier in the Federal IDR process, as explained further in sections I.E.3.a.i and I.E.3.b.i of this preamble. Using the proposed methodology and estimating inputs using the Federal IDR portal data available at the time of the 2023 proposed rules, the Departments calculated the proposed administrative fee for disputes initiated on or after January 1, 2025, by dividing the projected annual expenditures of approximately \$100.2 million to be made by the Departments in carrying out the Federal IDR process by the projected annual number of administrative fees to be paid by the disputing parties of 691,000.¹²⁴ This resulted in a proposed full administrative fee amount of \$150 per party per dispute.

The Departments also proposed that the reduced administrative fee for both parties in low-dollar disputes would be 50 percent of the full administrative fee (or \$75) per party per dispute, and the reduced administrative fee for non-initiating parties in ineligible disputes would be 20 percent of the full administrative fee (or \$30) per non-initiating party per dispute.¹²⁵ Additionally, the Departments proposed to amend 26 CFR 54.9816–8(d)(2)(i), 29 CFR 2590.716–8(d)(2)(i), and 45 CFR 149.510(d)(2)(i) to require each party participating in the Federal IDR process to pay the administrative fee directly to the Departments, instead of to the certified IDR entity for remittance to the Departments, as is currently required. The Departments also stated that if one or more of the provisions proposed in the 2023 proposed rules was not finalized, or if the estimated inputs changed between the publication of the proposed and final rules based on more recent data available, the Departments would recalculate the administrative fee amount when finalizing the rules to reflect these relevant changes.

After considering comments received, and because the Departments are not

¹²⁰ The IDR Process Fees final rules finalized the administrative fee amount for disputes initiated on or after January 22, 2024. See the IDR Process Fees final rules for a complete background of administrative fee amounts since the inception of the Federal IDR process. See 88 FR 88494 (December 21, 2023).

¹²¹ The Departments published the IDR Process Fees final rules on December 21, 2023 (88 FR 88494). On November 3, 2023, the Departments published the 2023 proposed rules (88 FR 75744), in the period between the September IDR Process Fees proposed rules (88 FR 65888) and the December IDR Process Fees final rules (88 FR 88494).

¹²² The IDR Process Fees final rules used the term “estimated” rather than “projected” in describing the administrative fee methodology to ensure the methodology is described consistently with the terminology of the statutes. See 88 FR 88494, 88499–88510 (December 21, 2023).

¹²³ 88 FR 75744, 75792 through 75794 (November 3, 2023).

¹²⁴ The best available data at the time of publishing the 2023 proposed rules was from February to July 2023 and represented the most recent 6-month period of continuous Federal IDR process data before Federal IDR process operations were temporarily paused on August 3, 2023.

¹²⁵ In the 2023 proposed rules, the Departments provided a table (Table 5 at 88 FR 75767, 75795) that detailed what the proposed administrative fee amounts would be depending on the dispute type.

¹¹⁹ As outlined in section II.A. of the proposed rule, the Departments proposed to amend 26 CFR 54.9816–3, 29 CFR 2590.716–3, and 45 CFR 149.30 to define the term “bundled payment arrangement.”

finalizing the proposals to (1) change the timing of administrative fee collection, (2) collect administrative fees directly, (3) reduce the administrative fees for ineligible and low-dollar disputes, or (4) modify the administrative fee methodology, the administrative fee methodology set forth in the IDR Process Fees final rules remains in effect.¹²⁶

However, in accordance with the 2023 proposed rules, the Departments are finalizing updated estimates of the total administrative fees paid and expenditures to be made by the Departments to carry out the Federal IDR process to be used in the current administrative fee methodology to reflect the most recent data available in time for incorporation in these final rules. As described further below, the Departments are increasing their estimate of the total number of administrative fees paid annually from approximately 691,000, as specified in the 2023 proposed rules, to approximately 6.9 million. This reflects estimating the number of administrative fees paid using the most recent data available in time for incorporation in these final rules from 1 year of Federal IDR operations from May 2025 to April 2026 (during which approximately 5.3 million administrative fees were collected by the Departments) and increasing that amount by 30 percent to account for a projected increase in administrative fees paid, as a result of the significant decrease in the administrative fee amount finalized in these rules, as described further below.^{127 128} The Departments are also updating the expenditures estimated to be made by the Departments in carrying out the Federal IDR process from approximately \$100.2 million, as

specified in the 2023 proposed rules, to approximately \$119.4 million in these final rules to reflect the costs of carrying out the Federal IDR process at the current volume of disputes and take into consideration the costs of implementing the provisions finalized in these final rules, as discussed below.

Using the updated inputs, the administrative fee for disputes initiated on or after June 11, 2026, as set forth in section II.H.1.f of these final rules, will be calculated under the current administrative fee methodology (that is, the methodology established in the IDR Process Fees final rules) by dividing the estimated annual expenditures to be made by the Departments in carrying out the Federal IDR process (\$119.4 million) by the estimated annual number of administrative fees paid by disputing parties (6.9 million). This results in a finalized administrative fee amount of \$15 per party per dispute, which the Departments are finalizing in 26 CFR 54.9816–8(d)(2)(ii)(B), 29 CFR 2590.716–8(d)(2)(ii)(B), and 45 CFR 149.510(d)(2)(ii)(B).^{129 130}

In addition, the Departments are finalizing the proposed modifications at 26 CFR 54.9816–8(d)(2)(ii), 29 CFR 2590.716–8(d)(2)(ii), and 45 CFR 149.510(d)(2)(ii), and 26 CFR 54.9816–8(d)(2)(ii)(A), 29 CFR 2590.716–8(d)(2)(ii)(A), and 45 CFR 149.510(d)(2)(ii)(A), to provide a separate subordinate paragraph that recognizes the administrative fee amount established for disputes initiated on January 22, 2024, through June 10, 2026. In addition, as discussed in more detail in section III of this preamble, the Departments intend that this administrative fee amount be severable.

i. Administrative Fee Methodology—Estimated Total Number of Administrative Fees Paid

In the 2023 proposed rules, the Departments proposed to estimate the total number of administrative fees to be paid based on the number of disputes initiated. The Departments proposed to use this metric because other proposed operational changes in the 2023

proposed rules discussed in sections II.E.3.b and II.E.3.c of this preamble would have resulted in the Departments' direct collection of administrative fees closer to a dispute's date of initiation, and therefore, the total number of initiated disputes would be indicative of the number of disputes for which fees would be paid. As such, in the 2023 proposed rules, the Departments estimated that 420,000 disputes would be initiated annually, which translated to an annual estimate of 691,000 administrative fees paid.¹³¹

Because the Departments are not finalizing the proposals to change the timing of administrative fee collection or to collect administrative fees directly, as discussed further below, the Departments are not finalizing the proposal to estimate the total number of administrative fees paid in the administrative fee methodology based on the number of disputes initiated. Certified IDR entities will continue to collect administrative fees on the Departments' behalf and, as an operational matter, certified IDR entities have discretion when to collect the administrative fee so long as administrative fees are collected by the time offers are submitted.¹³² When the administrative fee is collected as such, it is not an accurate proxy of the administrative fees to be paid, as described in more detail below. As such, the Departments will continue to use the methodology finalized in the IDR Process Fees final rules whereby the Departments estimate the total number of administrative fees paid in the administrative fee calculation based on the number of administrative fees paid

¹³¹ The Departments used the most recent six-month period of continuous Federal IDR process data before Federal IDR process operations were temporarily paused on August 3, 2023 and assumed a prospective reduction of approximately 25 percent in the number of initiated disputes to arrive at an estimate of 420,000 disputes initiated annually. The Departments determine that this would be approximately equal to 691,000 full administrative fees paid given that both parties to a dispute pay an administrative fee and, under the provisions proposed, both initiating and non-initiating parties would pay 50 percent of the full administrative fee in low-dollar disputes and non-initiating parties would pay 20 percent of the full administrative fee in ineligible disputes. See 88 FR 75744, 75792–75796 (November 3, 2023).

¹³² For administrative efficiency, the Departments' guidance allows certified IDR entities the discretion to delay collection of the administrative fee until a party submits its offer, which is the same time that each party is required to pay the certified IDR entity fee described in 26 CFR 54.9816–8(d)(1), 29 CFR 2590.716–8(d)(1), and 45 CFR 149.510(d)(1). See 88 FR 75744, 75797 (November 3, 2023). See also Sections 4.8 and 10.1 of the Federal Independent Dispute Resolution (IDR) Process Guidance for Certified IDR Entities, December 2023 Update to March 2023 Guidance, available at <https://www.cms.gov/files/document/Federal-idr-guidance-idr-entities-march-2023.pdf>.

¹²⁶ See the IDR Process Fees final rules (88 FR 88494) for a full discussion of the finalized administrative fee methodology.

¹²⁷ As described further in this preamble, the Departments arrived at the estimate of approximately 691,000 administrative fees paid based on estimating that 420,000 disputes would be initiated annually. This estimate used the most recent 6-month period of continuous Federal IDR process data before Federal IDR process operations were temporarily paused on August 3, 2023 and assumed a prospective reduction of approximately 25 percent in the number of initiated disputes. See the 2023 proposed rules (88 FR 75744, 75792 through 75796) for a full discussion of the estimated inputs used in the proposed administrative fee methodology.

¹²⁸ As described further in this preamble, the Departments' estimate of approximately 6.9 million administrative fees paid is a significant increase from the estimate provided in the 2023 proposed rules and reflects the dramatic increase in utilization of the Federal IDR process. See the *Supplemental Background on the Federal IDR PUF, July 1–December 31, 2024* (May 28, 2025), available at: <https://www.cms.gov/files/document/Federal-idr-supplemental-background-2024-q3-2024-q4.pdf>.

¹²⁹ As described later in these rules, the Departments estimate that the finalized administrative fee of \$15 per party per dispute will result in an estimated annual collection approximately equal to the projected annual expenditures of approximately \$119.4 million.

¹³⁰ Dividing the predicted expenditures associated with the operation of the Federal IDR process by the projected number of administrative fees results in an unrounded administrative fee amount of \$17.41; the Departments round this number down, resulting in a finalized administrative fee amount of \$15 per party per dispute.

to certified IDR entities.¹³³ As explained in the IDR Process Fees final rules, the Departments finalized such methodology because it is the most accurate metric available to capture the existing collection processes, since it reflects administrative fees paid for disputes in any stage of the Federal IDR process after certified IDR entity selection.¹³⁴

Several commenters supported the proposal to estimate the total number of administrative fees paid in the administrative fee methodology based on the number of disputes initiated, with some explaining that their support was based on a recognition that other proposals included in the 2023 proposed rules would decrease the backlog of outstanding disputes and reduce the number of disputes that are open and unresolved. A few commenters opposed the proposed metric for estimating the total number of administrative fees paid and recommended alternative metrics. For example, one commenter urged the Departments to use the number of disputes for which disputing parties submitted offers and suggested that this would be an accurate reflection of the number of administrative fees paid. A few commenters stated support for the methodology finalized in the IDR Process Fees final rules that uses the estimated number of administrative fees paid to certified IDR entities to estimate the total number of administrative fees paid.

The Departments note that without finalizing the proposed changes to the administrative fee collections processes noted above, which would have resulted in the Departments' direct collection of administrative fees closer to a dispute's date of initiation, the number of disputes initiated within a given period may not appropriately reflect the number of administrative fees paid within that same period and could risk under- or overestimating administrative fee collections. Because certified IDR entities have discretion to delay collection of the administrative fee until the time of offer submission, there may be a significant lag between the time of dispute initiation and administrative fee payment.¹³⁵ In addition, because

administrative fees are only collected for disputes that complete final certified IDR entity selection, parties to disputes that are initiated but subsequently settled or withdrawn prior to final certified IDR entity selection will not pay an administrative fee.¹³⁶ Therefore, the Departments will continue to use the administrative fee methodology finalized in the IDR Process Fees final rules, which estimates the number of administrative fees paid to certified IDR entities in the administrative fee methodology.

In addition, the Departments considered alternative metrics on which to base the calculation of the administrative fee. The Departments considered using the number of disputes for which parties submitted offers. However, this metric would not accurately reflect the estimated number of administrative fees that would be paid, since certified IDR entities may collect the administrative fee at any time between final certified IDR entity selection and submission of offers,¹³⁷ and disputing parties who pay earlier in that window may not ultimately submit an offer. For example, if a selected certified IDR entity collects administrative fees from both disputing parties upon selection but the initiating party withdraws the dispute before offers are submitted, then, under this alternative metric, the Departments would not consider the administrative fees paid in their estimate. This could result in the Departments underestimating the total number of administrative fees paid and therefore collecting a greater amount of administrative fees than necessary to fund the Federal IDR process. With regard to the commenters who supported the methodology in the IDR Process Fees final rules, the Departments reiterate that the

of the Federal Independent Dispute Resolution (IDR) Process Guidance for Certified IDR Entities, December 2023 Update to March 2023 Guidance, available at <https://www.cms.gov/files/document/federal-idr-guidance-idr-entities-march-2023.pdf>.

¹³⁶ As explained later in this preamble, as amended by the regulatory language in 26 CFR 54.9816–8(c)(1)(iv), 29 CFR 2590.716–8(c)(1)(iv), and 45 CFR 149.510(c)(1)(iv) in these final rules, selection requires preliminary and final selection of the certified IDR entity. Disputing parties that withdraw or settle before final certified IDR entity selection are not required to pay the administrative fee. The 2023 proposed rules proposed to tie the administrative fee to preliminary certified IDR entity selection.

¹³⁷ See 26 CFR 54.9816–8(d)(2)(i), 29 CFR 2590.716–8(d)(2)(i), and 45 CFR 149.510(d)(2)(i). See also October 2021 interim final rules that indicate the Departments will have incurred expenditures to administer the Federal IDR process even in instances in which the parties reach an agreement before the certified IDR entity makes a payment determination. 86 FR 55980, 56001.

Departments are not finalizing changes to the administrative fee methodology in these final rules, and therefore the methodology set forth in the IDR Process Fees final rules remains in place.¹³⁸

Many commenters raised concerns that the Departments are underestimating the number of disputes initiated in the proposed administrative fee methodology and requested the Departments reconsider their estimates used in the calculation. A few commenters also noted that the number of disputes has far exceeded the Departments' estimates since the Federal IDR process began. A few commenters suggested that the proposed provisions in the 2023 proposed rules could streamline the Federal IDR process and lead to fewer dispute initiations, but they did not anticipate that this decrease in initiations would be realized by 2025. Another commenter disagreed that the proposed batching provisions would reduce dispute initiations and urged the Departments to eliminate the approximately 25 percent reduction in the number of disputes initiated.

The Departments appreciate commenters' feedback as to the accuracy of the Departments' estimate of the volume of initiated disputes. However, as previously mentioned, because the Departments are not finalizing certain administrative fee provisions described in these final rules, the Departments are not finalizing the proposal to use the estimated number of disputes initiated to estimate the total number of administrative fees paid annually and will continue to use the total number of administrative fees paid to certified IDR entities. In addition, because the Departments are not finalizing modifications to use the number of initiated disputes in the administrative fee methodology, the Departments are not finalizing the assumption that the proposed batching provisions will result in a 25 percent reduction in the volume of initiated disputes.¹³⁹

Notwithstanding, the Departments agree with commenters that the number of disputes initiated has exceeded the Departments' estimates since the Federal IDR process began. Additionally, the Departments have

¹³³ 88 FR 88494, 88501–88502 (December 21, 2023).

¹³⁴ 88 FR 88494, 88502 (December 21, 2023).

¹³⁵ For administrative efficiency, the Departments' guidance allows certified IDR entities the discretion to delay collection of the administrative fee until a party submits its offer, which is the same time the party is required to pay the certified IDR entity fee described in 26 CFR 54.9816–8(d)(1), 29 CFR 2590.716–8(d)(1), and 45 CFR 149.510(d)(1). See 88 FR 75744, 75797 (November 3, 2023). See also Sections 4.8 and 10.1

¹³⁸ See the IDR Process Fees final rules (88 FR 88494) for a full discussion of the finalized administrative fee methodology.

¹³⁹ The Departments removed a similar assumption when finalizing the IDR Process Fees final rules and noted that the Departments would consider whether any modifications made to the administrative fee methodology in those final rules should also be adopted when finalizing the administrative fee amount using the methodology proposed in the 2023 proposed rules.

seen a continued increase in utilization of the Federal IDR process.¹⁴⁰ Further, based on comment received and experience, the Departments estimate that a lower administrative fee will make the Federal IDR process more accessible for small and rural providers and for low-dollar claims, thus increasing the number of disputes initiated and administrative fees paid. To account for this increased utilization, in these final rules, the Departments project a 30 percent increase in addition to the total number of administrative fees paid during the period of May 2025 to April 2026 (which was 5.3 million administrative fees paid) used to generate the estimate of 6.91 million administrative fees paid.

A few commenters also noted concerns regarding the data used to project the number of disputes initiated annually. One commenter disagreed that the available data could sufficiently project utilization of the Federal IDR process and cautioned against using 6 months of data when there are seasonal changes in utilization of the Federal IDR process due to claims processing or revenue goals. For example, this commenter noted that towards the end of the year, providers may be more concerned with extracting dollars to meet revenue goals which could lead providers to initiate more disputes towards year-end, while issuers may be more concerned with saving dollars to meet profit targets and as such could be less willing to pay. Another commenter suggested that the Departments inappropriately assumed that they have one year of reliable data to estimate the number of initiated disputes, noting that the data available at the time of the 2023 proposed rules underestimates utilization of the Federal IDR process due to the pauses in the Federal IDR process operations and unclear guidelines for submission and eligibility.

As previously explained, the Departments are updating the estimate of total administrative fees paid (691,000 in the 2023 proposed rules) using the most recent data available in time for incorporation in these final rules on administrative fees paid to certified IDR entities from May 2025 to April 2026. After consideration of the comments, the Departments will finalize the administrative fee amount using the most recent 1-year period of Federal IDR

process data.¹⁴¹ The Departments agree with commenters that using data from a 1-year period to project future trends will improve the stability of estimates by accounting for seasonal and other fluctuations in the data.¹⁴² Now, after the Federal IDR process has remained in continuous operation for over 2 years, the Departments have seen a continued increase in utilization of the Federal IDR process.¹⁴³ The Departments estimate that approximately 440,000 administrative fees are paid to certified IDR entities per month using the 1-year period of Federal IDR process data from May 2025 through April 2026, and when increased by 30 percent as described above, the Departments project this figure forward by 12 months to estimate that approximately 6.9 million administrative fees will be paid annually.

ii. Administrative Fee Methodology—Estimated Expenditures

As noted above, in the 2023 proposed rules, the Departments estimated the

¹⁴¹ At the time of finalizing the administrative fee methodology in the IDR Process Fees final rules, the Departments' best data available to estimate administrative fees paid to certified IDR entities was from the most recent 6-month period of continuous Federal IDR process data before Federal IDR process operations were temporarily paused in August 2023. Effective October 6, 2023, the Departments reopened the Federal IDR portal for the initiation of certain new single and bundled disputes. Processing of in-progress batched disputes, new batched disputes, and new air ambulance disputes remained suspended while the Departments worked to update batching and air ambulance guidance and operations to align with the District Court's opinions and orders in *Texas Medical Association et al. v. United States Department of Health and Human Services et al.*, Case No. 6:22-cv-450-JDK (E.D. Tex.) and *Texas Medical Association v. United States Department of Health and Human Services*, No. 23-59, 2023 WL 4977746, (E.D. Tex. Aug 3, 2023) (TMA IV). On December 15, 2023, the Departments reopened the Federal IDR portal to process all dispute types, including previously initiated batched disputes, new batched disputes, and new single disputes involving air ambulance services.

¹⁴² As previously mentioned, the Departments will not assume, as set forth in the 2023 proposed rules, a 25 percent reduction in the volume of initiated disputes to reflect the impact of the proposed batching provisions. Rather, given the significant decrease in the administrative fee rate and historical trends, the Departments anticipate a 30 percent increase in the volume of initiated disputes and have calculated the administrative fee accordingly.

¹⁴³ After temporarily pausing Federal IDR process operations in August 2023, the Departments reopened the Federal IDR portal to process all dispute types, including previously initiated batched disputes, new batched disputes, and new single disputes involving air ambulance services, on December 15, 2023.

¹⁴⁴ As shown in the *Supplemental Background on the Federal IDR PUF, January 1–June 30, 2025*, disputing parties initiated 39 percent more disputes through the Federal IDR portal in the first 6 months of 2025 than the last 6 months of 2024, available at <https://www.cms.gov/files/document/Federal-idr-supplemental-background-2024-q3-2024-q4.pdf>.

annual expenditures to carry out the Federal IDR process to be approximately \$100.2 million.¹⁴⁵ This estimate took into account all relevant proposals included in the 2023 proposed rules impacting the Departments' annual expenditures. As discussed below, the Departments are revising the expenditures estimated to be made by the Departments in carrying out the Federal IDR process from approximately \$100.2 million in the 2023 proposed rules to approximately \$119.4 million in these final rules to reflect the costs of carrying out the Federal IDR process at the current volume of disputes and to account for the costs of implementing the provisions finalized in these final rules.

The Departments received comments requesting further clarification on the estimated expenditures used to calculate the administrative fee amount. Several commenters requested that the Departments explain the increase in expenditures to carry out the Federal IDR process between 2024 and 2025. Many commenters urged the Departments to provide more transparency, including providing the estimated expenditures for each category of activity outlined in the 2023 proposed rules, or disclosing the underlying data supporting the cost estimates to provide opportunity to comment on the administrative fee calculation. A few commenters maintained that the Departments are required to disclose more information about the bases of their overall cost estimate under the Administrative Procedure Act and suggested that the 2023 proposed rules did not provide enough detail on the estimated expenditures to allow interested parties to meaningfully comment.

The Departments' estimate of \$100.2 million to carry out the Federal IDR process in the 2023 proposed rules included the costs associated with provisions that, if finalized, were anticipated to take effect on or after January 1, 2025, such as the costs associated with Departmental eligibility review as discussed in section II.E.1.b.ii. of this preamble and direct Departmental collection of the administrative fee as discussed in section II.E.3.c of this preamble.¹⁴⁶ In contrast, the estimated expenditures for 2024 finalized in the IDR Process Fees final rules (\$56.6 million) did not include the costs associated with the

¹⁴⁵ See the 2023 proposed rules (88 FR 75744, 75792–75793) for a full discussion of the costs included in this estimate.

¹⁴⁶ 88 FR 75744, 75792–75793 (November 3, 2023).

¹⁴⁰ As shown in the *Supplemental Background on the Federal IDR PUF, January 1–June 30, 2025*, disputing parties initiated 39 percent more disputes through the Federal IDR portal in the first 6 months of 2025 than the last six months of 2024, available at <https://www.cms.gov/files/document/Federal-idr-supplemental-background-2024-q3-2024-q4.pdf>.

proposals in the 2023 proposed rules, and is therefore lower than the Departments' estimated expenditures provided in the 2023 proposed rules and in these final rules.¹⁴⁷ The Departments' revised estimate of expenditures of \$119.4 million in these final rules reflects both estimated increases and decreases in expenditures.

With regard to increases, the Departments have increased expenditures to meet the increased utilization of the Federal IDR process since the publication of the IDR Process Fees final rules.^{148 149} For example, the Departments have had increased costs associated with maintenance and improved functionality of the Federal IDR portal, as well as program integrity activities. Since the publication of the 2023 proposed rules in November 2023, the No Surprises Help Desk has experienced a 17 percent increase in the number of inquiries. Furthermore, as a higher proportion of the No Surprises Help Desk inquiries are associated with the Federal IDR process, the Departments have also allocated greater costs to the Federal IDR process to fund the Help Desk response to those inquiries. In addition, the Departments are including the projected costs of the provisions being finalized in these rules, such as the registry requirement, some of which require system builds and ongoing maintenance. With regard to decreases, the Departments removed costs associated with proposed provisions that are not being finalized, such as direct Departmental collection of the administrative fee and

Departmental eligibility review as outlined in section II.E.1.b.ii of this preamble.

In addition, the Departments disagree with commenters that the Departments did not provide sufficient information on estimated expenditures to allow meaningful comment. The Departments described the contract costs and Federal resources associated with estimated expenditures to carry out the Federal IDR process in the preamble to the 2023 proposed rules.¹⁵⁰ To promote greater transparency while not releasing sensitive contract information, the Departments break down the \$119.4 million estimate of expenditures to carry out the Federal IDR process, which includes anticipated contract and Federal personnel costs, by category of expenditure, and provide approximate cost estimates for the following categories of Federal IDR process activities:^{151 152}

- Maintaining, operating, and improving the Federal IDR portal, certifying IDR entities, and collecting data from certified IDR entities, including implementing the Federal IDR registry discussed in section II.F. of the preamble to these final rules (approximately \$61,000,000);
- Conducting program integrity activities, such as certain QPA audits (as further described later in this preamble) and IDR payment determination audits, and receiving and investigating Federal IDR process-related complaints (approximately \$23,400,000, of which QPA audits resulting from complaints filed by providers comprise approximately \$5,000,000);¹⁵³
- Providing outreach and technical assistance to parties and certified IDR

entities, including providing technical assistance to certified IDR entities with respect to eligibility determinations (approximately \$24,500,000, of which technical assistance associated with eligibility determinations comprises approximately \$10,000,000);¹⁵⁴ and

- Collecting administrative fees from certified IDR entities (approximately \$10,500,000), which includes costs to invoice certified IDR entities for administrative fees collected, provide the system infrastructure to record and remit administrative fees collected, track data on fees collected, and make continuous improvements to the collections process and invoicing systems.

Several commenters raised concerns about the inclusion of certain types of expenses in the administrative fee methodology, stating that these expenses are not exclusive to the Federal IDR process, lack definite scope, or are not constant sources of costs, and suggested that including these expenses would overestimate expenditures. Specifically, one commenter suggested the costs of hiring and paying Federal personnel was duplicative of several other categories of activities, the certification of new IDR entities could pay for itself with the increased capacity to collect administrative fees, and the costs of maintaining the Federal IDR portal should be much less than the up-front costs of the portal.

Under 26 CFR 54.9816–8(d)(2), 29 CFR 2590.716–8(d)(2), and 45 CFR 149.510(d)(2), the Departments are required to estimate expenditures to carry out the Federal IDR process to establish the administrative fee amount. In estimating expenditures, the Departments include only contract and Federal personnel costs associated with the categories of Federal IDR process activities outlined in the bullets above. While some contract costs will be used to implement provisions finalized in these rules, some will also be used for ongoing maintenance and operational costs of carrying out the Federal IDR process, which may vary over time depending on the volume of disputes. In addition, the Departments clarify that these costs are not duplicated across categories. The Departments note that these expenditures include activities that are anticipated to improve the efficiency of the Federal IDR process

¹⁴⁷ The Departments reference the estimate provided in the IDR Process Fees rules because this was the last notice-and-comment rulemaking that finalized the administrative fee methodology and provided an estimate of the expenditures to be made by the Departments in carrying out the Federal IDR process.

¹⁴⁸ As noted in the *Supplemental Background on the Federal IDR PUF, July 1–December 31, 2024*, disputing parties initiated approximately 116 percent more disputes through the Federal IDR portal in 2024 than 2023. Since the estimate of \$56.6 million was provided in the IDR Process Fees final rules, the Departments continued to implement changes to enhance the overall efficiency of the Federal IDR process and manage dispute volume. Overall, this effort has contributed to approximately a 440 percent increase in the number of disputes closed in 2024 compared to 2023. <https://www.cms.gov/files/document/Federal-idr-supplemental-background-2024-q3-2024-q4.pdf>.

¹⁴⁹ As previously noted, the Departments have made continuous improvements to enhance the overall efficiency of the Federal IDR process and manage dispute volume. Although the Departments estimated their expenditures to carry out the Federal IDR process in 2024 to be \$56.6 million in the IDR Process Fees final rules, the Federal IDR Supplemental Tables for 2024 Q1 through Q4 show actual expenditures totaling more than \$65 million. See, for example, <https://www.cms.gov/files/document/Federal-idr-supplemental-tables-2024-q1.xlsx>.

¹⁵⁰ 88 FR 75792 through 75793.

¹⁵¹ As discussed further in this preamble section, the Departments have reconsidered costs associated with total estimated expenditures of carrying out the Federal IDR process and are revising the total annual estimated expenditures from approximately \$100.2 million to approximately \$119.4 million. This breakdown revises and reorganizes the categories of expenditures to provide more transparency and to align with the categorization in the IDR Process Fees final rules. For example, the 2023 proposed rules included two separate bullets for activities related to conducting program integrity activities and investigating relevant complaints. In these final rules, these bullets were combined, and the Departments provided an estimated total cost for this group of Federal IDR process activities.

¹⁵² The Departments clarify that Federal personnel costs are included in the category of expenditures to which they relate. The Departments also distribute contract costs funding Federal IDR process oversight, governance, regulatory support, and technical support across all categories of expenditures.

¹⁵³ As previously noted in these final rules, the term “providers” refers to nonparticipating providers, nonparticipating facilities, and nonparticipating providers of air ambulance services.

¹⁵⁴ Centers for Medicare & Medicaid Services (November 21, 2022). *Notice of the Federal Independent Dispute Resolution (IDR) Team Technical Assistance to Certified Independent Dispute Resolution Entities (IDREs) in the Dispute Eligibility Determination Process*. <https://www.cms.gov/files/document/idre-eligibility-support-guidance-11212022-final-updated.pdf>.

over time, such as certifying new IDR entities. Therefore, the cost savings from some expenditures will be reflected in future years' expenditures estimates. In addition, the Departments clarify that the Federal IDR portal changes finalized in these rules, such as the Federal IDR registry, require both implementation and maintenance costs. As another example, the Departments' estimated expenditures for the Federal IDR portal include establishing the transmission of notice of IDR initiation forms between parties and the intake of initiation responses through the Federal IDR portal.

Some commenters recommended excluding all or some of the QPA audit costs when estimating expenditures, with some commenters noting that the QPA also serves a function in calculating patient cost sharing for services covered by the No Surprises Act's balance-billing protections. In addition, these commenters requested the Departments to disclose all information related to volume and Federal costs associated with the program integrity activities, including the QPA and IDR payment determination audits. One commenter specifically requested the Departments distinguish between the portion of QPA audits to be funded by administrative fees compared to other sources. This commenter also requested public disclosure of the results and any errors identified through audits to the extent that these audits are funded by administrative fees. In contrast, one commenter supported including QPA audits when estimating expenditures and agreed they are necessary to carry out the Federal IDR process and promote integrity and confidence in the Federal IDR process.

In estimating the expenditures to carry out the Federal IDR process, the Departments are including estimated costs for QPA audits related to complaints by providers regarding inaccurate QPAs because such costs are necessary to carry out the Federal IDR process.¹⁵⁵ Conducting QPA audits in response to complaints or allegations from providers helps ensure plans and issuers provide correctly calculated QPAs, which promotes the integrity of the Federal IDR process.¹⁵⁶ In addition,

because certified IDR entities must consider the relevant QPA among other factors in making each payment determination, inaccurate QPAs could impact the accuracy of payment determinations made by certified IDR entities, and therefore it is necessary to conduct QPA audits to promote accuracy of the Federal IDR process. Furthermore, as explained in the IDR Process Fees final rules, it is the responsibility of the Departments (or the applicable State authorities), rather than the provider, facility, provider of air ambulance services, or the certified IDR entity, to monitor plan and issuer compliance with the QPA requirements.¹⁵⁷ In the absence of QPA audits to investigate complaints from providers that one or more of a plan's or issuer's QPAs are inaccurate, plan and issuer compliance with QPA requirements would go unchecked, which could threaten the fairness of the Federal IDR process.¹⁵⁸ We have therefore determined that the cost of QPA audits to investigate complaints by providers must be included in the Departments' estimate of expenditures to carry out the Federal IDR process. The costs of HHS conducting QPA audits for complaints from potential disputing parties that a plan's or issuer's QPAs are inaccurate are estimated to be approximately \$5,000,000 annually. Finally, the Departments agree that audit results should be made public upon completion. To that end, audit results are currently published on the CMS website.¹⁵⁹

We note that the Departments do not include the costs of QPA audits conducted: (1) in connection with Department of Labor, OPM, or Department of the Treasury investigations; (2) randomly;¹⁶⁰ or (3) in response to complaints from participants, beneficiaries, or enrollees, which likely relate to the QPA as used to calculate patient cost sharing, and are therefore not related to carrying out the Federal IDR process.

In addition, some commenters raised concerns about including the costs of

investigating complaints of non-compliance into the administrative fee methodology. A commenter requested clarity on the "investigating relevant complaints" expense and noted that "relevant" complaints beyond the Federal IDR process would be inappropriate to include in the calculation of the administrative fee amount. Another commenter supported including the cost of IDR decision audits in the administrative fee but reminded the Departments that this work must directly support the Federal IDR process to be included in the administrative fee calculation. Another commenter noted that the Departments have not been responsive to complaints and have not provided guidance to parties and certified IDR entities when there is disagreement on how a dispute should be resolved, and the Departments should ensure providers get value from the services they pay for through the administrative fee.

The Departments clarify that the complaints costs included in the estimated expenditures in the administrative fee methodology only include costs associated with receiving and investigating Federal IDR process-related complaints. For example, such costs include investigating complaints within the Departments' jurisdiction regarding the failure of a non-prevailing party to timely pay the out-of-network rate as established by the certified IDR entity.¹⁶¹ Complaints costs do not include costs for complaints that are not related to the Federal IDR process, such as those related to the QPA for patient cost sharing. The Departments note that disputing parties receive many benefits paid for by the administrative fee, ranging from use of the Federal IDR portal to assistance provided via the No Surprises Help Desk. The Departments also provide guidance to parties and certified IDR entities through the CMS website and the Federal IDR mailbox at FederalIDRQuestions@cms.hhs.gov.¹⁶²

Commenters also noted the potential impact of the provisions in the 2023 proposed rules, if finalized, on the estimated expenditures to carry out the Federal IDR process. Some commenters stated that the proposed provisions would help decrease costs by lowering the volume of ineligible disputes or increasing the efficiency of the Federal IDR process and could therefore lead to decreases in the administrative fee. However, one of these commenters also

¹⁵⁵ This approach is consistent with the approach for estimating expenditures that was finalized in the IDR Process Fees final rules. See 88 FR 88494, 88505 (December 21, 2023).

¹⁵⁶ For any dispute in the Federal IDR process, a plan or issuer is required to disclose the QPA to the provider, facility, or provider of air ambulance services along with the initial payment or notice of denial of payment for items and services, and disputing parties must include the QPA for items and services when initiating a dispute.

¹⁵⁷ Section 9816(a)(2)(A)(i) of the Code, section 716(a)(2)(A) of ERISA, and section 2799A–1(a)(2)(A)(i) of the PHS Act. See also 88 FR 884494, 88504 (December 21, 2023).

¹⁵⁸ The accuracy of a plan's or issuer's QPA (or QPA methodology) may not be reviewed within a payment determination under the Federal IDR process. See 86 FR 55980, 55996 (October 7, 2021).

¹⁵⁹ See published QPA audit results at: <https://www.cms.gov/marketplace/private-health-insurance/consumer-protections-enforcement>.

¹⁶⁰ The Departments exclude random QPA audits because the Departments cannot reasonably assume that plans or issuers that are randomly selected would be parties to disputes in the Federal IDR process.

¹⁶¹ Section 9816(c)(6) of the Code, section 716(c)(6) of ERISA, and section 2799A–1(c)(6) of the PHS Act.

¹⁶² See, for example, <https://www.cms.gov/nosurprises/notices>.

suggested that the proposed provisions could reduce the per-dispute cost to the Departments and increase utilization of the Federal IDR process, and therefore the net effect on the overall costs to carry out the Federal IDR process would be unclear. Another commenter raised concerns that, as the Federal IDR process is used with greater volume and efficiency, the cost of administering the program annually will increase, leading to annual increases in the administrative fee for which providers will be required to budget. In contrast, other commenters suggested that the proposed administrative fee alongside other provisions in the proposed rule, such as the timing of administrative fee collection and the batching guidelines, may impede participation in the Federal IDR process. One of these commenters recommended reducing administrative fees for at least 12 months after new batching rules go into effect to evaluate the impact of the new rules on the costs of administering the Federal IDR process.

The Departments anticipate that the improvements to the Federal IDR process that are being finalized in these rules, including improvements to the Federal IDR portal, disclosure requirements, and batching requirements, will increase the efficiency of the Federal IDR process. These efficiencies will be realized over time, which may exert downward pressure on the administrative fee in the future. However, the Departments also note that increasing the efficiency of the Federal IDR process could increase utilization of the process, which could require the Departments to expend more resources to carry out the Federal IDR process. Accordingly, the net effect of efficiencies gained and utilization is unclear. The Departments will monitor the impact of the provisions finalized in these final rules, such as the batching regulations, on the costs of administering the Federal IDR process over time.

Several commenters suggested the Departments consider cost-saving alternatives, such as addressing the root causes of costly eligibility determinations and implementing policies to disincentivize the submission of ineligible claims or bad faith conduct, to reduce overall administrative costs rather than simply raising the administrative fee.

The improvements to the Federal IDR process finalized in these rules—including required use of CARCs and RARCs as discussed in section II.B.2. of this preamble, and the open negotiation response notice as discussed in section II.D.1.b. of this preamble—help address

the root causes of many costly eligibility determinations and will serve to reduce the submission of ineligible claims and bad faith conduct, which may exert downward pressure on the administrative fee to the extent that they reduce expenditures over time. The Departments also note that the administrative fee finalized in these rules is significantly lower than any previously established administrative fee.

A few commenters suggested that the Departments consider other funding sources besides the administrative fee to fund the Federal IDR process. One commenter suggested that funds from the No Surprises Act's \$500 million appropriation, rather than the administrative fee amount, should cover a portion of QPA audits, specifically. Another commenter raised concerns that the Federal IDR process would continue to generate substantial administrative costs and therefore recommended replacing the Federal IDR process with another mechanism for determining out-of-network payments.

The Departments note that section 9816(c)(8)(B) of the Code, section 716(c)(8)(B) of ERISA, and section 2799A–1(c)(8)(B) of the PHS Act specifically provide that the amount of the administrative fee is an amount established by the Departments in a manner such that the total amount of fees paid by all parties is estimated to be equal to the amount of expenditures estimated to be made by the Departments for the year in carrying out the Federal IDR process. While the CAA appropriated \$500 million to establish and initially implement the No Surprises Act provisions in the initial years of operations, this appropriation cannot be used to fund ongoing expenditures to carry out the Federal IDR process; rather, the administrative fee must fund the Departments' costs for carrying out the Federal IDR process.

iii. Administrative Fee Amount

As noted above, in the 2023 proposed rules, the Departments proposed an administrative fee amount of \$150 per party per dispute based on the proposed administrative fee methodology. For the reasons described throughout this preamble, the Departments are finalizing an administrative fee of \$15 per party per dispute for disputes initiated on or after June 11, 2026, as set forth in section II.H.1.f of this preamble. This reduction from the \$150 administrative fee amount in the proposed rules and the \$115 administrative fee that has been effective since January 22, 2024, reflects maintaining the current administrative

fee methodology (that is, the methodology established in the IDR Process Fees final rules) and updating inputs to the administrative fee methodology based on the most recent Federal IDR process data available.¹⁶³

Many commenters opposed the proposed \$150 per party per dispute administrative fee amount, suggesting that it would create barriers to the Federal IDR process, decrease utilization of the Federal IDR process, and be cost-prohibitive to certain providers, especially to rural hospitals, small physician practices, providers of low-dollar services, or providers of certain specialties, such as radiology, emergency medicine, hospital medicine, and inpatient neurology. A few commenters also noted that larger hospital systems, providers with greater financial resources, and providers of higher-billing specialties may be better equipped to participate in the Federal IDR process. Some commenters noted that providers would be forced to accept low rates from plans and issuers if the administrative fee makes the Federal IDR process too costly, which in turn would discourage providers from filing disputes and may incentivize issuers to underpay providers or abuse the No Surprises Act. Several commenters suggested that these dynamics could discourage providers from filing disputes, thereby undermining meaningful representation of smaller market participants and distorting the accuracy of Federal IDR process outcomes, or could disincentivize plans and issuers from either negotiating fair in-network contracts or, in some cases, renewing contracts, thereby forcing providers out of networks. Some commenters suggested that patients could also be impacted by higher administrative fee amounts, either through plans and issuers narrowing provider networks or increasing premiums and cost-sharing amounts, or providers passing on costs to patients or going out of business.

The Departments acknowledge commenters' concerns related to accessibility of the Federal IDR process, but the Departments are statutorily required to set the administrative fee amount such that the total amount of administrative fees paid for a year is estimated to be equal to the amount of expenditures estimated to be made by the Departments in carrying out the

¹⁶³ See the IDR Process Fees final rules for a complete background of administrative fee amounts since the inception of the Federal IDR process. See 88 FR 88494 (December 21, 2023).

Federal IDR process for such year.¹⁶⁴ The Departments are finalizing a lower administrative fee of \$15 per party per dispute, as explained throughout this preamble, and the Departments anticipate that this lower administrative fee amount will improve the accessibility of the Federal IDR process, especially for the parties for whom commenters expressed concerns, such as small and rural providers and providers of certain medical specialties. The Departments expect that smaller providers, including independent practices, that may initiate low-dollar disputes and are less able to take advantage of batching to submit higher-value disputes, will benefit from the administrative fee amount of \$15 per party per dispute, which is less than the proposed \$75 per party per dispute administrative fee for low-dollar disputes set forth in the 2023 proposed rules. In addition, the Departments note that the Federal IDR process has already seen broad market participation across the spectrum of providers, and smaller and larger providers alike have engaged with the process under various administrative fee amounts.¹⁶⁵

As discussed in the IDR Process Fees final rules,¹⁶⁶ with regard to comments stating that a higher administrative fee could result in narrowing networks, many factors may impact whether a provider, facility, or provider of air ambulance services and a plan or issuer will enter a network agreement with one another, including the market power of each party, Federal and State network adequacy laws, and the amount paid for out-of-network services. However, as the Departments are finalizing an administrative fee of \$15 per party per dispute, which is significantly lower than the proposed administrative fee of \$150 per party per dispute, the Departments do not anticipate that the administrative fee will materially impact the equilibrium of these factors in determining network breadth. In addition, the Departments do not anticipate that the provisions finalized in these rules, including the lower \$15 per party per dispute administrative fee, will cause plans and issuers to increase premiums or patient cost sharing.

Many commenters expressed concerns that increases to the

administrative fee favor plans and issuers over providers. A few commenters noted that plans and issuers can afford higher administrative fees, and one commenter suggested that plans and issuers are in a stronger financial position to outlast providers through the Federal IDR process as they can pass through costs to enrollees through increased premiums. In addition, many commenters suggested that increases to the administrative fee place undue burden on providers and noted that providers already incur substantial operational costs to engage in the Federal IDR process. A few commenters also stated concerns that plans and issuers are not paying their administrative fees, which would lead to providers disproportionately covering the costs of the Federal IDR process.

While the Departments recognize the concerns that the administrative fee may place financial burden on providers, we note that any such concern should likely be mitigated by the reduction of the administrative fee to \$15.

Several commenters proposed specific administrative fee amounts as alternatives to the proposed \$150 per party per dispute administrative fee amount. Some commenters recommended a \$50 per party per dispute administrative fee amount, and one commenter suggested an administrative fee of \$115 per party per dispute to align with the IDR Process Fees final rules that were published during the comment period for the 2023 proposed rules. One commenter stated that the proposed administrative fee is greater than what the No Surprises Act intended. Another commenter stated that the Departments cannot change the administrative fee amount because they lack sufficient data to accurately set the administrative fee amount. Another commenter stated concern about the administrative fee amount in the 2023 proposed rules being proposed immediately after the comment period for the IDR Process Fees proposed rules expired and suggested that the Departments are deciding administrative fees without regard to the notice and comment period.

As previously stated, the Departments must meet the statutory requirements to set the administrative fee amount such that the total amount of administrative fees paid for a year is estimated to be equal to the amount of expenditures estimated to be made by the Departments in carrying out the Federal IDR process for such year.¹⁶⁷ The

Departments note that the statute did not include a dollar-value for the administrative fee amount for Federal IDR process disputes in the No Surprises Act.¹⁶⁸ Therefore, the Departments disagree that proposed administrative fee is greater than what the Congress intended. The Departments also clarify that the public has received notice and opportunity to comment on the administrative fee as required under applicable law. The proposed administrative fee amount of \$150 per party per dispute in the IDR Process Fees proposed rules was calculated under the administrative fee methodology as outlined in those proposed rules, and the \$115 per party per dispute administrative fee amount finalized in the IDR Process Fees final rules was calculated based on incorporating comments received on the administrative fee methodology and estimating the inputs to the administrative fee methodology using the best data available at the time of those final rules. While the proposed administrative fee amount in the 2023 proposed rules was also \$150 per party per dispute, this amount was separately calculated under the administrative fee methodology proposed in the 2023 proposed rules.¹⁶⁹

Many commenters requested alternative fee structures for the administrative fee. For example, the Departments received comments suggesting that the administrative fee amount be a variable fee based on the amount being disputed or provider size, subject to a cap to avoid excessive fees, or that the fee be refundable to the prevailing party or paid by the losing party. A few commenters suggested increasing the administrative fee for parties who attempt to initiate disputes in the Federal IDR process without going through open negotiation or who substantially modify their offer as compared to their last offer during open negotiation to disincentivize bad faith conduct that increases burden on the Federal IDR process. One commenter suggested that the Departments offset the administrative fee for smaller

¹⁶⁴ Section 9816(c)(8)(B) of the Code, section 716(c)(8)(B) of ERISA, and section 2799A–1(c)(8)(B) of the PHS Act.

¹⁶⁵ For example, as shown in the Federal IDR Supplemental Tables for 2025 Q2, of the disputes initiated in Q2 of 2025 with a known provider practice or facility size, providers with fewer than 50 employees initiated approximately 41 percent of disputes. <https://www.cms.gov/files/document/federal-idr-supplemental-tables-2025-q2.xlsx>.

¹⁶⁶ See 88 FR 88484, 88509 (December 23, 2023).

¹⁶⁸ See section 9816(c)(8)(A) of the Code, section 716(c)(8)(A) of ERISA, and section 2799A–1(c)(8)(A) of the PHS Act.

¹⁶⁹ The \$150 administrative fee proposed in the IDR Process Fees proposed rules was calculated by dividing the approximately \$70 million estimate of expenditures to be made by the Departments in carrying out the Federal IDR process by the estimate of 450,000 administrative fees paid annually. The \$150 fee proposed in the 2023 proposed rules was calculated by dividing the approximately \$100.2 million estimate of expenditures to be made by the Departments in carrying out the Federal IDR process by the estimate of 691,000 administrative fees paid annually.

¹⁶⁷ See section 9816(c)(8)(B) of the Code, section 716(c)(8)(B) of ERISA, and section 2799A–1(c)(8)(B) of the PHS Act.

providers by increasing the administrative fee for larger providers. Another commenter suggested that requiring the non-prevailing party to pay a higher administrative fee would raise the financial stakes of participating in the Federal IDR process and could subsequently increase plans' and issuers' incentives to bring providers in-network, reach an agreement during open negotiation, and more carefully consider dispute eligibility, or increase the Departments' capacity to better handle dispute volume. Some commenters specifically recommended a base administrative fee amount with a tiered fee based on the amount in dispute and suggested that this would improve transparency on how the fee is established. Another commenter suggested that the administrative fee be the lesser of \$115 per party per dispute or 10 percent of the QPA, which would be split evenly between parties, and suggested that the QPA is a fair basis as it would be known to both parties upon initiation of the Federal IDR process and is related to the value of the service rendered. Alternatively, one commenter suggested replacing the administrative fee with a user fee that plans and issuers pay to the Departments for use of the QPA to help cover the estimated expenditures to carry out the Federal IDR process.

While the Departments considered the alternative fee structures along with the proposals to reduce the administrative fee for both parties in low-dollar disputes and for non-initiating parties in ineligible disputes, as discussed in sections II.E.3.e and f of the preamble to these final rules, the Departments are not finalizing these modifications to the administrative fee methodology and will continue to calculate a flat administrative fee amount per party per dispute. As previously mentioned, the No Surprises Act requires that each party to a dispute for which a certified IDR entity is selected must pay an administrative fee for participating in the Federal IDR process.¹⁷⁰ Therefore, the Departments do not have the statutory authority to require the non-prevailing party to directly pay the prevailing party's administrative fee, or vice versa. It would be operationally unfeasible for the Departments to establish a variable fee structure based on provider size, the amount being disputed, or the QPA, because these metrics vary for different disputes and would therefore introduce a significant level of uncertainty when calculating a

fee amount to align with the statutory requirement that the total estimated amount of fees paid for a year must be approximately equal to the amount of expenditures estimated to be made by the Departments to carry out the Federal IDR process.

In addition, it would be inequitable to charge a higher administrative fee to parties who utilize the Federal IDR process more often, as they already pay for this higher utilization through the assessment of an administrative fee for each dispute they submit to the Federal IDR process. The Departments also find it unnecessary to assess a higher administrative fee on disputing parties who attempt to initiate disputes in the Federal IDR process without going through open negotiation or who substantially modify their offer as compared to their last offer during open negotiation. Instead, the Departments anticipate that improvements to the Federal IDR process finalized in these rules—including disclosure requirements related to the QPA as discussed in section II.C of this preamble, required use of CARCs and RARCs as discussed in section II.B.2 of this preamble, and the open negotiation response notice as discussed in section II.D.1.b of this preamble—will encourage meaningful participation in open negotiation before initiating the Federal IDR process and disincentivize the submission of ineligible claims. Further, it would be operationally difficult and add complexity to the Federal IDR process to assess different administrative fees to ineligible disputes based upon the subjective evaluation of good faith compliance by the disputing parties in each dispute. Also, as previously explained in this preamble, the Departments do not anticipate that the amount of the administrative fee would materially impact network breadth. Additionally, the Departments cannot fund the Federal IDR process by assessing a user fee from plans and issuers for use of the QPA, as the Departments must charge each party an administrative fee for participating in the Federal IDR process in an amount such that the total amount of fees paid is estimated to be equal to the amount of expenditures estimated to be made by the Departments in a year in carrying out the Federal IDR process.¹⁷¹ As such, the Departments will continue to assess

a flat administrative fee amount per party per dispute and will calculate the administrative fee amount using the methodology set forth in the IDR Process Fees final rules.

b. Time of Collection of Certified IDR Entity Fee and Administrative Fee

i. Time of Collection of Administrative Fee

The Departments proposed multiple changes to the timing of the collection of the administrative fee in proposed 26 CFR 54.9816–8(d)(2)(i)(A), 29 CFR 2590.716–8(d)(2)(i)(A), and 45 CFR 149.510(d)(2)(i)(A). The Departments proposed to require the initiating party to pay the administrative fee within 2 business days of the date of preliminary selection of the certified IDR entity, and to require the non-initiating party to pay the administrative fee within 2 business days of the date of notice that an eligibility determination for the Federal IDR process has been reached by either the certified IDR entity or the Departments under proposed 26 CFR 54.9816–8(c)(2), 29 CFR 2590.716–8(c)(2), and 45 CFR 149.510(c)(2). The Departments also proposed that the non-initiating party would pay a reduced administrative fee for disputes that are determined ineligible for the Federal IDR process; therefore, eligibility would need to be determined before the non-initiating party is charged the administrative fee.

Additionally, the Departments proposed at 26 CFR 54.9816–8(d)(2)(i)(B), 29 CFR 2590.716–8(d)(2)(i)(B), and 45 CFR 149.510(d)(2)(i)(B) that when the parties reach an agreement on an out-of-network rate for qualified IDR items or services or agree to withdraw the dispute after the dispute is initiated, the administrative fee would not be returned to the parties if preliminary selection of the certified IDR entity has occurred, as described in proposed 26 CFR 54.9816–8(c)(1)(i), 29 CFR 2590.716–8(c)(1)(i), and 45 CFR 149.510(c)(1)(i). This new paragraph would relocate the similar requirement for when parties reach an agreement, currently captured in 26 CFR 54.9816–8(c)(2)(ii), 29 CFR 2590.716–8(c)(2)(ii), and 45 CFR 149.510(c)(2)(ii), which provides that the administrative fee will not be returned to the parties in the event of an agreement, and extends those requirements in the event of a dispute withdrawal.

The Departments also proposed at 26 CFR 54.9816–8(d)(2)(i)(C), 29 CFR 2590.716–8(d)(2)(i)(C), and 45 CFR 149.510(d)(2)(i)(C) that the administrative fee would still be

¹⁷⁰ Section 9816(c)(8)(A) of the Code, section 716(c)(8)(A) of ERISA, and section 2799A–1(c)(8)(A) of the PHS Act.

¹⁷¹ OMB Circular A–25 established Federal policy regarding user fees and specifies that a user fee charge will be assessed against each identifiable recipient of special benefits derived from Federal activities beyond those received by the general public. See OMB Circular No. A–25 Revised. <https://www.whitehouse.gov/wp-content/uploads/2017/11/Circular-025.pdf>.

required to be paid if the parties had not yet paid it at the time of settlement or withdrawal, unless the dispute is closed for nonpayment of the administrative fee by the initiating party within 2 business days after preliminary selection of the certified IDR entity.

The Departments sought comment on these proposals. After reviewing the comments, considering operational constraints, and in light of the fact that the Departments are not finalizing direct Departmental collection of the administrative fee as described in section II.E.3.c of these final rules, the Departments are not finalizing these proposals. The Departments are maintaining the current timing of payment of the administrative fee in 26 CFR 54.9816–8(d)(2)(i), 29 CFR 2590.716–8(d)(2)(i), and 45 CFR 149.510(d)(2)(i), whereby the parties must, at the time the certified IDR entity is selected under paragraph (c)(1), pay to the certified IDR entity a non-refundable administrative fee that is due to the Departments, regardless of dispute eligibility, for participating in the Federal IDR process. The Departments clarify that, as amended by these final rules and established in 26 CFR 54.9816–8(c)(1)(iv), 29 CFR 2590.716–8(c)(1)(iv), and 45 CFR 149.510(c)(1)(iv), selection under paragraph (c)(1) requires preliminary and final selection of the certified IDR entity. The Departments are also maintaining the current guidance that provides that certified IDR entities may, as an operational matter, invoice administrative fees at the time of certified IDR entity selection and collect the administrative fees no later than the time of offer submission, though the Departments clarify that the disputing parties' obligation to pay the administrative fee attaches upon final certified IDR entity selection.¹⁷² Finally,

the Departments are not finalizing the proposals regarding the administrative fee structure for withdrawn and settled disputes.

The Departments received comments supporting the proposals to set the initiating party's deadline to pay the administrative fee within 2 business days after the date of preliminary certified IDR entity selection and the non-initiating party's deadline to pay within 2 business days after receiving notice of an eligibility determination. The Departments also received comments opposing this proposal and suggesting various other deadlines, such as 10 business days or 5 business days, or basing the deadline on calendar days rather than business days. One commenter noted that the 2-business-day timeline would increase administrative burden, limit provider resources, and be challenging to operationalize. Some commenters generally wanted both the initiating and non-initiating parties to have the same deadline to pay the administrative fee. A few commenters stated that both parties should have the same deadline and pay up front, upon initiation of the dispute. One commenter stated that both parties should pay later, after a payment determination is reached. Another commenter stated that the disputing parties should pay both their administrative fee and their certified IDR entity fee at the same time. Another commenter requested that the Departments monitor compliance with administrative fee timeframes. Another commenter stated that the Departments should charge interest to parties that fail to timely pay the administrative and certified IDR entity fees.

After consideration of comments and the operational burdens associated with these proposals, and due to the decision not to finalize Departmental eligibility review, the Departments are not finalizing the proposed changes to the timing of collection of the administrative fee. These proposed changes were intended to function concurrently with direct Departmental collection of the administrative fee as proposed in the amendments to 26 CFR 54.9816–8(d)(2)(i), 29 CFR 2590.716–8(d)(2)(i), and 45 CFR 149.510(d)(2)(i), which are not being finalized. Additionally, as further explained in section II.E.3.c of this preamble, it would be more burdensome than originally anticipated for the Departments to implement and operationalize a payment portal for disputing parties to pay their

administrative fees directly to the Departments. While the Departments appreciate that some commenters supported the proposed changes to the timing of collection of the administrative fee, other commenters suggested alternate timelines and highlighted potential imbalances that could result from one party paying before another, as well as the burden of requiring administrative and certified IDR entity fee payments at different times. After consideration of those comments, the Departments determined that maintaining the existing timeline will maintain efficiency and reduce complexity for disputing parties and certified IDR entities.

Further, the Departments acknowledge that disputing parties and certified IDR entities have improved compliance with administrative fee payment requirements as the Federal IDR process has matured over the past few years, which limits the need to collect the administrative fee earlier in the Federal IDR process. The Departments anticipate that maintaining current administrative fee collection processes will capitalize on the operational efficiencies that certified IDR entities have achieved since the inception of the Federal IDR process with minimal disruption to disputing parties and certified IDR entities and will promote the timely resolution of disputes. Therefore, the Departments are maintaining the current timing of payment of the administrative fee in 26 CFR 54.9816–8(d)(2)(i), 29 CFR 2590.716–8(d)(2)(i), and 45 CFR 149.510(d)(2)(i), whereby the parties must, at the time the certified IDR entity is selected, pay to the certified IDR entity non-refundable administrative fee due to the Departments for participating in the Federal IDR process.¹⁷³

The Departments will monitor compliance with the applicable administrative fee payment deadlines and may impose consequences for non-payment as permitted by Federal Debt Collection authorities.¹⁷⁴ The Departments will also consider whether future changes are necessary based on their monitoring of compliance with the administrative fee payment deadline and, if necessary, will propose any such

¹⁷² As noted in the 2023 proposed rules, currently, for administrative efficiency, the Departments' guidance allows certified IDR entities the discretion to delay collection of the administrative fee until a party submits its offer, which is the same time that each party is required to pay the certified IDR entity fee described in 26 CFR 54.9816–8(d)(1), 29 CFR 2590.716–8(d)(1), and 45 CFR 149.510(d)(1). See 88 FR 75744, 75797 (November 3, 2023). Also see U.S. Department of Health and Human Services, U.S. Department of Labor, and U.S. Department of the Treasury, (March 2023). *Federal Independent Dispute Resolution (IDR) Process Guidance for Certified IDR Entities*. Sections 4.8 and 10.1. <https://www.cms.gov/files/document/Federal-independent-dispute-resolution-guidance-disputing-parties.pdf> <https://www.cms.gov/files/document/Federal-idr-guidance-idr-entities-march-2023.pdf>; U.S. Department of Health and Human Services, U.S. Department of Labor, and U.S. Department of the Treasury, (March 2023). *Federal Independent Dispute Resolution (IDR) Process Guidance for Disputing Parties*. Sections 5.8 and 10.1. <https://www.cms.gov/files/>

[document/Federal-idr-guidance-disputing-parties-march-2023.pdf](https://www.cms.gov/files/document/Federal-idr-guidance-disputing-parties-march-2023.pdf).

¹⁷³ As previously explained in this preamble, as amended by the regulatory language in 26 CFR 54.9816–8(c)(1)(iv), 29 CFR 2590.716–8(c)(1)(iv), and 45 CFR 149.510(c)(1)(iv), selection requires preliminary and final selection of the certified IDR entity.

¹⁷⁴ The authorities applicable to HHS' debt collection activities generally includes, but are not limited to, 31 U.S.C. 3711, *et seq.*; 45 CFR 156.1215; 42 CFR part 401, subpart F; 31 CFR part 901; 45 CFR part 30; and applicable common law (collectively, "Federal Debt Collection Law").

changes in future rulemaking. As discussed in section II.E.3.d of this preamble, the Departments may establish a debt and pursue collection from a party to a dispute of any administrative fee that is not timely paid under applicable Federal Debt Collection authorities. The Departments would be required to charge interest in accordance with 31 CFR 901.9 and 45 CFR 30.18 on delinquent debt, including unpaid Federal IDR administrative fees. However, as certified IDR entity fees are due and payable to the certified IDR entity, the Departments did not propose to charge interest to parties that fail to timely pay the certified IDR entity fee at this time.

For the Departments' proposals regarding administrative fees for settled and withdrawn disputes, the Departments received a few comments opposing the proposals. Some commenters opposed both parties being charged an administrative fee for disputes that are settled or withdrawn before a payment determination. A few of these commenters suggested that both parties should have their administrative fee refunded if the dispute is settled before an eligibility determination is made, and one commenter recommended refunding the administrative fee regardless of the eligibility determination to incentivize settlement before a payment determination. Alternatively, one commenter supported the proposal with a suggestion that the withdrawal agreement include a statement regarding the distribution of the administrative and certified IDR entity fees across the disputing parties.

As mentioned previously in this section, the Departments are not finalizing the proposals to modify the timing of administrative fee collection. Therefore, the Departments are also not finalizing the proposals regarding administrative fee collections for settled and withdrawn disputes, because the proposed changes that would not have required the administrative fee to be paid if the dispute was withdrawn or settled before the initiating party paid the administrative fee would have also resulted in administrative closure of the dispute, and were inextricably linked to the administrative fee being collected upon preliminary selection of the certified IDR entity, which the Departments are not finalizing. As such, all parties to a dispute for which final selection of a certified IDR entity has been completed (regardless of eligibility) must pay a non-refundable administrative fee for participating in the Federal IDR process, regardless of

whether the dispute is later withdrawn or settled.¹⁷⁵ ¹⁷⁶

ii. Time of Collection of Certified IDR Entity Fee

The Departments proposed to amend 26 CFR 54.9816–8(d)(1)(i), 29 CFR 2590.716–8(d)(1)(i), and 45 CFR 149.510(d)(1)(i) to reflect that, consistent with current practice, each party to a dispute that either the certified IDR entity or the Departments determine is eligible for the Federal IDR process must pay to the certified IDR entity the predetermined certified IDR entity fee no later than the time the parties submit their offers, as described in proposed 26 CFR 54.9816–8(c)(5)(i), 29 CFR 2590.716–8(c)(5)(i), and 45 CFR 149.510(c)(5)(i).

The Departments also proposed to codify in 26 CFR 54.9816–8(d)(1)(iii), 29 CFR 2590.716–8(d)(1)(iii), and 45 CFR 149.510(d)(1)(iii) the current policy established in section 10.2 of the Federal IDR Process Guidance for Certified IDR Entities¹⁷⁷ that a certified IDR entity must retain the certified IDR entity fee described in 26 CFR 54.9816–8(d)(1)(i), 29 CFR 2590.716–8(d)(1)(i), and 45 CFR 149.510(d)(1)(i) paid by the party whose offer was not selected (the non-prevailing party, as defined in proposed 26 CFR 54.9816–8(c)(5)(ii)(A)(2), 29 CFR 2590.716–8(c)(5)(ii)(A)(2), and 45 CFR 149.510(c)(5)(ii)(A)(2)), consistent with the No Surprises Act.¹⁷⁸ The Departments further proposed to move the existing requirement in current 26 CFR 54.9816–8(d)(1)(ii), 29 CFR 2590.716–8(d)(1)(ii), and 45 CFR 149.510(d)(1)(ii), that the certified IDR entity return the fee paid by the

prevailing party within 30 business days following the date of the certified IDR entity's payment determination, to 26 CFR 54.9816–8(d)(1)(iii), 29 CFR 2590.716–8(d)(1)(iii), and 45 CFR 149.510(d)(1)(iii). Further, the Departments proposed that in the event of a batched dispute in which each party prevails in an equal number of determinations, the certified IDR entity fee would be split evenly between the parties. In that case, the certified IDR entity would be required to return half of the certified IDR entity fee paid by each party within 30 business days following the date of the certified IDR entity's payment determination.

Additionally, the Departments proposed to codify the current guidance that settlements and withdrawals¹⁷⁹ of disputes should be treated similarly for determining the portion of the certified IDR entity fee each party is obligated to pay.¹⁸⁰ More specifically, the Departments proposed to add 26 CFR 54.9816–8(d)(1)(iv), 29 CFR 2590.716–8(d)(1)(iv), and 45 CFR 149.510(d)(1)(iv) to provide that when the parties reach an agreement on an out-of-network rate for qualified IDR items or services or agree to withdraw a dispute under the circumstances set forth at proposed 26 CFR 54.9816–8(c)(3)(ii), 29 CFR 2590.716–8(c)(3)(ii), and 45 CFR 149.510(c)(3)(ii), for a dispute for which there is final selection of the certified IDR entity and a determination that the dispute is eligible for the Federal IDR process but for which the certified IDR entity has not made a payment determination, the certified IDR entity would be required to return half of each party's certified IDR entity fee within 30 business days of notification to the certified IDR entity of the agreement or withdrawal, unless directed otherwise by both parties. This proposed new paragraph would relocate the similar requirement for when parties reach an agreement, currently captured in 26 CFR 54.9816–8T(c)(2)(ii) and (e)(2)(ix), 29 CFR 2590.716–8(c)(2)(ii) and (e)(2)(ix), and 45 CFR 149.510(c)(2)(ii) and (e)(2)(ix), which requires the certified IDR entity to return half of each party's certified IDR entity fee within 30 business days. This proposed paragraph

¹⁷⁵ 26 CFR 54.9816–8(d)(2)(i), 29 CFR 2590.716–8(d)(2)(i), and 45 CFR 149.510(d)(2)(i).

¹⁷⁶ Disputes initiated as a result of technical errors, such as duplicate disputes, are not exempt from these requirements. If the dispute is identified as a duplicate prior to final selection of the certified IDR entity and is withdrawn, then the disputing parties are not responsible for the administrative fee. If the dispute is withdrawn after final selection of the certified IDR entity, or if the dispute is identified as a duplicate and dismissed for ineligibility after final selection of the certified IDR entity, then the disputing parties are responsible for the administrative fee. See U.S. Department of Health and Human Services, U.S. Department of Labor, and U.S. Department of the Treasury. (June 6, 2025). *Federal Independent Dispute Resolution (IDR) Technical Assistance for Certified IDR Entities and Disputing Parties: Errors Identified After Dispute Closure*. <https://www.cms.gov/files/document/idr-ta-errors-after-dispute-closure.pdf>.

¹⁷⁷ Centers for Medicare & Medicaid Services (Dec. 2023). *Federal Independent Dispute Resolution (IDR) Process Guidance for Certified IDR Entities*. <https://www.cms.gov/files/document/Federal-idr-guidance-idr-entities-march-2023.pdf>.

¹⁷⁸ Section 9816(c)(5)(F)(i) of the Code, section 716(c)(5)(F)(i) of ERISA, and section 2799A–1(c)(5)(F)(i) of the PHS Act.

¹⁷⁹ The parties may negotiate an out-of-network rate before a determination is made (a settlement) or the parties may provide notification through the Federal IDR portal to the Departments and the certified IDR entity (if selected) that indicates that both parties agree to close (withdraw) the dispute from the Federal IDR process without agreement on an out-of-network rate (a withdrawal).

¹⁸⁰ See Section 10.2 Certified IDR Entity Fee of the *Federal Independent Dispute Resolution (IDR) Process Guidance for Certified IDR Entities*. <https://www.cms.gov/files/document/Federal-idr-guidance-idr-entities-march-2023.pdf>.

would also require withdrawals to be treated the same as settlements for purposes of payment of the certified IDR entity fee.

Finally, to clarify the responsibilities of disputing parties and certified IDR entities when disputes are settled or withdrawn prior to an eligibility determination, the Departments proposed to add 26 CFR 54.9816–8(d)(1)(v), 29 CFR 2590.716–8(d)(1)(v), and 45 CFR 149.510(d)(1)(v) to provide that when the parties reach an agreement on an out-of-network rate or agree to withdraw the dispute for which there is a final selection of the certified IDR entity but for which no final eligibility determination has been made, the certified IDR entity would be required to return each party's full certified IDR entity fee within 30 business days of the date both parties notify the certified IDR entity that they have agreed on an out-of-network rate or agreed to withdraw the dispute.

After consideration of comments and to remain consistent with current practices, the Departments are finalizing the amendments to paragraphs (d)(1)(i) and (d)(1)(iii) through (v)¹⁸¹ in 26 CFR 54.9816–8, 29 CFR 2590.716–8, and 45 CFR 149.510, with modifications. The Departments are also finalizing a conforming amendment at 26 CFR 54.9816–8(e)(2)(ix), 29 CFR 2590.716–8(e)(2)(ix), and 45 CFR 149.510(e)(2)(ix).

The Departments received a few comments supporting the proposed requirement in 26 CFR 54.9816–8(d)(1)(i), 29 CFR 2590.716–8(d)(1)(i), and 45 CFR 149.510(d)(1)(i) that each party to a dispute must pay to the certified IDR entity the predetermined certified IDR entity fee no later than the time the disputing parties submit their offers. The Departments also received comments opposing this proposal, given the Departments' proposal to collect the administrative fee earlier in the Federal IDR process as outlined in section II.E.3.b.ii of the 2023 proposed rules.¹⁸² Some of these commenters stated concerns that the proposal would increase administrative burden on disputing parties by requiring two separate transactions for the certified IDR entity and administrative fees. A few commenters suggested that the timing of collection of the certified IDR entity fee should be aligned with the collection of the administrative fee.

The Departments are maintaining the current policy that certified IDR entity

fees are due at the time of offer submission, in accordance with 26 CFR 54.9816–8(d)(1)(i),¹⁸³ 29 CFR 2590.716–8(d)(1)(i), and 45 CFR 149.510(d)(1)(i) of these final rules. The Departments recognize that requiring disputing parties to engage in separate transactions for administrative fee and certified IDR entity fee payments would increase burden. For the reasons explained in sections II.E.3.b.i and II.E.3.c of this preamble, the Departments are not finalizing the proposal for Departmental collection of the administrative fee or timing of administrative fee payment; therefore, certified IDR entities will continue to collect administrative fees on the Departments' behalf, and disputing parties may continue to pay both the administrative fee and the certified IDR entity fee upon offer submission in one transaction, if that is how the selected certified IDR entity has set up their invoicing processes.¹⁸⁴

One commenter requested clarity on how certified IDR entities would communicate their predetermined certified IDR entity fee amounts to disputing parties, how certified IDR entity fee payments would be collected, and what entity would be responsible for ensuring that there was a successful transaction of the correct fee amount.

The Departments currently make publicly available a list of certified IDR entities and their certified IDR entity fees for the current calendar year.¹⁸⁵ Further, under current practice, once a certified IDR entity has determined that the dispute is eligible for the Federal IDR process, the certified IDR entity invoices fees directly to the disputing parties, and such invoice includes instructions for how to pay the fee.¹⁸⁶ The selected certified IDR entity is responsible for collecting the certified IDR entity fee.

The Departments received a few comments regarding the certified IDR

entity's timeframe for returning the certified IDR entity fee to the prevailing party after payment determination. One commenter recommended that Departments allow 5 business days for the certified IDR entity fee to be refunded to the prevailing party after the payment determination, as opposed to 30 business days, and suggested that this would be consistent with the administrative fee timelines. One commenter noted challenges in receiving timely refunds from certified IDR entities and recommended collection of the certified IDR entity fees through the Federal IDR portal to facilitate refunding the certified IDR entity fee owed to the prevailing party. Another commenter suggested that refunds to the prevailing party should be accompanied by documentation, including identification numbers of each dispute to which the refund is being issued to better account for the payment of the refunds.

The Departments are finalizing the proposal to move the requirement currently in paragraphs 26 CFR 54.9816–8T(d)(1)(ii),¹⁸⁷ 29 CFR 2590.716–8(d)(1)(ii), and 45 CFR 149.510(d)(1)(ii), whereby the certified IDR entity is required to return the fee paid by the prevailing party within 30 business days following the date of the certified IDR entity's payment determinations, to 26 CFR 54.9816–8(d)(1)(iii), 29 CFR 2590.716–8(d)(1)(iii), and 45 CFR 149.510(d)(1)(iii). This timeframe is required under section 9816(c)(6) of the Code, section 716(c)(6) of ERISA, and section 2799A–1(c)(6) of the PHS Act. With regard to the suggestion to collect fees through the Federal IDR portal, the Departments have determined that certified IDR entities should retain flexibility to implement procedures to collect the certified IDR entity fee that align with their organizational needs and maximize efficiency, rather than requiring collection of the certified IDR entity fee through the Federal IDR portal. Requiring certified IDR entities to collect the certified IDR entity fee through the Federal IDR portal would be costly and unnecessary because certified IDR entities are already required, as part of the IDR entity certification process, to demonstrate that the IDR entity maintains systems and procedures for collecting and refunding certified IDR entity fees.¹⁸⁸ While the Departments did not propose any requirements for increased documentation regarding

¹⁸³ See 26 CFR 54.9816–8(d)(1) that incorporates the requirements of 26 CFR 54.9816–8T(d)(1)(i).

¹⁸⁴ The Departments allow certified IDR entities to collect administrative fees and certified IDR entity fees up until the time of offer submission. If the certified IDR entity fee and administrative fee are not collected from a party, the certified IDR entity will not accept the non-paying party's offer. See, for example, <https://www.cms.gov/files/document/Federal-idr-guidance-disputing-parties-march-2023.pdf>.

¹⁸⁵ See <https://www.cms.gov/nosurprises/help-resolve-payment-disputes/certified-idre-list>.

¹⁸⁶ The Departments allow certified IDR entities to collect administrative fees and certified IDR entity fees up until the time of offer submission. If the certified IDR entity fee and administrative fee are not collected from a party, the certified IDR entity will not accept the non-paying party's offer. See, for example, <https://www.cms.gov/files/document/Federal-idr-guidance-disputing-parties-march-2023.pdf>.

¹⁸¹ The proposed amendments to paragraphs (d)(1)(ii) are discussed in section II.E.3.d of this preamble.

¹⁸² See 88 FR 75744, 75796–75797 (November 3, 2023).

¹⁸⁷ See 26 CFR 54.9816–8(d)(1) that incorporates the requirements of 26 CFR 54.9816–8T(d)(1)(ii).

¹⁸⁸ 26 CFR 54.9816–8(e)(2)(ix), 29 CFR 2590.716–8(e)(2)(ix), and 45 CFR 149.510(e)(2)(ix).

refunds, the Departments will consider this recommendation for future guidance to certified IDR entities on refunds.

Regarding the proposed requirements at 26 CFR 54.9816–8(d)(1)(v), 29 CFR 2590.716–8(d)(1)(v), and 45 CFR 149.510(d)(1)(v) related to disputes settled or withdrawn after final selection of the certified IDR entity but before payment determination, as discussed in more detail in section II.E.1.d.ii of this preamble, the Departments are finalizing these proposed requirements, with modifications. The Departments are also finalizing a conforming amendment at 26 CFR 54.9816–8(e)(2)(ix), 29 CFR 2590.716–8(e)(2)(ix), and 45 CFR 149.510(e)(2)(ix) that clarify the certified IDR entity's obligation to return fees within 30 business days of notification of a settlement or withdrawal. The Departments received a few comments on the proposal to require certified IDR entities to return half of each party's certified IDR entity fee within 30 business days of the settlement or withdrawal, unless directed otherwise by both parties. One commenter generally supported the proposal but suggested that the agreement between the disputing parties should also specify the distribution of both the administrative and certified IDR entity fees across disputing parties. Some commenters recommended that a greater portion of the certified IDR entity fee should be returned in certain circumstances, such as when an eligible dispute is settled or withdrawn prior to payment determination to encourage meaningful negotiation throughout the entirety of the Federal IDR process.

The Departments are finalizing the proposed provisions in 26 CFR 54.9816–8(d)(1)(v), 29 CFR 2590.716–8(d)(1)(v), and 45 CFR 149.510(d)(1)(v) that, unless directed otherwise by both parties, the certified IDR entity must return half of each party's certified IDR entity fee within 30 business days of the date both parties notify the certified IDR entity of the agreement or withdrawal for disputes for which there is a final selection of the certified IDR entity, the dispute has not been determined ineligible for the Federal IDR process, and a payment determination has not yet been made.¹⁸⁹ This provision aligns

with the requirements of the No Surprises Act, section 9816(c)(5)(F)(ii) of the Code, section 716(c)(5)(F)(ii) of ERISA, and section 2799A–1(c)(5)(F)(ii) of the PHS Act, that give disputing parties the flexibility to communicate a different distribution of payment to the certified IDR entity, while ensuring that the certified IDR entity has clear direction related to payment responsibility in the event the parties choose not to communicate a different distribution.

While disputing parties reaching an agreement on an out-of-network rate for qualified IDR items or services outside of the Federal IDR process may also agree upon their own method of allocating the costs of administrative fees due, section II.E.3.b.i of this preamble explains that certified IDR entities must collect administrative fees from each party to a dispute for which a certified IDR entity is selected. For the recommendation that a greater portion of the certified IDR entity fee be returned in certain circumstances, such as an approach is not permitted under the No Surprises Act. Section 9816(c)(5)(F)(ii) of the Code, section 716(c)(5)(F)(ii) of ERISA, and section 2799A–1(c)(5)(F)(ii) of the PHS Act provide that if the parties to a dispute reach a settlement before a payment determination, each party must pay half of the certified IDR entity fee, unless the parties otherwise agree to a different distribution of responsibility for half the certified IDR entity fee. As explained in the 2023 proposed rules, the Departments view withdrawals as analogous to settlements because, in both instances, parties are removing themselves from the Federal IDR process and consenting to close the dispute. Therefore, the Departments interpret section 9816(c)(5)(F)(ii) of the Code, section 716(c)(5)(F)(ii) of ERISA, and section 2799A–1(c)(5)(F)(ii) of the PHS Act to require each party to pay half of the certified IDR entity fee when they withdraw a dispute before a payment determination is made, unless the parties otherwise agree to a different distribution of responsibility for the fee.

Regarding disputes settled or withdrawn after final selection of the certified IDR entity, but before eligibility determination, as discussed in more detail in section II.E.1.d.ii of this preamble, a few commenters supported the Departments' proposed provision to return the certified IDR entity fees to the disputing parties. One commenter noted that the proposal would encourage parties to negotiate fair out-of-network

the disputing parties for one half of the certified IDR entity fee.

rates after the open negotiation process has concluded but before eligibility and payment determinations have been made. Another commenter noted that the proposal does not remedy inconsistent application of withdrawal procedures and suggested that certified IDR entities are disincentivized to process withdrawals efficiently, especially while the dispute is pending an eligibility determination, because the certified IDR entity will be able to retain a portion of certified IDR entity fees if the dispute is found eligible. This commenter urged the Departments to establish a formal process for certified IDR entities to process mutually agreed upon withdrawals and suggested that the Departments require the disputing parties to submit a standard notice to the certified IDR entity acknowledging their mutual agreement to withdraw the dispute from the Federal IDR process.

As previously explained, the timing of certified IDR entity fee provisions being finalized in these rules will encourage parties to continue negotiating fair out-of-network rates throughout the Federal IDR process, which may result in withdrawals or settlements. If disputing parties agree to a settlement or withdrawal before an eligibility determination, they benefit from having any certified IDR entity fees collected being returned; if disputing parties agree to a settlement or withdrawal after an eligibility determination but before a payment determination, they would still have the benefit of only paying one half of the certified IDR entity fee rather than the full certified IDR entity fee in the event that they are the non-prevailing party in the payment determination. In addition, the Departments agree with the recommendation to establish a formal process for certified IDR entities to process mutually-agreed-upon withdrawals and are therefore finalizing such a process with modifications to recognize that the proposed language exemplifies situations in which a certified IDR entity cannot determine eligibility or make a payment determination, but that there may be other similar situations that may result in a withdrawal, as described in section II.E.1.d.ii of this preamble.

Some commenters disagreed with the Departments' overall proposal to treat certified IDR entity fee payment similarly in cases of settlements and withdrawals. A few commenters recommended that the withdrawal of a dispute be considered a determination in favor of the non-initiating party that agreed to the withdrawal request. These commenters further suggested that the initiating party should be responsible for all certified IDR entity fees, or the

¹⁸⁹ The Departments recognize that certified IDR entities have until the time of offer submission to collect certified IDR entity fees, and therefore, there may be cases where parties withdraw a dispute after the dispute is determined to be eligible but before a payment determination has been made and the certified IDR entity has not yet collected certified IDR entity fees from the disputing parties. In these cases, the certified IDR entity should only invoice

non-initiating party should have their certified IDR entity fee returned. Some parties stated concerns that withdrawal requests overburden the Federal IDR process and that the proposed provisions incentivize parties to initiate disputes without doing their due diligence on eligibility, as they can wait until the moment of eligibility determination to withdraw a dispute without incurring responsibility to pay the certified IDR entity fee. One commenter noted that this proposal inadequately considers the resources that certified IDR entities invest in making eligibility determinations that may be made between dispute initiation and withdrawal.

As previously stated, the Departments maintain that withdrawals are analogous to settlements because, in both instances, parties are removing themselves from the Federal IDR process and consenting to close the dispute, even if they are not agreeing to an out-of-network rate as a condition for closure. Assessing a certified IDR entity fee when parties jointly choose to voluntarily remove a dispute from the Federal IDR process by withdrawal, after an eligibility determination, encourages disputing parties to resolve the dispute earlier in the Federal IDR process. In addition, the Departments do not have concerns with withdrawals overburdening the Federal IDR process because, as noted in section V.F.7 of this preamble, the Departments expect that dispute withdrawals will be relatively rare. Based on internal data, the Departments anticipate that approximately 4 percent of disputes (or 80,000 disputes) will be withdrawn annually.

Finally, some commenters requested clarity on the proposed provisions regarding certified IDR entity fees in cases of settlements or withdrawals. One commenter suggested that the Departments clarify that the certified IDR entity fee must be returned within 30 business days of the certified IDR entity's receipt of the withdrawal notice by the last party to notify them, to ensure that the certified IDR entity has the full 30 business days to process the request. This commenter also noted that the certified IDR entity may make a payment determination before knowing that a withdrawal or agreement between the disputing parties was made and recommended that the certified IDR entity be allowed to charge the full certified IDR entity fee to the non-prevailing party until proof can be provided that the withdrawal or agreement between the disputing parties was rendered prior to the certified IDR entity's payment determination.

To address commenters' requests to clarify the proposed revisions related to certified IDR entity fees in the cases of settlements or withdrawals, the Departments are modifying the proposed language at 26 CFR 54.9816–8(d)(1)(v), 29 CFR 2590.716–8(d)(1)(v), and 45 CFR 149.510(d)(1)(v). Specifically, as finalized, these provisions provide that for a dispute for which there is final selection of a certified IDR entity, but the dispute has been determined ineligible or no eligibility determination has been made for the dispute in accordance with 26 CFR 54.9816–8(c)(2), 29 CFR 2590.716–8(c)(2), and 45 CFR 149.510(c)(2) (excluding situations as provided in 26 CFR 54.9816–8(c)(3)(ii)(C), 29 CFR 2590.716–8(c)(3)(ii)(C), and 45 CFR 149.510(c)(3)(ii)(C) where a certified IDR entity cannot determine eligibility), the certified IDR entity is required to return the entirety of each party's certified IDR entity fee within 30 business days of the date both parties notify the certified IDR entity under those two circumstances. The Departments are modifying the language of 26 CFR 54.9816–8(d)(1)(v), 29 CFR 2590.716–8(d)(1)(v), and 45 CFR 149.510(d)(1)(v) to reflect these two circumstances in 26 CFR 54.9816–8(d)(1)(v)(A) and (B), 29 CFR 2590.716–8(d)(1)(v)(A) and (B), and 45 CFR 149.510(d)(1)(v)(A) and (B). The first circumstance is when the parties reach an agreement on an out-of-network rate for qualified IDR items or services before the certified IDR entity has made a payment determination. The second circumstance is when the parties withdraw the dispute before the certified IDR entity has made a payment determination. This modification includes additional language to clarify the return requirements for the certified IDR entity fee when a dispute has been determined ineligible. Further, this reorganization seeks to provide the clarity commenters requested, without impacting the substantive rights or obligations of the parties.

The Departments clarify that the proposed and finalized provision ensures that certified IDR entities will have 30 business days from the date both parties notify the certified IDR entity that they have agreed on an out-of-network rate or agreed to withdraw the dispute to issue the required refunds. The requirement that both parties must notify the certified IDR entity means that the certified IDR entity will need to be in receipt of both the request to withdraw and the agreement to withdraw prior to returning the certified IDR entity fee to

each party. The Departments acknowledge commenters' concerns that a certified IDR entity may make a payment determination before knowing that a withdrawal or agreement between the disputing parties was made. The Departments encourage disputing parties to inform the certified IDR entity as soon as possible to prevent this from occurring. However, if it occurs, the certified IDR should return half of each party's certified IDR entity fee in accordance with the Departments' guidance for correcting errors identified after dispute closure.¹⁹⁰

c. Manner of Administrative Fee Collection

The Departments proposed to amend 26 CFR 54.9816–8(d)(2)(i), 29 CFR 2590.716–8(d)(2)(i), and 45 CFR 149.510(d)(2)(i) to require each party participating in the Federal IDR process to pay the administrative fee directly to the Departments, instead of to the certified IDR entity for remittance to the Departments. The purpose of this proposal was to improve dispute processing times and reduce certified IDR entities' administrative burden. To support the transition to directly collecting the administrative fee and to improve the operation of current processes, the Departments also proposed to make conforming amendments to 26 CFR 54.9816–8(e)(2)(vi) and (ix), 29 CFR 2590.716–8(e)(2)(vi) and (ix), and 45 CFR 149.510(e)(2)(vi) and (ix) to reflect that certified IDR entities must maintain appropriate safeguards, controls, and procedures for any administrative fees they may be in possession of before the effective date of direct Departmental collection.¹⁹¹

The Departments sought comment on these proposals. After consideration of comments and the operational burdens associated with these proposals, and in recognition of improvements that certified IDR entities have made in their administrative fee collections processes, the Departments are not finalizing the proposed changes to the manner of administrative fee collection for the Federal IDR process administrative fee at this time. Therefore, because the Departments are not finalizing the proposed operational changes to the manner of administrative fee collection, the proposed conforming changes to

¹⁹⁰ See *Federal Independent Dispute Resolution (IDR) Technical Assistance for Certified IDR Entities and Disputing Parties: Errors Identified After Dispute Closure*, available at <https://www.cms.gov/files/document/idr-ta-errors-after-dispute-closure.pdf>.

¹⁹¹ 88 FR 75744, 75797–75798 (November 3, 2023).

reflect the requirements certified IDR entities were required to maintain for any administrative fee they may be in possession of before direct Departmental collection under the 2023 proposed rules are moot and are also not finalized in these final rules.

Several commenters stated support for the proposal that the Departments directly collect administrative fees, stating the proposal would result in greater transparency and efficiency and also increase the overall collection of fees. However, one commenter believed that this change would result in additional delays because it would require the Departments to notify the certified IDR entity whether administrative fees had been paid before the Federal IDR process could move forward. The Departments did not receive any comments on the proposed conforming amendments for certified IDR entities to maintain appropriate safeguards, controls, and procedures currently required for any administrative fees they may be in possession of before collection of administrative fees directly by the Departments.

Because certified IDR entities have made improvements to their collection processes, the burdens of operationalizing direct collection of the administrative fee by the Departments outweigh potential benefits at this time. Additionally, because disputing parties and certified IDR entities have improved overall compliance with administrative fee payment requirements as the Federal IDR process has matured over the past few years, the Departments anticipate that maintaining the current manner of administrative fee collection will promote stability and transparency, and will allow the Departments to operationalize other improvements while minimizing disruption to the disputing parties and certified IDR entities.

Additionally, the Departments sought comment on restricting the manner of payment of administrative and certified IDR entity fees to only electronic payment methods, including electronic funds transferred from a bank account, rather than allowing payment by check. Many commenters stated support for restricting the manner of payment for administrative and certified IDR entity fees to only electronic payment methods. While one commenter suggested the Departments maintain the ability to accept payment by check, a few commenters emphasized that requiring electronic payments would streamline the process and provide greater efficiency. Commenters also noted that requiring electronic

payments would reduce the administrative burden for disputing parties and allow for better tracking of payments. Regarding types of electronic payment methods the Departments should accept, several commenters stated support for allowing credit cards as a method of payment, while others stated support for allowing electronic funds transfers through the Automated Clearing House (ACH) network. A few commenters stated support for having a variety of electronic payment methods to address challenges and delays in setting up certified IDR entities in their systems to receive payment via electronic funds transfers or through the ACH network. A few commenters urged the Departments to ensure that there are no additional fees associated with the electronic payment and collection of administrative fees.

One commenter recommended standardizing the use of escrow accounts so that certified IDR entities could withdraw monies as needed. Another commenter recommended establishing a standardized process to aggregate payments across invoices for multiple disputes. Another commenter requested that there be exceptions for physician practices and other providers who may only be able to use checks for payment. A few commenters recommended that the Departments accept payment of administrative fees through the Federal IDR portal.

Additionally, a few commenters made recommendations about the method of payment for refunded certified IDR entity fees. One commenter requested that the Departments require that certified IDR entity fee refunds also be issued through electronic payments, to minimize errors and delays in the processing of refunds. Another commenter requested that the Departments continue to allow certified IDR entity fee refunds to be made by check.

Because the Departments are not finalizing the proposals for the Departments to directly collect the administrative fee, and disputing parties will continue to pay the administrative fee to the certified IDR entities, the Departments are not restricting the manner of payment of administrative fees to only electronic payment methods at this time. Further, the Departments are not restricting the manner of payment of certified IDR entity fees to only electronic payments. However, the Departments agree with commenters and recognize that accepting a variety of electronic payment methods facilitates efficient and timely payment of administrative fees and ensures the process is accessible to all potential

disputing parties. As such, in addition to certified IDR entities providing clear, transparent invoicing practices to notify parties of when a fee is owed and confirm payment receipt, the Departments encourage certified IDR entities to accept payment via a variety of payment types, including credit cards and transfers from personal and business bank accounts through the ACH network.

Further, the Departments did not propose or seek comments on restricting the manner of refunds for certified IDR entity fees, and for the reasons described above are not finalizing such an approach.

d. Application of Federal IDR Process Requirements in Circumstances Involving a Failure To Pay Certified IDR Entity Fees or Administrative Fees

i. Application of Federal IDR Process Requirements in Circumstances Involving a Failure To Pay Certified IDR Entity Fees

For the certified IDR entity fee, the Departments proposed changes to paragraphs 26 CFR 54.9816–8(d)(1)(ii), 29 CFR 2590.716–8(d)(1)(ii), and 45 CFR 149.510(d)(1)(ii) to codify existing guidance¹⁹² and provide that if either party fails to pay the certified IDR entity fee by the time the offer is due, that party's offer would not be considered received. The Departments also proposed that if a party fails to submit an offer or a party's offer is not considered received due to nonpayment of the certified IDR entity fee, the non-prevailing party continues to be responsible for payment of the certified IDR entity fee. As discussed further below, after consideration of comments, the Departments are finalizing these policies as proposed.

Some commenters recommended additional and alternative actions certified IDR entities could take in response to a party's failure to pay the certified IDR entity fee, expanding the proposal for failure to pay the certified IDR entity fee. One commenter supported greater enforcement of a non-initiating party's failure to pay its certified IDR entity fee. Another commenter suggested that the certified IDR entity should have the ability to decline any dispute where a disputing party has outstanding fees due. In addition, one commenter noted that the

¹⁹² U.S. Department of Health and Human Services, U.S. Department of Labor, U.S. Department of the Treasury, Office of Personnel Management, *Federal Independent Dispute Resolution (IDR) Process Guidance for Disputing Parties* (December 2023), available at <https://www.cms.gov/files/document/Federal-independent-dispute-resolution-guidance-disputing-parties.pdf>.

certified IDR entities should have the right to use “netting” of funds owed and refunds due.

The Departments recognize the challenges certified IDR entities may experience when a party fails to timely pay the certified IDR entity fee, and as such, are finalizing the provision at 26 CFR 54.9816–8(d)(1)(ii), 29 CFR 2590.716–8(d)(1)(ii), and 45 CFR 149.510(d)(1)(ii) as proposed to ensure disputing parties have a strong incentive to pay the certified IDR entity fee. The Departments reiterate that parties that fail to pay the certified IDR entity fee as required will continue to be responsible for the fee, and certified IDR entities may pursue debt collection consistent with applicable law. Further, the Departments did not propose to allow certified IDR entities to decline a dispute if a party has an outstanding balance and are not finalizing such a policy. However, these final rules do not preclude certified IDR entities from applying business practices to support their organizational needs, such as the netting of funds owed if permitted under applicable State law or determining how to handle disputes should a certified IDR entity find that an excessive debt could impact a certified IDR entity’s unbiased and impartial payment determination, such that there is a conflict of interest.

ii. Application of Federal IDR Process Requirements in Circumstances Involving a Failure To Pay Administrative Fees

The Departments proposed to add new 26 CFR 54.9816–8(d)(2)(i)(C), 29 CFR 2590.716–8(d)(2)(i)(C), and 45 CFR 149.510(d)(2)(i)(C) to codify existing guidance¹⁹³ related to closure of a dispute for non-payment of the administrative fee and stipulated that if the initiating party fails to pay the administrative fee within 2 business days of the date of preliminary selection of the certified IDR entity under paragraph (c)(1)(iii), the dispute would be closed due to nonpayment and neither party would be responsible for the administrative fee. The Departments explained in the preamble to the 2023 proposed rules that they would not impose an obligation to pay the administrative fee on either party in this circumstance, since the dispute was terminated before substantial work was undertaken to process it. The Departments also proposed in new paragraph (d)(2)(i)(C) that if the non-initiating party fails to pay the administrative fee within 2 business days of an eligibility determination, that

party’s offer would not be considered received. In such circumstance, the non-initiating party would continue to be responsible for payment of the administrative fee. In addition, if the dispute is determined to be ineligible for the Federal IDR process, the Departments proposed that the non-initiating party would continue to be responsible for payment of the reduced administrative fee proposed in the 2023 proposed rules in 26 CFR 54.9816–8(d)(2)(iii)(B), 29 CFR 2590.716–8(d)(2)(iii)(B), and 45 CFR 149.510(d)(2)(iii)(B), as discussed in section II.E.3.f of this preamble.

Further, the Departments proposed in 26 CFR 54.9816–8(d)(2)(i)(D), 29 CFR 2590.716–8(d)(2)(i)(D), and 45 CFR 149.510(d)(2)(i)(D) that any party that fails to timely pay the administrative fee owed in accordance with paragraph (d)(2)(i)(A) is still obligated to pay the administrative fee otherwise due and owing, except as provided in paragraph (d)(2)(i)(C) when a dispute is closed for the initiating party’s failure to make a timely administrative fee payment. Failure to pay the administrative fee would result in a debt owed to the Federal Government, after netting any amounts owed by the Federal Government in accordance with 45 CFR 156.1215, as applicable. The debt would then be collected under applicable debt collection authorities.¹⁹⁴

Additionally, the Departments proposed that the party to the dispute that incurs the debt would be determined by the TIN or NPI associated with the plan, issuer, provider, facility, or provider of air ambulance services that is a party to the dispute. That is, if a plan or issuer utilizes a TPA or service vendor, or a provider or facility engages a revenue cycle management company or other representative to represent them in the Federal IDR process (hereinafter referred to as a “representative entity”), the plan, issuer, provider, facility, or provider of air ambulance services would be responsible for the administrative fee debt, not the representative entity. However, the Departments noted that a representative entity would still be allowed to manage or initiate the Federal IDR process on behalf of a disputing party, including remitting the administrative fee amount on behalf of the party to the dispute.¹⁹⁵

Because the Departments are not finalizing proposals related to the timing and manner of administrative fee collection as discussed in sections II.E.3.b.i and II.E.3.c of this preamble, the Departments are finalizing with modifications the proposal to codify existing guidance¹⁹⁶ for consequences for failure to pay the administrative fee at 26 CFR 54.9816–8(d)(2)(iii), 29 CFR 2590.716–8(d)(2)(iii), and 45 CFR 149.510(d)(2)(iii), instead of in the proposed sections at 26 CFR 54.9816–8(d)(2)(i)(C), 29 CFR 2590.716–8(d)(2)(i)(C), and 45 CFR 149.510(d)(2)(i)(C), as discussed below.

A few commenters supported the proposed provision that if an initiating party fails to timely pay the administrative fee, the dispute would be closed and neither party would owe the administrative fee. One commenter noted that this proposed provision would reduce the financial burden on the non-initiating party. Additionally, a few commenters supported the proposal that if the non-initiating party fails to timely pay the administrative fee, the administrative fee would still be owed, and the non-initiating party’s offer would not be considered received. One commenter suggested that if the non-initiating party fails to timely pay its administrative fee, the Departments should ensure that the certified IDR entity is automatically notified, through the Federal IDR portal, of the non-initiating party’s failure to pay within the required timeline and triggered to make a payment determination in favor of the initiating party’s offer.

Because the Departments are not finalizing the proposals related to timing and manner of administrative fee collection as discussed in sections II.E.3.b.i and II.E.3.c of this preamble, and are maintaining the current guidance providing that certified IDR entities may, as an operational matter, collect administrative fees no later than the time of offer submission, the Departments are not finalizing the proposal that if an initiating party fails to timely pay the administrative fee, the dispute will be closed and neither party will owe the administrative fee. Since both parties will be permitted to pay the administrative fee at the same time, no later than offer submission, and the Departments may have incurred administrative costs at such time in the

¹⁹⁴ The authorities applicable to HHS’ debt collection activities generally include, but are not limited to, 31 U.S.C. 3711, *et seq.*; 45 CFR 156.1215; 42 CFR part 401, subpart F; 31 CFR part 901; 45 CFR part 30; and applicable common law (collectively, “Federal debt collection authorities”).

¹⁹⁵ 88 FR 75744, 75799 (November 3, 2023).

¹⁹⁶ U.S. Department of Health and Human Services, U.S. Department of Labor, U.S. Department of the Treasury, Office of Personnel Management, *Federal Independent Dispute Resolution (IDR) Process Guidance for Disputing Parties* (December 2023), available at <https://www.cms.gov/files/document/Federal-independent-dispute-resolution-guidance-disputing-parties.pdf>.

¹⁹³ *Id.*

dispute lifecycle, closing the dispute for the initiating party's failure to pay the administrative fee would deny the non-initiating party resolution on a dispute for which they have paid an administrative fee and expended resources. Therefore, under the administrative fee timeline finalized in this rule, the more appropriate remedy for failure to pay the administrative fee is for the non-paying party's offer to not be considered received. As such, the Departments are finalizing the proposals to codify that if a party fails to pay the administrative fee, at the time specified in 26 CFR 54.9816–8T(d)(2)(i), 29 CFR 2590.716–8(d)(2)(i), and 45 CFR 149.510(d)(2)(i), or at the time specified by the certified IDR entity in conformance with existing guidance,¹⁹⁷ that party's offer will not be considered received, and such party will continue to be responsible for payment of the administrative fee.

A few commenters supported the proposal that the Departments would pursue collection under Federal debt collection authorities from a party to a dispute of any administrative fee that is not timely paid, after netting any administrative fee amounts owed by issuers to the Federal Government from payments owed to issuers by the Federal Government in accordance with 45 CFR 156.1215. However, one commenter recommended that the Departments delay netting administrative fees until the Federal IDR process is more stable. Some commenters opposed netting, suggesting that allowing HHS to net unpaid administrative fees would add burden and complexity to the payment process and hinder issuers' ability to determine which fees for which disputes were being netted in a monthly payment and collections cycle. A few commenters expressed concern that if a provider is unable to pay the administrative fee, it is likely due to the provider facing financial challenges, and therefore the Departments should not net or take Federal debt collection actions against providers and should balance any policies aimed at pursuing debt collection against providers, especially small practices and rural providers. One commenter recommended that if a party engages with a representative entity to act on its behalf throughout the Federal IDR process, there should be a way to identify which entity is responsible for payments to avoid confusion and enable the Departments to pursue debt collection against the proper entity. Additionally, other commenters indicated that, often, financial

transactions related to the Federal IDR process are between the representative entity and a provider and that many plan sponsors are not equipped to directly participate in the Federal IDR process.

Because the Departments are not finalizing the proposals related to manner of administrative fee collection as discussed in section II.E.3.c of this preamble, and disputing parties will continue to pay administrative fees to the certified IDR entities, the Departments are not finalizing the proposal that the Departments will pursue collection from a party to a dispute for any administrative fee that is not timely paid to the Departments. However, should the Departments determine that a debt to the Federal Government exists that has become due and owing by a disputing party, the Departments are required to comply with Federal debt collection authorities to collect any such debts,¹⁹⁸ including netting in accordance with 45 CFR 156.1215, as applicable, as part of HHS' integrated monthly payment and collections cycle. Additionally, since the Departments are not finalizing the proposed direct Departmental collection of the administrative fee and to ensure the Departments are in compliance with Federal debt collection authorities, it is appropriate for the Departments to implement netting provisions related to the administrative fee at 45 CFR 156.1215. The Departments will work with certified IDR entities to collect any delinquent administrative fees from parties, as necessary, in compliance with Federal law. Further, as finalized in the 2025 HHS notice of benefit and payment parameters,¹⁹⁹ the netting provisions related to the administrative fee in 45 CFR 156.1215 only apply to issuers and their affiliates operating under the same TIN, not to providers, which should assuage commenters' concerns.

As discussed in section II.E.3.d of the 2023 proposed rules, representative entities are allowed to manage the Federal IDR process on behalf of disputing parties, including remitting the administrative fee on behalf of the party to the dispute. Therefore, in consideration of comments and feedback from interested parties, the Departments are clarifying that when a party to a dispute or its representative entity either (1) provides the attestation

on the notice of IDR initiation or IDR initiation response as described in 26 CFR 54.9816–8(b)(2)(ii)(A)(3) and (b)(2)(iii)(A)(3), 29 CFR 2590.716–8(b)(2)(ii)(A)(3) and (b)(2)(iii)(A)(3), and 45 CFR 149.510(b)(2)(ii)(A)(3) and (b)(2)(iii)(A)(3),²⁰⁰ or (2) in the event no notice of IDR initiation response is submitted, submits alternative information to the Departments, such as a designation in the Federal IDR registry, that a representative entity is acting on behalf of the disputing party in the Federal IDR process and accepts responsibility for payment of the administrative fee, the representative entity and the disputing party will be jointly and severally liable for the administrative fee, including incurring the debt for nonpayment of the administrative fee. This means that should the Departments determine that a debt exists, and a party to a dispute or its representative entity has identified that the representative entity is responsible for incurring the debt for nonpayment of administrative fees, the Departments may pursue applicable Federal debt collection actions against the representative entity and the disputing party on whose behalf the representative entity is acting.²⁰¹ However, should a party to a dispute or its representative entity identify that the disputing party is responsible for incurring any debt for nonpayment of the administrative fees, the Departments may pursue Federal debt collection actions only against the disputing party on whose behalf the representative entity is acting.

Additionally, although completing a notice of IDR initiation response is required, in the event a notice of IDR initiation response is not submitted by a non-initiating party, the Departments may rely on the information available through the Federal IDR registry to ascertain whether a representative entity

²⁰⁰ As finalized at 26 CFR 54.9816–8(b)(2)(ii)(A)(3) and (b)(2)(iii)(A)(3), 29 CFR 2590.716–8(b)(2)(ii)(A)(3) and (b)(2)(iii)(A)(3), and 45 CFR 149.510(b)(2)(ii)(A)(3) and (b)(2)(iii)(A)(3), the notice of IDR initiation and IDR initiation response are required to include “[t]he name and contact information (including the legal business name, email address, phone number, and mailing address) for any third party representing the [non-initiating] party, and an attestation that the third party has the authority to act on behalf of the party it represents in the Federal IDR process.” To clarify the extent to which a third party has authority to act on behalf of the party it represents, the attestation may indicate that the representative entity or disputing party is obligated to pay the administrative fee and incurs the debt for nonpayment.

²⁰¹ If a representative entity provides contractual evidence that the disputing party it is representing is liable for the payment of the administrative fee, then the Departments would pursue Federal debt collection actions against the disputing party.

¹⁹⁸ The authorities applicable to HHS' debt collection activities generally include, but are not limited to, 31 U.S.C. 3711, *et seq.*; 45 CFR 156.1215; 42 CFR part 401, subpart F; 31 CFR part 901; 45 CFR part 30; and applicable common law (collectively, “Federal debt collection authorities”).

¹⁹⁹ 89 FR 26218, 26376–77 (April 15, 2024).

¹⁹⁷ *Id.*

is responsible for payment of the administrative fee.²⁰² Should the representative entity attest on the notice of IDR initiation response (or in the Federal IDR registry) that it is acting on behalf of a disputing party in the Federal IDR process and incurring the debt for nonpayment of administrative fees, the Departments may initiate Federal debt collection activities against the representative entity as prescribed in government-wide standards for administrative collection. Further, when a representative entity is acting on behalf of a disputing party, the certified IDR entity will bill the representative entity. Representative entities may choose to pursue reimbursement for the administrative fee debts from any disputing party with whom they contract.

The Departments acknowledge the need to ensure that processes for collecting administrative fees from disputing parties allow for flexibility to collect from representative entities. The Departments understand that currently, most contracts in place between representative entities and disputing parties require the representative entities to pay administrative fees on behalf of the disputing parties. The Departments recognize, however, that there are various ways a contract may address the payment of administrative fees by a representative entity on behalf of a disputing party. For example, one contract may require a disputing party to reimburse its representative entity for any administrative fees paid, while another may make a disputing party's representative entity responsible, without reimbursement, for payment of administrative fees. A more complex contract between a disputing party and its representative entity could involve payment arrangements in which the costs of administrative fees are built into administrative service cost methodologies within the contract involving multiple layers of subcontracts between the disputing party, its direct representative entity, and subcontracted service providers.

The Departments have determined that disputing parties and their representative entities best understand their unique needs and business relationships. In many scenarios, disputing parties that engage with

representative entities to act on their behalf in the Federal IDR process, such as self-insured plans and small providers, have determined their resources are better allocated by delegating the direct role in the Federal IDR process to the representative entity, including making administrative fee payments to the Departments. As such, the Departments have determined that requiring disputing parties to retain a direct role would be complex and burdensome, could undermine the expeditious resolution of disputes, and may constrain the existing contracts between disputing parties and their respective representative entities.

e. Administrative Fee Structure for Disputing Parties in Low-Dollar Disputes

The Departments proposed to add 26 CFR 54.9816–8(d)(2)(iii)(A) through (C), 29 CFR 2590.716–8(d)(2)(iii)(A) through (C), and 45 CFR 149.510(d)(2)(iii)(A) through (C) to establish a framework for reducing the administrative fee in certain situations. The Departments proposed in 26 CFR 54.9816–8(d)(2)(iii)(A), 29 CFR 2590.716–8(d)(2)(iii)(A), and 45 CFR 149.510(d)(2)(iii)(A) to charge both parties a reduced administrative fee when the initiating party attests that the highest offer made during open negotiation by either party was less than a proposed predetermined threshold. Further, the Departments proposed in 26 CFR 54.9816–8(d)(2)(iii)(A), 29 CFR 2590.716–8(d)(2)(iii)(A), and 45 CFR 149.510(d)(2)(iii)(A) that the reduced administrative fee amount for these low-dollar disputes would be 50 percent of the administrative fee amount. The Departments proposed this administrative fee structure to address concerns that disputes over relatively low-dollar claims, such as radiology claims, are being priced out of the Federal IDR process and to further the goal of financial accessibility while ensuring that the Departments can collect sufficient funds to cover the costs of carrying out the Federal IDR process.²⁰³

After reviewing the comments, and in light of the considerations discussed in this section, the Departments are not finalizing the proposed administrative fee structure for low-dollar disputes; instead, the Departments will maintain the fixed per party, per dispute administrative fee structure as currently outlined in 26 CFR 54.9816–8(d)(2), 26 CFR 54.9816–8T(d)(2), 29 CFR 2590.716–8(d)(2), and 45 CFR 149.510(d)(2).

²⁰³ See 88 FR 75744, 75799 (November 3, 2023).

Many commenters supported reducing the administrative fee for initiating and non-initiating parties in low-dollar disputes. Commenters suggested that a reduced administrative fee for low-dollar disputes would promote equitable access, balance the costs of maintaining a Federal IDR process that operates efficiently and effectively with the costs to participate, and improve the financial accessibility of the Federal IDR process, especially for small and rural providers or providers with low-dollar claims. One commenter noted the importance of the reduced administrative fee for providers of pathology services. Alternatively, a few commenters opposed the reduced administrative fee for low-dollar disputes and recommended maintaining a standard administrative fee for all eligible disputes.

The Departments acknowledge commenters' views that reducing administrative fees for both parties in low dollar disputes would promote financial accessibility for all parties in the Federal IDR process, including for providers in rural communities, small practices, and providers billing for services with low-dollar costs. However, the significant reduction in the administrative fee amount finalized in these rules to \$15 per party per dispute, as described in section II.E.3.a of this preamble, resolves these concerns without the complexities and associated costs of an adaptive fee structure. While some disputes from smaller providers or providers of relatively low-dollar claims, such as providers of radiology services or laboratory and pathology physicians, may have been priced out of the Federal IDR process, the Departments have observed a significant number of disputes from these types of providers in the Federal IDR process, suggesting that cost may not be a prohibitive barrier to participating.²⁰⁴ In addition, while smaller providers initiating low-dollar disputes have been less able to take advantage of batching low-dollar services to submit higher-value disputes, the new batching provisions being finalized in these final rules, as discussed in section II.E.2.a of this preamble, will make batching more accessible to smaller providers initiating low-dollar disputes.

Many commenters raised concerns with the Departments' proposal to identify low-dollar disputes based on

²⁰⁴ Disputes associated with radiology, pathology and laboratory CPT codes made up 23 percent of all payment determinations made in 2025 Q2. See the Federal IDR Supplemental Tables for 2025 Q2 (January 21, 2026), available at: <https://www.cms.gov/files/document/federal-idr-supplemental-tables-2025-q2.xlsx>.

²⁰² Under the Federal IDR registry, as finalized in 26 CFR 54.9816–9(b)(2)(viii), 29 CFR 2590.716–9(b)(2)(viii), and 45 CFR 149.530(b)(2)(viii), the Departments may require upon registration “[a]dditional information needed for the purposes of administrative or certified IDR entity fee collection, as specified by the [Departments] in guidance,” which may include an attestation that a representative entity is responsible for acting on behalf of a plan or issuer.

whether the highest offer made during open negotiation by either party is below a predetermined threshold. Commenters urged the Departments to use an alternative basis to identify low-dollar disputes, such as “amount in dispute” or the “amount in controversy” to further improve financial accessibility of the Federal IDR process. Commenters offered various definitions for the “amount in dispute,” including the difference or aggregate difference between: (1) the initiating party’s offer and the initial payment; (2) the highest offer and the initial payment; (3) the highest offer made by the non-initiating party and the initial payment; or (4) the initiating party’s offer and the non-initiating party’s offer. One commenter suggested that the QPA would be a fairer basis to identify low-dollar disputes, as would be known to both parties upon initiation of the Federal IDR process and is related to the value of the service rendered.

Relatedly, many commenters did not agree with the Departments’ proposal to set the predetermined threshold equal to the amount of the full administrative fee. Several commenters noted that there could be disputes where the highest offer submitted in open negotiation is greater than the administrative fee, but the amount parties are disputing is less than the full administrative fee, and therefore it would not be economical for parties to initiate these disputes in the Federal IDR process. Some commenters were also concerned that a threshold equal to the amount of the proposed full administrative fee, which was \$150 per party per dispute as proposed in the 2023 proposed rules, would not be meaningful and would be rare for disputes to meet. One of these commenters noted that it would not be reasonable to pursue a dispute with a total out-of-network rate less than \$150 after factoring in a \$75 per party per dispute administrative fee and the costs of gathering data and navigating the Federal IDR process. Some commenters requested that the Departments increase the predetermined threshold to receive the reduced administrative fee for low-dollar disputes above the administrative fee to further increase the accessibility of the Federal IDR process or maintain the value of the Federal IDR process for parties with low-dollar offers. One commenter suggested setting a threshold of at least twice the amount of the administrative fee. Another commenter suggested that the threshold be set at 10 percent higher than the administrative fee.

The Departments recognize the difficulty in adopting a standard

framework to identify low-dollar disputes. The Departments considered commenters’ concerns with identifying low-dollar disputes based on the highest offer submitted by either party in open negotiation and commenters’ alternative bases to determine the financial barrier to access the Federal IDR process; however, because the Departments are not finalizing any reduced administrative fee for parties in low-dollar disputes, the Departments have determined it is not necessary to address commenters’ various suggested approaches for identifying low-dollar disputes.

Several commenters stated that the proposed reduced administrative fee for low-dollar disputes is too high and requested the Departments consider further reductions. A few commenters requested to increase the reduction beyond 50 percent. One of these commenters suggested that the Departments consider waiving the administrative fee entirely in cases where the amount in dispute is less than or equal to the administrative fee. Some commenters estimated that a proposed reduced administrative fee of \$75 per party per dispute for low-dollar disputes leaves the Federal IDR process financially viable for only 11–24 percent of radiology claims and less than 50 percent of pathology claims. Some commenters requested that the administrative fee for low-dollar disputes be \$50 or less per party per dispute to avoid disproportionately impacting physician practices, small and rural hospitals, imaging services, or providers with limited resources. Another commenter noted that even a \$50 per party per dispute administrative fee would present a financial barrier for nearly 30 percent of radiology services.

The Departments’ analysis of disputes show that small providers are already participating in the Federal IDR process. Notwithstanding, the Departments have determined that the administrative fee amount of \$15 per party per dispute finalized in these rules increases access to the Federal IDR process, and so any continuing concern about small providers’ access to the Federal IDR process should be significantly mitigated. Based on feedback from commenters, the finalized administrative fee of \$15 per party per dispute should not disproportionately impact provider practices, small and rural hospitals, imaging services, or providers with limited resources. The Departments have determined that the administrative fee structure of one fixed administrative fee at a rate of \$15 per party per dispute for all disputes addresses commenters’ concerns while

minimizing the burden of imposing a variable fee structure and providing an equitable fee structure to all parties.

A few commenters recommended establishing a variable administrative fee structure for low-dollar disputes. One commenter suggested setting the reduced administrative fee amount at 50 percent of the highest offer made during open negotiation. Another commenter proposed using a sliding scale where the reduced administrative fee would be 50 percent of the initiating party’s potential gain, calculated as the difference between the initiating party’s offer and the initial payment. Another commenter proposed determining the amount of the reduced administrative fee as the lesser of \$115 per party per dispute or 10 percent of the QPA and splitting this amount evenly between parties.

The Departments considered alternative variable fee structures for low-dollar disputes, but due to added complexity related to implementing such structures and estimating the amount of administrative fees to be paid in a year for the purposes of establishing the administrative fee amount, the Departments decided to not pursue those structures.

A few commenters raised concerns that a reduced administrative fee for low-dollar disputes could incentivize increased utilization of the Federal IDR process, including the initiation of low-dollar or multiple disputes rather than batching claims. Several commenters expressed concern that such increased utilization could raise the administrative costs and generate additional revenue needs for the Department to operate the Federal IDR process, while also potentially contributing to higher overall health care costs over time, contrary to the Congress’s intent under the No Surprises Act. One comment further noted that large provider staffing companies and private equity-backed providers may be initiating low-dollar disputes to gain negotiating leverage in payment determinations. Other commenters urged the Departments to monitor the impact of a reduced fee on dispute volume and available program funding, or suggested eliminating the use of the Federal IDR process for low-dollar disputes altogether by requiring payment of such claims at the billed amount.

While it is not the Departments’ policy goal to increase or decrease utilization of the Federal IDR process through setting the administrative fee amount, and although the Departments are not finalizing a reduced administrative fee for low-dollar disputes, the Departments recognize

that lowering the administrative fee for parties to all disputes may increase Federal IDR process utilization. However, the Departments also note that other finalized provisions in these rules, such as the enhanced disclosure requirements as discussed section II.C of this preamble and open negotiation through the Federal IDR portal as discussed section II.D.3 of this preamble, may decrease Federal IDR process utilization by reducing the number of ineligible disputes initiated, and could therefore mitigate some of the increased utilization that may result from the decrease in the administrative fee. As previously explained in section II.E.3.a of this preamble, the Departments must calculate the administrative fee consistent with the statutory requirement that total administrative fees paid are estimated to be equal to the amount of expenditures estimated to be made by the Departments to carry out the Federal IDR process, and therefore cannot modify the administrative fee as a means of increasing or decreasing utilization.

Some commenters requested that the Departments finalize an offer cap for parties receiving the reduced administrative fee in low-dollar disputes to avoid potential future abuse of the proposed low-dollar fee, including situations where an initiating party attests to a low-dollar dispute only to be awarded a payment determination above the low-dollar dispute threshold. A few of these commenters suggested setting the offer cap equal to the amount of the proposed full administrative fee, and one commenter suggested setting the offer cap equal to the amount of the reduced administrative fee. One commenter believed that an offer cap would align parties' incentives to consider offers in the open negotiation period. Several commenters urged the Departments to raise the offer cap above the administrative fee if the offer cap on low-dollar disputes were finalized to reflect that parties are not disputing over the entire offer, but rather the difference between offers. One commenter opposed a cap on offers and urged the Departments to prioritize equal access to the Federal IDR process.

In addition, some commenters recommended other guardrails to prevent potential abuse of the reduced fee for low-dollar disputes. One commenter recommended that fee reductions only take place in situations where providers and plans and issuers do not expect to interact frequently in the future. This commenter noted that the reduced fee could encourage providers that frequently interact with

certain plans and issuers to overuse the Federal IDR process to punish plans and issuers that fail to offer acceptable terms and to improve future bargaining power even when associated fees outweigh potential gains from participation. Another commenter suggested that any administrative costs associated with low-dollar disputes should only be assessed on the payer as they would otherwise be incentivized to make low payments on claims that would not be cost-effective to pursue in the Federal IDR process. Another commenter suggested that plans and issuers will have an incentive to underpay providers as long as it is cost-prohibitive for a practice to initiate disputes on low-dollar services, which threatens access to care for patients, and therefore, this commenter urged the Departments to consider any guardrails at a later date, as needed, and focus on prioritizing equal access to the Federal IDR process.

Because the Departments are not finalizing the proposed framework to reduce the administrative fee for parties in low-dollar disputes, the Departments are not finalizing an associated offer cap or any guardrails to prevent potential abuse of such low-dollar fee. Further, as discussed above, the Departments have determined that the administrative fee structure of one fixed administrative fee at a rate of \$15 per party per dispute for all disputes addresses commenters' concerns regarding equal access to the Federal IDR process.

f. Administrative Fee Structure for Non-Initiating Parties in Ineligible Disputes

The Departments proposed in 26 CFR 54.9816–8(d)(2)(iii)(B), 29 CFR 2590.716–8(d)(2)(iii)(B), and 45 CFR 149.510(d)(2)(iii)(B) to charge a non-initiating party a reduced administrative fee when either the certified IDR entity or the Departments, as applicable, determine the entire dispute is ineligible for the Federal IDR process. The Departments also proposed in 26 CFR 54.9816–8(d)(2)(iii)(B), 29 CFR 2590.716–8(d)(2)(iii)(B), and 45 CFR 149.510(d)(2)(iii)(B) that the reduced administrative fee amount for non-initiating parties in ineligible disputes would be 20 percent of the full administrative fee amount.

In the preamble to the 2023 proposed rules, the Departments explained that implementing an efficient Federal IDR process requires both parties to be active participants in the process, and that submission of ineligible and incomplete disputes delays processing of disputes.²⁰⁵ The Departments also

explained that charging a reduced administrative fee to the non-initiating party for an ineligible dispute would more fairly allocate the costs associated with ineligible disputes by assigning the majority of those costs to the party best suited to prevent submission of such disputes—the initiating party.²⁰⁶ To assess the projected amount of the reduced administrative fee, the Departments evaluated several factors, including reduction of follow-up required for ineligible disputes, lower utilization of the Federal IDR portal for disputes that are closed as ineligible before a payment determination, and the proportion of total disputes that are ineligible. After evaluating these factors, the Departments balanced the need to collect an administrative fee from all parties to disputes that utilize the Federal IDR portal with the need to equitably allocate burden across the parties, as well as the need to enable greater access to the Federal IDR process, and determined that assessing a reduced administrative fee amount of 20 percent of the full administrative fee for the non-initiating party in an ineligible dispute would be appropriate.

The Departments sought comment on this proposal, including whether the amount of the reduced administrative fee for non-initiating parties in ineligible disputes should be the same as the amount of the reduced administrative fee for both parties in low-dollar disputes discussed in section II.E.3.e of this preamble. The Departments also proposed that if either or both parties have not acted in good faith in their submissions or responses, the Departments could decline to charge a reduced administrative fee. The Departments solicited comments on situations in which the Departments should decline to charge the non-initiating party a reduced administrative fee for an ineligible dispute, such as if the Departments obtain evidence that the non-initiating party withheld key information during open negotiation (or initiation) that the dispute was ineligible, and the Departments also solicited comments on additional approaches the Departments should consider to mitigate potential abuse of the proposed reduced administrative fee structure.

After reviewing the comments, and in light of changes in circumstances since the 2023 proposed rules and the policies and administrative fee amount being

Department of the Treasury, *Initial Report on the Federal Independent Dispute Resolution (IDR) Process*, April 15–September 30, 2022. <https://www.cms.gov/files/document/initial-report-idr-april-15-september-30-2022.pdf>.

²⁰⁶ See 88 FR 75744, 75800 (November 3, 2023).

²⁰⁵ U.S. Department of Health and Human Services, U.S. Department of Labor, and U.S.

finalized in these rules, the Departments are not finalizing the proposal to charge a non-initiating party a reduced administrative fee of 20 percent of the full administrative fee amount when either the certified IDR entity or the Departments determine the entire dispute is ineligible for the Federal IDR process. Instead, the Departments will maintain the fixed per party, per dispute administrative fee structure as currently outlined in 26 CFR 54.9816–8(d)(2), 26 CFR 54.9816–8T(d)(2), 29 CFR 2590.716–8(d)(2), and 45 CFR 149.510(d)(2) and discussed in more detail in section II.E.3.a of this preamble.

Many commenters supported the proposal to reduce the administrative fee for non-initiating parties in ineligible disputes. Some commenters suggested that the proposal, in combination with other provisions in the 2023 proposed rules, such as requiring disclosures, conducting open negotiation through the Federal IDR portal, and closing disputes when the initiating party fails to pay the administrative fee within the required timeframe, would deter initiating parties from submitting ineligible disputes. A few commenters further supported the proposal, stating that a reduced administrative fee for non-initiating parties in ineligible disputes would appropriately account for the financial burden on non-initiating parties when engaging with initiating parties prior to the initiation of the Federal IDR process and responding to ineligible disputes. One commenter noted that initiating parties are not disincentivized from submitting ineligible disputes under current collections processes, because administrative fees for ineligible disputes are not collected, thus increasing the financial burden on non-initiating parties.

Several commenters suggested that non-initiating parties should not be required to pay a full administrative fee for ineligible disputes, because initiating parties are primarily at fault for the submission of ineligible disputes. These commenters noted the enhanced disclosure requirements in the 2023 proposed rules would provide initiating parties with all the information needed to determine if a dispute is eligible for the Federal IDR process. Some commenters suggested that the Departments waive the administrative fee entirely for non-initiating parties for ineligible disputes. A few commenters supported waiving the administrative fee for the non-initiating party entirely in situations where the non-initiating party fulfills its obligation to inform the initiating party

of a dispute's ineligibility, but the initiating party disregards material information and submits a dispute in bad faith or to inflict financial harm on the non-initiating party.

In contrast, several commenters opposed the reduced administrative fee for non-initiating parties in ineligible disputes, suggesting that the proposal presumes that initiating parties are responsible for the submission of ineligible disputes, or that it disincentivizes plans and issuers from providing complete or accurate eligibility information. Many commenters pointed out that non-initiating parties bear some or all responsibility for the submission of ineligible disputes because they do not provide sufficient information with their initial payment, and it is therefore unfair to charge initiating parties the full administrative fee. Another commenter did not understand why the initiating party should be assessed an administrative fee in situations where the non-initiating party does not claim the dispute is ineligible and suggested the Departments focus on penalizing non-initiating parties for ineligible disputes.

Many commenters suggested further reducing the administrative fee for non-initiating parties in ineligible disputes, including reducing the fee to 10 percent of the full administrative fee. Other commenters recommended imposing additional consequences on initiating parties to deter the submission of ineligible disputes, including increasing the initiating party's administrative fee beyond the full amount or requiring initiating parties to pay a substantial portion of the non-initiating party's administrative fee. Some commenters expressed concern that a small number of providers may submit ineligible disputes to burden or disrupt the Federal IDR process and asserted that requiring initiating parties to pay only the full administrative fee is an insufficient deterrent, as data from the 2022 Q4 Federal IDR Report shows a high rate of non-initiating parties challenging dispute eligibility and the majority of these disputes being found ineligible.²⁰⁷ Some commenters requested that the Departments treat an ineligible dispute determination as a decision on the part of the non-initiating party and only assess administrative

²⁰⁷ See Contested Dispute Eligibility of Partial Report on the Independent Dispute Resolution (IDR) Process October 1—December 31, 2022, available at: <https://www.cms.gov/files/document/partial-report-idr-process-octoberdecember-2022.pdf>.

fees and certified IDR entity fees on initiating parties.

The Departments understand commenters' views in support of a reduced administrative fee for non-initiating parties in ineligible disputes. However, as result of changes in circumstances since the 2023 proposed rules and the policies and administrative fee amount being finalized in these rules, the Departments are not finalizing a reduced administrative fee for non-initiating parties in ineligible disputes. First, as a result of Federal IDR process improvements and disputing parties' increasing familiarity with eligibility requirements, the percentage of disputes found ineligible has declined significantly since the 2023 proposed rules.²⁰⁸ Specifically, the Departments note that the submission rate of ineligible disputes has decreased from 69 percent in the first half of 2022 to 17 percent in the first 6 months of 2025.²⁰⁹ Therefore, a reduced administrative fee for non-initiating parties in ineligible disputes is less necessary to achieve the Departments' policy goal of reducing ineligible disputes and increasing throughput. Additionally, the Departments anticipate that provisions in these final rules, including requiring disclosures as discussed in sections II.B. and II.C. of this preamble and conducting open negotiation through the Federal IDR portal as discussed in section II.D.3 of this preamble, will further reduce the number of ineligible disputes by providing initiating parties with clearer and more accessible information needed to determine dispute eligibility before submission. For example, plans and issuers will be required to both provide complete and accurate information using approved CARCs and RARCs with the initial payment or notice of denial of payment and exchange meaningful information during the open negotiation period. These requirements are designed to address key information gaps that providers frequently report encountering when assessing eligibility for the Federal IDR process.

Second, requiring disclosures as discussed in sections II.B. and II.C. of this preamble and conducting open

²⁰⁸ The percent of disputes found ineligible declined from 22 percent throughout 2023 to 19 percent throughout 2024. See the *Supplemental Background on the Federal IDR PUF*, July 1—December 31, 2024 (May 28, 2025), available at <https://www.cms.gov/files/document/Federal-idr-supplemental-background-2024-q3-2024-q4.pdf>.

²⁰⁹ See the *Supplemental Background on the Federal IDR PUF*, January 1—June 30, 2025 (January 21, 2026), available at <https://www.cms.gov/files/document/federal-idr-supplemental-background-2025-q1-2025-q2.pdf>.

negotiation through the Federal IDR portal as discussed in section II.D.3. of the preamble will make it less costly for non-initiating parties to defend a dispute that is ultimately determined ineligible for the Federal IDR process, further limiting the need to reduce their administrative fee. Third, the Departments have determined that concerns about financial harm to non-initiating parties for ineligible disputes will be significantly mitigated by the finalized lower administrative fee amount of \$15 per party per dispute.

Lastly, after reviewing comments, the Departments now recognize that having consistent administrative fee amounts for initiating parties and non-initiating parties and not providing a reduced or waived fee for one party (or any other different administrative fee structure) is more appropriate, in part because the party at fault for an ineligible dispute is not always clear. In particular, the Departments agree with commenters that responsibility for submission of an ineligible dispute may, in some circumstances, fall on initiating parties, and may, in other circumstances, fall on non-initiating parties. The Departments also recognize that there are many reasons why an ineligible dispute may be submitted to the Federal IDR process and cannot easily place the responsibility of a particular ineligible dispute submission entirely on either party. The Departments also acknowledge that both initiating and non-initiating parties may make mistakes when submitting and responding to ineligible disputes. However, at the same time, the Departments maintain that, under the No Surprises Act and existing collection processes, each party to a dispute for which a certified IDR entity is selected must pay an administrative fee, including parties to ineligible disputes for which a certified IDR entity is selected.²¹⁰

Therefore, for these reasons, the Departments are not finalizing a reduced, waived, or any otherwise different administrative fee structure for non-initiating parties in ineligible disputes, and non-initiating parties will continue to be charged the same administrative fee as initiating parties.

4. Payment Determination

a. Submission of Offers Deadline

Sections 9816(c)(5)(B) and 9817(b)(5)(B) of the Code, sections 716(c)(5)(B) and 717(b)(5)(B) of ERISA, and sections 2799A–1(c)(5)(B) and

2799A–2(b)(5)(B) of the PHS Act provide that not later than 10 days after the date of selection of the certified IDR entity for a determination for a qualified IDR item or service, as defined in 26 CFR 54.9816–8T(a)(2)(xi), 29 CFR 2590.716–8(a)(2)(xi), and 45 CFR 149.510(a)(2)(xi), the plan or issuer and the provider, facility, or provider of air ambulance services must each submit to the certified IDR entity an offer for a payment amount for such qualified IDR item or service. The Departments codified this in the October 2021 interim final rules at 29 CFR 2590.716–8(c)(4)(i) and 45 CFR 149.510(c)(4)(i). In that rule, the Departments specified that parties to the Federal IDR process must also submit information requested by the certified IDR entity relating to the offer.

In the 2023 proposed rules, the Departments proposed to redesignate 26 CFR 54.9816–8T(c)(4), 29 CFR 2590.716–8(c)(4), and 45 CFR 149.510(c)(4) as 26 CFR 54.9816–8T(c)(5), 29 CFR 2590.716–8(c)(5), and 45 CFR 149.510(c)(5), respectively, and amend redesignated 26 CFR 54.9816–8T(c)(5)(i), 29 CFR 2590.716–8(c)(5)(i), and 45 CFR 149.510(c)(5)(i) to establish that the submission of offer is due from the provider and plan or issuer not later than 10 business days after the date of final selection of the certified IDR entity, as outlined in section II.E.1.a.ii. of the preamble to the proposed rules. This proposed amendment would establish that the time period for submission of offers would commence when the Departments notify the parties that final selection of the certified IDR entity has been completed or, if the Departments have granted an extension to the eligibility determination timeframe as described at proposed 26 CFR 54.9816–8(g)(1)(ii)(A), 29 CFR 2590.716–8(g)(1)(ii)(A), and 45 CFR 149.510(g)(1)(ii)(A) due to extenuating circumstances, when an eligibility determination has been made. The Departments are finalizing as proposed that offers are due from the parties not later than 10 business days after the date of final selection of the certified entity, or not later than 10 business days after the qualified IDR items and services are determined eligible in the event that any of the extenuating circumstances described in 26 CFR 54.9816–8T(g)(1)(ii), 29 CFR 2590.716–8(g)(1)(ii), and 45 CFR 149.510(g)(1)(ii) apply.

The Departments received a few comments on the proposal modifying the time period for submission of offers. One commenter generally supported the proposal, while another opposed it on the grounds that it may limit the ability

of the certified IDR entity to review information submitted by the initiating party. One commenter recommended that the Departments revise the proposed regulatory text as it relates to submission of offers with the American Arbitration Association's arbitration rules, such as allowing the certified IDR entities to share the final offers with the parties to encourage settlement.

The proposed time period for submission of offers does not detract from the amount of time certified IDR entities are granted to review information submitted by the initiating party, given that this time period only refers to the timeframe by which disputing parties must submit their offers to the certified IDR entity. While it is true that this timeframe occurs simultaneously with the timeframe for certified IDR entities to make a payment determination, in the event that disputing parties wait until the final day to submit their offers, under these final rules, the certified IDR entity would still have 20 business days remaining to make their payment determination.

For the commenter recommending the Departments revise the proposed regulatory text as it relates to the submission of offers to allow certified IDR entities to share the final offers, the Departments consider this comment out-of-scope because the Departments proposal only relates to the time period for parties to submit offers.

After consideration of the comments received, the Departments are finalizing the proposal that the submission of offers will be due 10 business days after final selection of the certified IDR entity, or not later than 10 business days after the determination of eligibility in the event of extenuating circumstances.

b. Payment Determination and Notification Deadline

Sections 9816(c)(5)(A) and 9817(b)(5)(A) of the Code, sections 716(c)(5)(A) and 717(b)(5)(A) of ERISA, and sections 2799A–1(c)(5)(A) and 2799A–2(b)(5)(B) of the PHS Act provide that not later than 30 days after the date of selection of the certified IDR entity for a determination for a qualified IDR item or service, as defined in 26 CFR 54.9816–8T(a)(2)(xi), 29 CFR 2590.716–8(a)(2)(xi) and 45 CFR 149.510(a)(2)(xi), the certified IDR entity will select one of the submitted offers to be the amount of payment for such item or service and will notify the provider or facility and the plan or issuer of the offer selected. Under the October 2021 interim final rules at 26 CFR 54.9816–8T(c)(4)(ii), 29 CFR 2590.716–8(c)(4)(ii) and 45 CFR 149.510(c)(4)(ii), the Departments established that the

²¹⁰ See section 9816(c)(8)(A) of the Code, section 716(c)(8)(A) of ERISA, and section 2799A–1(c)(8)(A) of the PHS Act.

certified IDR entity must select an offer no later than 30 business days after the selection of the certified IDR entity.

In the 2023 proposed rules, the Departments proposed to redesignate 26 CFR 54.9816–8(c)(4), 29 CFR 2590.716–8(c)(4), and 45 CFR 149.510(c)(4) as 26 CFR 54.9816–8(c)(5), 29 CFR 2590.716–8(c)(5), and 45 CFR 149.510(c)(5), respectively. The Departments proposed to amend redesignated paragraph (c)(5) by adding subparagraph (ii) to align with other proposed updates to regulatory text, to make technical amendments, and to codify existing subregulatory guidance. The Departments proposed to add 26 CFR 54.9816–8(c)(5)(ii), 29 CFR 2590.716–8(c)(5)(ii), and 45 CFR 149.510(c)(5)(ii) to reflect that the payment determination and notification deadline would be based on the date of final selection of the certified IDR entity, under proposed paragraph 26 CFR 54.9816–8(c)(1)(iv)(C), 29 CFR 2590.716–8(c)(1)(iv)(C), and 5 CFR 149.510(c)(1)(iv)(C), which is described further in section II.E.1.a.ii of this preamble.

Additionally, the Departments proposed to codify definitions for the prevailing and non-prevailing parties that were described in the Calendar Year 2022 Fee Guidance for the Independent Dispute Resolution Process and in the October 2021 interim final rules. The Departments proposed to add paragraphs 26 CFR 54.9816–8(c)(5)(ii)(A)(1) and (2), 29 CFR 2590.716–8(c)(5)(ii)(A)(1) and (2), and 45 CFR 149.510(c)(5)(ii)(A)(1) and (2), which would define prevailing and non-prevailing party in the case of single determinations or batched determinations. The Departments proposed that a prevailing party, in the case of single determinations, would be the party whose offer is selected by the certified IDR entity. In the case of batched determinations, the prevailing party would be the party with the most determinations in its favor. If each party prevails in an equal number of determinations, neither party would be considered the prevailing party, and the certified IDR entity fee would be split evenly between the parties. The Departments proposed that the non-prevailing party, in the case of single determinations, would be the party whose offer is not selected by the certified IDR entity and would be responsible for paying the certified IDR entity fee. In the case of batched determinations, the party with the fewest determinations in its favor is considered the non-prevailing party and would be responsible for paying the certified IDR entity fee. The

Departments solicited comment on the proposals related to payment determination and notification.

Further, the Departments proposed technical amendments to update the cross-references in paragraphs 26 CFR 54.9816–8(c)(5)(ii)(A) and (B), 29 CFR 2590.716–8(c)(5)(ii)(A) and (B), and 45 CFR 149.510(c)(5)(ii)(A) and (B) to reflect the proposed redesignation of paragraphs 26 CFR 54.9816–8(c)(5), 29 CFR 2590.716–8(c)(5), and 45 CFR 149.510(c)(5). Within these paragraphs, reference to paragraphs (c)(4)(i) and (c)(4)(iii) would be updated to paragraphs (c)(5)(i) and (c)(5)(iii), respectively, and reference to paragraphs (c)(4)(ii)(A) and (c)(4)(vi) would be updated to paragraphs (c)(5)(ii)(A) and (c)(5)(vi), respectively. The Departments are finalizing as proposed that these time periods will commence at the date of final selection of the certified IDR entity. Additionally, the Departments are finalizing as proposed that if the Departments grant an extension to the eligibility determination timeframe described at proposed 26 CFR 54.9816–8(g)(1)(ii)(A), 29 CFR 2590.716–8(g)(1)(ii)(A), and 45 CFR 149.510(g)(1)(ii)(A) for extenuating circumstances, the submission of offers and payment determination deadlines would be based on the date of eligibility determination. This would create consistency across the timeframes for the Federal IDR process described in these rules and improve implementation of the Federal IDR process.²¹¹

The Departments did not receive comments on the proposed definitions for the prevailing and non-prevailing parties and therefore, for the reasons described in the proposed rule, are finalizing them as proposed.

A few commenters misconstrued the proposal to mean that the Departments were proposing an additional 30 business days to the timeline for payment determination and notification, rather than proposing that the date of final selection would determine the beginning of the 30-business-day timeframe to determine an out-of-network rate and provide notification of the selected offer. Another commenter suggested extending the timeframe for notification to 60 business days.

The Departments clarify that they did not propose to increase the length of time that certified IDR entity have to issue a payment determination and that extending this notification to 60 business days is not permitted under the statute; instead, the Departments proposed, the date by which the 30 business day period to make a payment

determination begins, and therefore this comment is out of scope. After reviewing comments received, the Departments are finalizing as proposed that the requirement to provide notification of the payment determination to the parties will commence not later than 30 business days after the date of final selection of the certified IDR entity, or not later than 30 business days after the qualified IDR items and services are determined eligible in the event that any of the extenuating circumstances described in 26 CFR 54.9816–8T(g), 29 CFR 2590.716–8(g), and 45 CFR 149.510(g) apply.

One commenter urged the Departments to assess the certified IDR entity fee based on the percentage of prevailing determinations in a batch, rather than the number of prevailing determinations. This commenter provided that, for example, if a disputing party was the non-prevailing party for 40 percent of the batched dispute line items, then that non-prevailing party should pay 40 percent of the certified IDR entity fee. This commenter further stated that the Departments' proposed method of assessing the certified IDR entity fee in batched dispute could disincentivize batching.

The Departments disagree that the requirement for the party with the fewest determinations in its favor in a batch to pay the certified IDR entity fee would disincentivize batching, as the Departments have not heard any similar concerns and cannot identify how such a requirement would disincentivize batching. Additionally, based on recently available data in the IDR PUF for Quarter 3 and Quarter 4 of 2024, payment determinations involving batched disputes increased from 15 percent of disputes to 27 percent of disputes, indicating that initiating parties are increasingly relying on batching to submit disputes and that the payment requirement does not disincentive batching.²¹² In addition, the commenter's suggestion to assess the certified IDR entity fee based on the percentage of favorable determinations adds unnecessary complexity to the workload of certified IDR entities in collecting the certified IDR entity fee, who would be required to alter their systems and processes to account for the calculation of fees for each batched dispute differently, rather than charging the same flat fee and applying it equally

²¹¹ See 88 FR 75744, 75801 (November 3, 2023).

²¹² See <https://www.cms.gov/files/document/federal-idr-supplemental-background-2024-q3-2024-q4.pdf>.

to each party, with the prevailing party being refunded its fee in full.

The Departments did not receive comments on these technical amendments; however, to comply with the opinion and order in *TMA II*, the Departments are finalizing these amendments with four modifications. The Departments are removing the word “then” from redesignated 26 CFR 54.9816–8(c)(5)(iii)(B), 29 CFR 2590.716–8(c)(5)(iii)(B), and 45 CFR 149.510(c)(5)(iii)(B), the entirety of redesignated 26 CFR 54.9816–8(c)(5)(iii)(E), 29 CFR 2590.716–8(c)(5)(iii)(E), and 45 CFR 149.510(c)(5)(iii)(E), the entirety of redesignated 26 CFR 54.9816–8(c)(5)(iv), 29 CFR 2590.716–8(c)(5)(iv), and 45 CFR 149.510(c)(5)(iv), and the final sentence of redesignated 26 CFR 54.9816–8(c)(5)(vi)(B), 29 CFR 2590.716–8(c)(5)(vi)(B), and 45 CFR 149.510(c)(5)(vi)(B), such that it reads “The certified IDR entity’s written decision must include an explanation of their determination, including what information the certified IDR entity determined demonstrated that the offer selected as the out-of-network rate is the offer that best represents the value of the qualified IDR item or service, including the weight given to the qualifying payment amount and any additional credible information under paragraphs (c)(5)(iii)(B) through (D) of this section.”²¹³

5. Extension of Time Periods for Extenuating Circumstances

Under section 9816(c)(9) of the Code, section 716(c)(9) of ERISA, and section 2799A–1(c)(9) of the PHS Act, and as explained in the October 2021 interim final rules and subregulatory guidance issued by the Departments, the time periods required under the No Surprises Act and 26 CFR 54.9816–8, 29 CFR 2590.716–8, and 45 CFR 149.510 (other than the timing of the payments to prevailing parties) may be modified in the case of extenuating circumstances at the Departments’ discretion. This requirement was codified at 26 CFR 54.9816–8T(g), 29 CFR 2590.716–8(g), and 45 CFR 149.510(g).

The Departments proposed to amend 26 CFR 54.9816–8T(g), 29 CFR 2590.716–8(g), and 45 CFR 149.510(g) to combine the information in existing paragraphs (g)(1)(i) and (g)(1)(ii) into paragraph (g)(1)(i) and to establish at paragraph (g)(1)(i) that the Departments, including at the request of a certified

IDR entity or a disputing party, would determine whether an extension is necessary because the parties or certified IDR entity cannot meet applicable timeframes due to matters beyond the control of the certified IDR entity or one or both parties, or for other good cause. Under this provision, the Departments would provide an extension on a case-by-case basis, as opposed to solely relying on one of the parties to submit an extension request.

The Departments also proposed to establish at 26 CFR 54.9816–8(g)(1)(ii), 29 CFR 2590.716–8(g)(1)(ii), and 45 CFR 149.510(g)(1)(ii) a generally applicable extension of time periods when the Departments determine that such extension is necessary due to extenuating circumstances that contribute to systematic delays in processing disputes under the Federal IDR process, such as a high volume of disputes or Federal IDR portal system failures. Additionally, the Departments proposed to post a public notice about any generally applicable extensions of time periods. Under the proposed changes, the Departments would extend the time periods under paragraph (g)(1)(ii) without requiring a case-by-case analysis of individual extension requests.

In the preamble to the 2023 proposed rules, the Departments stated that under extenuating circumstances caused by an unforeseen high volume of disputes, the Departments would grant certified IDR entities an extension of the eligibility determination timeframe.²¹⁴ The amount of time provided in such an extension would be determined by the Departments based on the volume of disputes and the number of active certified IDR entities at the time the extension is granted. An extension of the eligibility determination deadline, if granted by the Departments, would not alter the length of the subsequent timeframes in the Federal IDR process. Rather, the extended eligibility deadline would be a starting point for the other established IDR deadlines. Accordingly, the submission of an offer would be due 10 business days after the extended eligibility determination timeframe and the payment determination would be due 30 business days after the extended eligibility determination timeframe, in accordance with the requirements established in statute and regulation. The Departments sought comment on these proposals.

After consideration of comments, the Departments are finalizing the provisions regarding extensions for extenuating circumstances as proposed.

The extension policy will provide much needed flexibility to the certified IDR entities and the disputing parties and will ensure that the Federal IDR process continues to function as intended when extenuating circumstances disrupt operations.

Several commenters supported the proposed extensions of time periods for extenuating circumstances, so as to provide needed flexibility to the parties and certified IDR entities. Some of these commenters appreciated the acknowledgement that systemic delays and other unforeseen causes of high volumes of dispute initiations disrupt the Federal IDR process, and they stated support for the extension policy because it would maintain certified IDR entities’ ability to reach fair determinations despite extenuating circumstances. A few commenters noted that the generally applicable extension of deadlines would enable non-initiating parties to participate more meaningfully in the Federal IDR process since they are particularly impacted by extenuating circumstances in which high volumes of disputes outpace their capacity to respond. One commenter noted that the suspensions of the Federal IDR portal necessitated by court orders in multiple cases demonstrated why the Departments must establish a general extension of deadlines when disruptions occur.²¹⁵

A few commenters made suggestions regarding the specific amounts of time that should be provided to disputing parties and certified IDR entities by the Departments in the event of a systemic failure or portal suspension. One of these commenters requested that following a general portal suspension, the Departments should grant a grace period of at least 30 days to allow non-initiating parties to meaningfully review and respond to all disputes, while another commenter requested that the Departments extend the notification of payment determinations from 30 business days to 60 business days in the event that certified IDR entities require additional time to make determinations. Another commenter suggested that parties be allowed to request extensions that apply to all pending disputes initiated during a specified period of time, rather than on a case-by-case basis.

²¹³ See *Tex. Med. Ass’n v. U.S. Dep’t of Health & Hum. Servs.*, 654 F. Supp. 3d 575 (E.D. Tex. 2023), *aff’d*, No. 23–40217 (5th Cir. August 2, 2024) (*TMA II*).

²¹⁴ 88 FR 75744, 75802 (November 3, 2023).

²¹⁵ See *Tex. Med. Ass’n v. U.S. Dep’t of Health & Hum. Servs.*, 654 F. Supp. 3d 575 (E.D. Tex. 2023), *aff’d*, No. 23–40217 (5th Cir. August 2, 2024) (*TMA II*), *Tex. Med. Ass’n v. U.S. Dep’t of Health & Hum. Servs.*, Case No. 6:22–cv–450–JDK (E.D. Tex. August 24, 2023) (*TMA III*), and *Tex. Med. Ass’n v. U.S. Dep’t of Health & Hum. Servs.*, Case No. 6:23–cv–00059–JDK, (E.D. Tex. August 3, 2023) (*TMA IV*).

While there were no comments explicitly opposing the proposed extension policy, several commenters stated concern that the extensions would be overutilized and contribute to the overall lengthening of the Federal IDR process. These commenters urged the Departments to utilize the proposed flexibility only in extremely rare circumstances. Several commenters stated concern that the Departments did not sufficiently define the criteria of what qualified as an extenuating circumstance. A few of these commenters also objected to including a “high volume of disputes” as an extenuating circumstance, since this lacks specificity, and a high volume of disputes has been a near constant since the start of the Federal IDR process. Similarly, one commenter noted that extenuating circumstances should not include “inadequate certified IDR entity resources,” as this is a problem that the Departments must remedy.

A few commenters requested details on the implementation of the proposed case-by-case and generally applicable extension flexibility. A few commenters suggested the Departments establish monitoring, remediation, and penalty mechanisms to ensure certified IDR entities are compliant with statutory deadlines. A few commenters also cautioned that, while extensions may be useful in limited circumstances, too much flexibility in timelines will negatively impact the Federal IDR process overall. Commenters noted that any delays in adjudication ultimately benefit payers and harm providers who must wait to receive reimbursement. A few commenters urged the Departments to adhere closely to the timelines established in the No Surprises Act.

The Departments acknowledge commenter concerns regarding overutilization and overly broad definitions of extenuating circumstances. The Departments also share the concerns stated by commenters regarding the need for a timely and efficient Federal IDR process. The Departments clarify that they do not intend to implement generally applicable extensions of the Federal IDR timeline as a matter of course. This policy is intended to provide the Departments with appropriate recourse when systematic delays in processing challenge the functioning or efficiency of the Federal IDR process. The Departments have determined that this standard strikes the appropriate balance between being sufficiently broad to allow flexibility in response to unforeseen disruptions, but also specific enough to put certified IDR entities and disputing parties on notice

of when timeline extensions may be granted. Separately, the Departments do not intend for such extensions to extend beyond the posted notification, and therefore are not finalizing a grace period once a general portal suspension has ended. While the Departments can understand the commenter’s concern, should additional time be needed for a disputing party to respond to specific cases in this circumstance, they could request extensions on a case-by-case basis. While many of the provisions proposed and finalized in these rules are intended to improve efficiencies in the Federal IDR process, the Departments understand that unforeseen circumstances may arise. Therefore, the Departments remain unconvinced that narrowing the exercise of their authority to extend deadlines would benefit parties and certified IDR entities. The Departments also clarify that the “case-by-case” language in the proposal is not intended to refer to a single dispute, but rather, a party or certified IDR entity’s circumstance which may merit an extension due to unforeseen circumstances beyond its control. Therefore, as the commenter suggested, a disputing party could request extensions for multiple disputes affected by the same extenuating circumstances at one time.

The Departments reiterate that the deadline for payment following a determination is defined in statute and may not be extended, even under extenuating circumstances.

F. Federal IDR Process Registration of Group Health Plans, Health Insurance Issuers, and Federal Employees Health Benefits Carriers

The Departments proposed adding 26 CFR 54.9816–9, 29 CFR 2590.716–9, and 45 CFR 149.530 (88 FR 75803) to require that plans, issuers, and FEHB carriers subject to the Federal IDR process submit certain information to the Departments through a registry. Specifically, under the proposed rules, plans, issuers, and FEHB carriers would be required to provide the following information upon registration:

(1) The legal business name (if any) of the group health plan, issuer, or FEHB Program carrier and, if applicable, the legal business name of the group health plan sponsor;

(2) Whether the registrant is a self- or fully-insured group health plan subject to ERISA, an FEHB Program carrier, an issuer offering individual or group market insurance coverage, a self- or fully-insured non-Federal governmental plan, or a self-insured church plan;

(3) The State(s) in which the plan or coverage is subject to a specified State law, for any items or services to which the protections against balance billing apply;

(4) The State(s) in which the plan or coverage is subject to an All-Payer Model Agreement under section 1115A of the Social Security Act, for any items or services to which the protections against balance billing apply;

(5) For self-insured group health plans not otherwise subject to State law, any State(s) in which the group health plan has properly effectuated an election to opt in to a specified State law, if that State allows a plan not otherwise subject to the State law to opt in; and, for FEHB plans that adopt a specified State law under their FEHB carrier’s contract terms, any State(s) in which they have made such an adoption;

(6) Contact information, including a telephone number and email address, for the appropriate person or office to initiate open negotiation for purposes of determining an amount of payment (including cost sharing) for such item or service; and contact information, including a telephone number and email address, for the appropriate person or office to initiate the Federal IDR process;

(7) The 14-digit Health Insurance Oversight System (HIOS) identifier, or, if the 14-digit HIOS identifier has not been assigned, the 5-digit HIOS identifier; or if no HIOS identifier is available, the plan’s or the plan sponsor’s Employer Identification Number (EIN) and the plan’s plan number (PN), if a PN is available, and for FEHB Program carriers, the applicable contract number(s) and plan code(s);

(8) Any additional information needed to identify the plan or issuer and the applicable Federal and State requirements for determining appropriate out-of-network payment rates for items or services to which the protections against balance billing apply, as specified by the Departments in guidance, or such additional information needed for FEHB carriers as specified by OPM in guidance; and

(9) Any additional information needed for purposes of administrative fee collection, as specified by the Departments in guidance, or such additional information needed for FEHB carriers as specified by OPM in guidance.

The Departments proposed that, upon submission of this information, each plan, issuer, or FEHB carrier would be assigned an IDR registration number (“registration number”). The Departments proposed gathering this

registration information in a centralized IDR registry, which the Departments would make available through the Federal IDR portal to parties seeking to initiate open negotiation or a dispute. The Departments solicited comment on whether to also make the registry available to the public. The Departments additionally proposed that the registry would be searchable. The Departments proposed that plans, issuers, and FEHB carriers would generally be required to register by the later of 30 business days after the effective date of the final rules, 30 business days after the registry becomes available, or at the time that the plan or issuer began offering coverage, whichever is later. The Departments solicited comment on whether 30 business days would be enough time to register and the potential impact of providing additional time to register. The Departments proposed that registered plans, issuers, and FEHB carriers would be required to update their registration information within 30 business days of any change and to confirm accuracy annually during the fourth quarter of each calendar year. The Departments additionally proposed to allow third parties to complete a plan, issuer, or FEHB carrier's initial registration and subsequent updates, should the plan, issuer, or FEHB carrier grant it authority to do so. Separately, as discussed in this preamble at section II.C, the Departments proposed amendments to the disclosure requirements at 26 CFR 54.9816–6(d), 29 CFR 2590.716–6(d), and 45 CFR 149.140(d) to require plans, issuers, and FEHB carriers to provide the applicable registration number with an initial payment or notice of denial of payment.

After consideration of comments, the Departments are finalizing 26 CFR 54.9816–9, 29 CFR 2590.716–9, and 45 CFR 149.530 as proposed, except they will allow health insurance issuers to register once on behalf of all their fully-insured individual and group market coverage; are modifying and not finalizing the collection of certain data elements, as described in more detail below; and are providing 90 business days to register from the date the Departments provide notice that the registry is available.

Commenters overwhelmingly supported the proposal to require plans, issuers, and FEHB carriers subject to the Federal IDR process to register with the Federal IDR portal. Many commenters stated that the registry would help providers accurately identify plans, issuers, and FEHB carriers, as well as their contact information. Many commenters also stated that the registry would reduce the number of ineligible

disputes initiated within the Federal IDR process. In particular, some commenters stated that the registry would help providers identify the type of payer against whom they are initiating a dispute, allowing the initiating provider to correctly batch items and services as well as identify whether a specified State law or the Federal IDR process applies to the determination of the out-of-network rate. Several commenters also stated support for the registry to reduce the number of disputes incorrectly initiated against the wrong payer.

Some commenters opposed the proposed registration requirement in whole or in part. One commenter opposed finalizing any aspect of the proposed registration requirement, stating it would be duplicative of other disclosures and Federal IDR policies and would not fully address the communication and information-sharing issues that affect the Federal IDR process. Several commenters opposed requiring fully-insured group health plans to register because they believed it was not necessary, while other commenters similarly opposed requiring every plan and issuer to register separately.

Finally, some commenters supported the proposed registration requirement but stated concern about the administrative burden associated with registering on the proposed timeline. Specifically, some commenters stated that 30 business days was insufficient time to register and suggested extending the initial registration period to between 45 and 90 business days, although other commenters stated that 30 business days provided sufficient time to register.

Several commenters recommended reducing the data elements required for registration to minimize the burden on registrants, improve accuracy and usability, and to avoid the burden of providing information which the commenters believed was readily available elsewhere.

The Departments agree that the registry will help providers accurately identify plans, issuers, and FEHB carriers as well as their contact information, reducing the number of ineligible disputes initiated within the Federal IDR process and reducing the number of disputes incorrectly initiated against the wrong plan or issuer. The Departments recognize the burden created by registration but are confident that the improvements in communication and reduction in ineligible and misdirected disputes created by registration will provide significant benefit to all disputing parties, outweighing the associated

burden. However, the Departments wish to minimize the burden of registration for plans, issuers, and FEHB carriers. To that end, the Departments are modifying, and not finalizing, the collection of certain data elements, as described further below. Additionally, the Departments are reducing the number of entities required to register by finalizing the registration requirement with modifications, allowing health insurance issuers to register only once on behalf of all their fully-insured individual and group market coverage that they insure. This finalized requirement, at 26 CFR 54.9816–9(b)(1), 29 CFR 2590.716–9(b)(1), and 45 CFR 149.530(b)(1), states that each self-insured group health plan, each FEHB Program carrier, and each health insurance issuer offering group or individual health insurance coverage must register. Under this finalized requirement, fully-insured group health plans and individual health coverage products do not need to register individually.

The Departments are not finalizing the collection of certain registry data elements, are finalizing certain elements with modifications, and are finalizing others as proposed, as outlined below.

The Departments proposed at 26 CFR 54.9816–9(b)(2)(i), 29 CFR 2590.716–9(b)(2)(i), and 45 CFR 149.530(b)(2)(i) to require registrants to submit the legal business name (if any) of the group health plan, issuer, or FEHB Program carrier and, if applicable, the legal business name of the group health plan sponsor. Some commenters opposed this proposal, including a commenter who stated that the legal business name of the plan sponsor is not necessary for adjudicating a No Surprises Act-related dispute when the sponsor has apportioned responsibility to its insurer or TPA. Another commenter recommended revising the proposal to require the group health plan's legal business name only if the plan is self-insured.

The Departments agree that plan and plan sponsor's legal business names are not necessary for fully-insured group health plans, and should be required only for self-insured group health plans. As discussed above, the Departments are finalizing a modified registration requirement such that fully-insured group health plans and individual health coverage products do not need to register individually. Therefore, the Departments are not requiring fully-insured group health plans to provide their legal business name or the legal business name of their sponsor. The Departments maintain that self-insured plans must provide their legal business

name and the name of their plan sponsor even if the sponsor has apportioned responsibility for plan administration and No Surprises Act compliance to its TPA, as certified IDR entities and initiating parties must distinguish between self-insured group health plans with the same TPA to determine whether items and services were paid by the same self-insured group health plan and are therefore eligible to be batched together in a single dispute. Plan name and plan sponsor name are both needed to properly identify self-insured plans because some self-insured group health plans do not have legal business names, and some have a legal business name that is the same as or similar to that of other plans, making it necessary to use plan sponsor name to differentiate between the plans. Additionally, the identity of a self-insured group health plan is relevant to eligibility determinations, including, for example, when it represents that it has opted in to a specified State law. The identity of the plan is also important because, if applicable, the self-insured plan (rather than the TPA) is responsible for making payment within 30 calendar days following the date of the certified IDR entity's determination.

The Departments proposed at 26 CFR 54.9816–9(b)(2)(ii), 29 CFR 2590.716–9(b)(2)(ii), and 45 CFR 149.530(b)(2)(ii) to require registrants to state whether the plan or coverage is a self-insured or fully-insured group health plan subject to ERISA, individual health insurance coverage, a plan offered by an FEHB carrier, or a self- or fully-insured non-Federal governmental plan, or a self-insured church plan. One commenter supported the inclusion of this data element for transparency and to help mitigate confusion and uncertainty at the point of care. Other commenters opposed the proposal that registrants state whether the plan or coverage is a self-insured or fully-insured group health plan subject to ERISA, as the commenters read this proposal to require registration of fully-insured group health plans subject to ERISA separately from the registration of the issuer that insures them. These commenters stated that registration by an issuer should be sufficient to satisfy the requirement for a fully-insured group health plan to register, as eligible items and services paid by the same issuer may be batched together in a single dispute, even if they relate to different fully-insured group health plans or individual health coverage.

The Departments agree. Since, in these final rules, the Departments are not requiring fully-insured group health

plans to register, they are not finalizing the requirement for fully-insured group health plans to provide their legal business name or the legal business name of their plan sponsor when registering. Therefore, the Departments are finalizing with modifications 26 CFR 54.9816–9(b)(2)(ii), 29 CFR 2590.716–9(b)(2)(ii), and 45 CFR 149.530(b)(2)(ii) to require that registrants state whether they are a self-insured group health plan subject to ERISA, an FEHB carrier, an issuer offering individual or group market insurance coverage, a self or fully-insured non-Federal governmental plan, or a self-insured church plan, and to not require fully-insured group health plans to similarly identify themselves.

The Departments proposed at 26 CFR 54.9816–9(b)(2)(iii), 29 CFR 2590.716–9(b)(2)(iii), and 45 CFR 149.530(b)(2)(iii) to require registrants to list the State(s) in which the plan or coverage is subject to a specified State law for any items or services subject to the No Surprises Act. The Departments also proposed at 26 CFR 54.9816–9(b)(iv), 29 CFR 2590.716–9(b)(2)(iv), and 45 CFR 149.530(b)(2)(iv) to require registrants to list the State(s) in which the plan or coverage is subject to an All-Payer Model Agreement. Some commenters stated that requiring this information would be overly burdensome for plans, issuers, and FEHB carriers and might fail to fully resolve eligibility questions. They noted that State law applicability can vary based on claim-specific factors, and that State balance billing protections generally apply based on the State in which a plan or coverage is offered or licensed, rather than the State where health care services are rendered. Other commenters indicated that plans, issuers, and FEHB carriers should not be responsible for determining whether a specified State law or All-Payer Model Agreement apply, with some recommending that the Departments populate specified State law or All-Payer Model Agreement applicability from its own data sources if such information is necessary for registration.

The Departments agree with commenters that it would be unduly burdensome and duplicative to require issuers of fully-insured plans and carriers of other coverage to list, when registering, the State(s) in which it is subject to a specified State law or All-Payer Model Agreement because such plans and coverage are subject to any such laws in any State in which it is offered or licensed. Given these comments, the Departments are modifying the proposed requirement for registrants to specify any States in which they are subject to a Specified State law or All-Payer Model Agreement

to instead require certain registrants to provide minimal State information: issuers offering individual or group market insurance coverage must specify the State in which they are licensed, while self-insured non-Federal governmental plans must specify the State(s) in which the plan is offered. This information will allow registry users, including the Departments and certified IDR entities, to identify whether an issuer is subject to a specified State law or All-Payer Model Agreement while minimizing burden on registrants. State of licensure or coverage information will additionally be helpful to properly identify issuers and non-Federal governmental plans that may have similar legal business names in different States of licensure or operations. The Departments are not imposing this requirement on self-insured employer-sponsored (other than non-Federal government plans) or church group health plans, which often operate nationwide or in many States, in contrast to issuers, who are licensed in a single State. Likewise, self-insured non-Federal governmental plans generally offer coverage to the employees of a single State or small group of States, making it less burdensome for these plans to provide State information. The Departments are finalizing this modified requirement at 26 CFR 54.9816–9(b)(iv), 29 CFR 2590.716–9(b)(2)(iv), and 45 CFR 149.530(b)(2)(iv) and are not finalizing proposed 26 CFR 54.9816–9(b)(iv), 29 CFR 2590.716–9(b)(2)(iv), and 45 CFR 149.530(b)(2)(iv). The Departments are therefore redesignating proposed paragraphs (b)(2)(v) through (b)(2)(ix) as paragraphs (b)(2)(iv) through (b)(2)(viii).

The Departments further proposed at 26 CFR 54.9816–9(b)(2)(v), 29 CFR 2590.716–9(b)(2)(v), and 45 CFR 149.530(b)(2)(v) to require a registrant to state, if the registrant is a self-insured group health plan not otherwise subject to State law, any State(s) in which the group health plan has properly effectuated an election to opt in to a specified State law, and for FEHB plans that adopt a specified State law under their FEHB carrier's contract terms, any State(s) in which the carrier has made such an adoption. The Departments are finalizing this proposal with modifications at redesignated 26 CFR 54.9816–9(b)(2)(iv), 29 CFR 2590.716–9(b)(2)(iv), and 45 CFR 149.530(b)(2)(iv), to explicitly require self-insured church plans and self-insured non-Federal governmental plans to provide the information specified in redesignated paragraph (b)(2)(iv), and to also require registrants subject to redesignated

paragraph (b)(2)(iv) to state whether they are subject to an All-Payer Model Agreement.

The Departments have determined that finalizing this requirement for FEHB carriers and self-insured group health plans (including self-insured church plans and non-Federal governmental plans) is necessary to provide definitive information for initiating parties and certified IDR entities on whether items or services paid by such a plan or carrier are subject to a State or Federal dispute resolution process, as many States do not maintain publicly available lists of self-insured plans or FEHB carriers that have opted in to their specified State law. The Departments do not maintain, and are not aware of, any other single database that provides this information necessary for disputing parties or certified IDR entities to determine the eligibility of a dispute for the Federal process. The Departments note that there are no existing All-Payer Model Agreements which permit opt-in, but should such an agreement be instituted in the future, it would be necessary to collect opt-in information to provide definitive information for initiating parties and certified IDR entities on whether items or services paid by such a plan or carrier are subject to an All-Payer Model Agreement or the Federal dispute resolution process.

The Departments proposed at 26 CFR 54.9816–9(b)(2)(vi), 29 CFR 2590.716–9(b)(2)(vi), and 45 CFR 149.530(b)(2)(vi) to require registrants to provide contact information, including a telephone number and email address, for the appropriate person or office to initiate open negotiation for purposes of determining an amount of payment (including cost sharing) for such item or service. The Departments additionally solicited comment on whether plans, issuers, or FEHB carriers would need to register multiple points of contact in their submissions to the IDR registry.

Several commenters supported the requirement to include contact information to initiate open negotiation, some of whom recommended additionally collecting appropriate contact information for each stage of the Federal IDR process. Several of these commenters indicated that some payers may have different entities handling the Federal IDR process at different process stages or in different States or regions, and therefore should be allowed to provide multiple contacts in their registration. Other commenters stated that only a single point of contact should be listed in the registry to reduce confusion and administrative burden on providers. One commenter stated that

requiring a single contact would force parties to remove information that is no longer accurate and therefore improve the registry's functionality. A small number of commenters did not support the requirement to include contact information to initiate open negotiation. One of these commenters indicated that if a requirement to initiate open negotiation through the Federal IDR portal were finalized, this information would not be necessary, as open negotiation communication could go through the portal. Another commenter noted that the contact information for self-insured group health plans should not be required, particularly in instances when a TPA is engaged in the Federal IDR process on the plan's behalf.

After considering comments, the Departments are finalizing with modifications the requirement that registrants provide contact information, including a telephone number and email address, for the appropriate office or person to initiate open negotiation for purposes of determining an amount of payment (including cost sharing) for such item or service. The Departments are modifying this requirement to additionally require contact information, including a telephone number and email address, for the appropriate office or person to initiate the Federal IDR process, and are redesignating this requirement as 26 CFR 54.9816–9(b)(2)(v), 29 CFR 2590.716–9(b)(2)(v), and 45 CFR 149.530(b)(2)(v). The addition of contact information for initiation of the Federal IDR process is responsive to commenters who noted that some registrants may use different service providers or offices for IDR process operations than for the open negotiation process. The Departments have determined that finalizing these requirements as modified will address concerns raised by providers, and plans, issuers, and FEHB carriers about misdirected open negotiation and IDR initiation notices. The Departments note that they will permit a self-insured group health plan's point of contact to be a third party, which should address the commenter's concern that it would be burdensome to require plan sponsors to provide a point of contact if they have contracted with a TPA to provide plan administration services.

The Departments acknowledge the concerns shared by some commenters about existing business practices that plans, issuers, and FEHB carriers employ using multiple points of contact for open negotiation and IDR initiation. In light of these existing business practices, the Departments intend to

permit (but not require) registrants to register multiple points of contact, and will specifically allow registrants who are self-insured group health plans (including church plans and non-Federal governmental plans) to register different points of contact for claims processed by different TPAs. However, the Departments caution that flexibility to register multiple points of contact for other purposes, such as specific types of medical services or particular geographic areas cannot be accommodated at this time due to the need to ensure timely and efficient registration, prevent sensitive beneficiary information from being misdirected to a service provider who should not receive it, and promote integration of information from the registry automatically into other functionalities of the Federal IDR portal to streamline operations—a goal supported by an overwhelming majority of commenters on the proposed rules. Registrants who provide multiple points of contact should be prepared to also provide a single fallback open negotiation contact which can triage open negotiation requests internally to the appropriate person or entity, and a single fallback point of contact which can do the same for notices of IDR initiation, to accommodate situations in which the initiating party cannot determine which point of contact is most appropriate. The Departments note that the extended implementation date of the registry provided in these final rules at 26 CFR 54.9816–9(b)(1), 29 CFR 2590.716–9(b)(1), and 45 CFR 149.530(b)(1) allows additional time for plans and issuers to set up requisite lines of communication across service providers.

The Departments proposed adding 26 CFR 54.9816–9(b)(2)(vii), 29 CFR 2590.716–9(b)(2)(vii), and 45 CFR 149.530(b)(2)(vii), requiring registrants to provide the 14-digit Health Insurance Oversight System (HIOS) identifier; or if the 14-digit HIOS identifier has not been assigned, the 5-digit HIOS identifier; or if no HIOS identifier is available, the plan's or the plan sponsor's Employer Identification Number (EIN) and the plan's plan number (PN), if a PN is available, or for FEHB carriers, the applicable contract number(s) and plan code(s). One commenter supported specifically requiring the 14-digit HIOS identifier and stated that the 5-digit HIOS identifier may seem sufficient but puts a burden on providers. Several commenters specifically opposed the proposed requirement to provide the 14-digit HIOS identifier, which they stated was unnecessary and overly

burdensome. Many of these commenters noted that the 5-digit HIOS identifier and/or plan's or plan sponsor's EIN would be sufficient for identifying the plan, considering the purposes of the IDR registry. One commenter suggested that the plan sponsor's EIN under proposed 26 CFR 54.9816–9(b)(2)(vii), 29 CFR 2590.716–9(b)(2)(vii), and 45 CFR 149.530(b)(2)(vii) be removed from the IDR registry requirements and be collected on the open negotiation response notice instead.

In consideration of the comments, the Departments are finalizing this proposal at redesignated 26 CFR 54.9816–9(b)(2)(vi), 29 CFR 2590.716–9(b)(2)(vi), and 45 CFR 149.530(b)(2)(vi), with modifications to require registrants to provide only the 5-digit HIOS identifier rather than the 14-digit HIOS identifier, while finalizing the other elements of this provision as proposed. A 5-digit HIOS ID captures the issuer's unique ID number; a 14-digit HIOS ID begins with the same 5-digit unique ID number, then adds the Issuer's 2-digit State abbreviation, the 3-digit Product ID, and a 4-digit component ID. In general, for fully-insured coverage, all coverage with the same 5-digit HIOS ID is issued by the same issuer and may therefore be registered a single time, making provision of a 14-digit HIOS ID number unnecessary for fully-insured coverage. For the comment regarding collection of the EIN, the Departments do not agree that EIN should instead be collected on the open negotiation response notice, as collecting it as part of the registry allows disputing parties to provide it once, instead of on multiple notices.

The Departments proposed adding 26 CFR 54.9816–9(b)(2)(viii), 29 CFR 2590.716–9(b)(2)(viii), and 45 CFR 149.530(b)(2)(viii), requiring registrants to provide additional information needed to identify the plan or issuer and the applicable Federal and State requirements for determining appropriate out-of-network payment rates for items or services to which the protections against balance billing in this part apply, as specified by the Secretary in guidance, or such additional information needed for FEHB carriers as specified by OPM in guidance. Additionally, in 26 CFR 54.9816–9(b)(2)(ix), 29 CFR 2590.716–9(b)(2)(ix), and 45 CFR 149.530(b)(2)(ix), the Departments proposed requiring registrants to provide additional information needed for purposes of administrative fee collection, as specified by the Secretary in guidance, or such additional information needed for FEHB carriers as specified by OPM in guidance. The Departments did not receive comments on these proposals

and are finalizing them as proposed, but redesignating them as 26 CFR 54.9816–9(b)(2)(vii) and (viii), 29 CFR 2590.716–9(b)(2)(vii) and (viii), and 45 CFR 149.530(b)(2)(vii) and (viii), respectively. The Departments anticipate that such additional information may include billing contact information for administrative fee collection and an attestation that a representative entity is acting on behalf of a registrant in the Federal IDR process and accepts responsibility for payment of the administrative fee. The Departments note that any sensitive financial or contractual information provided during registration will be kept confidential to the Departments, stored securely, and will not be disclosed to end users of the Federal IDR portal.

The Departments also proposed adding 26 CFR 54.9816–9(b)(3), 29 CFR 2590.716–9(b)(3), and 45 CFR 149.530(b)(3), requiring registrants to timely report a change to their registration information within 30 calendar days after the information changes, and requiring registrants to confirm the accuracy of their registration annually in the fourth quarter of each calendar year. Several commenters supported this proposed timeline for updating disclosures and the proposed annual confirmation of registration accuracy. These commenters noted that the proposed timelines to update and verify information would help ensure that the contents of the IDR registry are complete and accurate. No commenters opposed the proposed timelines. Therefore, the Departments are finalizing this provision as proposed. The Departments note that registrants who fail to confirm the accuracy of their registration annually in the fourth quarter of each calendar year will be treated as having failed to register and will be required to re-register in the following calendar year.

The Departments proposed adding 26 CFR 54.9816–9(b)(4), 29 CFR 2590.716–9(b)(4), and 45 CFR 149.530(b)(4) to allow TPAs or other service providers to register on behalf of group health plans and health insurance issuers. While several commenters supported this proposal, one commenter stated that submission of disputes by TPAs is problematic and inefficient because the plan, not the TPA, is the party who is subject to the decision or liable for the payment. Some commenters also recommended that since many TPAs are likely to have numerous clients, the Departments should also allow bulk data file uploads to achieve operational efficiencies.

The Departments are finalizing 26 CFR 54.9816–9(b)(4), 29 CFR 2590.716–9(b)(4), and 45 CFR 149.530(b)(4) as proposed, allowing TPAs or service providers to register on behalf of a group health plan or health insurance issuer. The Departments note that permitting TPAs to register on behalf of plans does not alter the plan's responsibility to ensure compliance with No Surprises Act requirements, including requirements to make a payment under a certified IDR entity's payment determination. The Departments will consider commenters' requests for technical solutions to allow TPAs and other service providers to achieve administrative efficiencies when registering on behalf of multiple group health plans.

The Departments sought comment on the best way to separately identify multiple group health plans offered by the same plan sponsor, or multiple FEHB plans offered by the same FEHB carrier, to avoid the issuance of duplicate registration numbers for the same plan or a single registration number for multiple plans. In response to this comment solicitation, a few commenters recommended requiring or permitting registration of all entities under a single registration of the parent company, which may reduce confusion and administrative burden. A few commenters stated that the Departments should prevent group health plans or health insurance issuers from having multiple identification numbers, which could make it difficult to assess a claim's eligibility for batching. These commenters recommended a limit of one identification number per group health plan or health insurance issuer. One commenter indicated that registration numbers must be group health plan-specific to be effective in batching. Otherwise, they stated, the registration of plans will fall short of the intended objective of proper plan identification.

The Departments agree with these commenters that an important goal of the IDR registry is to make it easier to correctly batch items and services paid by the same self-insured group health plan, issuer, or FEHB carrier. To accomplish this goal, registration numbers for self-insured plans must be assigned at the self-insured plan level, while registration for fully-insured coverage must be done at the issuer level, such that a provider, plan or issuer, or certified IDR entity can clearly determine which items and services can be batched together based on whether the plan or issuer's registration number is the same. Contrary to the commenters' assertion, requiring or

permitting registration of all entities under a single registration of the parent company would increase confusion and administrative burden by obscuring which items or services were paid by different self-insured group health plans or issuers under the same parent company. Therefore, these final rules do not permit parent-company level registration.

The Departments sought comment on whether to stagger the requirement for plans, issuers, and FEHB carriers to register, such as by requiring registration only after submitting or receiving their first open negotiation notice or only after receiving a certain number of disputes in a calendar year. While one commenter supported staggering the registration process, several opposed delaying the registration requirement until a plan, issuer, or FEHB carrier receives an open negotiation notice or receives a certain number of disputes. These commenters expressed concerns about the risk of missing or incomplete information in the registry if registration was made contingent upon the receipt of an open negotiation notice or a certain number of disputes, as information from plans and issuers that had not received an open negotiation notice or met the dispute threshold would be missing from the registry.

The Departments are not finalizing a staggered registration requirement and are instead finalizing a modified requirement whereby all plans, issuers, and FEHB carriers register by the later of 90 business days after the registry becomes available or the date the group health plan or health insurance issuer begins offering a group health plan or health insurance coverage subject to the Federal IDR process or FEHB Program carrier begins offering an FEHB plan, whichever is later. This requirement has been modified to lengthen the registration period in response to comments requesting a longer registration period. It has additionally been modified to remove the requirement to register by 30 days after the effective date of these final rules, as the registry will not be available within that time frame. The Departments will announce when the registry becomes available to registrants, and therefore, the deadline by when plans and issuers will be required to register.

After consideration of comments, the Departments believe a staggered registration timeline would create a complex set of unique deadlines for each plan, issuer, and FEHB carrier that would require considerable resources for the Departments to enforce. By contrast, providing a single deadline for

registration provides a clear standard for all interested parties. A single deadline also mitigates the risk of missing or incomplete information raised by commenters. Extending the deadline to 90 business days, rather than 30 business days, following the date of the registry becoming available is responsive to commenters' requests for additional time to register; 90 business days was the longest time period requested by commenters, and therefore, the Departments are confident that 90 business days will provide sufficient time for plans, issuers, and FEHB carriers to register.

The Departments sought comment on approaches to ensure the completeness and accuracy of the registry and appropriate measures to address inaccuracies. This includes approaches to address failure to confirm accuracy of the registration annually, such as restricting submission of payment offers until completion of the proposed registration. The Departments also solicited comment on approaches to address circumstances in which a provider, facility, or provider of air ambulance services initiates a dispute in good faith based on information submitted by a plan or issuer as part of its registration and the dispute is later determined to be incorrectly batched or otherwise ineligible for the Federal IDR process because the information provided was incorrect. To ensure the completeness of the registry, a few commenters generally supported restricting submission of offers until completion of registration. One commenter recommended that if a plan or issuer fails to register through the Federal IDR registry by the time an offer is due in the Federal IDR process, the plan's or issuer's offer should not be considered received, which would result in a default judgment in the provider's favor. Another commenter noted that the Departments should inform certified IDR entities that they can make an adverse inference if plans, issuers, and FEHB carriers fail to register or furnish their registration number. The Departments did not receive any comments opposing restricting submission of offers until completion of registration.

The Departments note that, under these final rules, the open negotiation notice, open negotiation response, notice of IDR initiation, and notice of IDR initiation response must include the plan or issuer's registration number.²¹⁶

²¹⁶ See 26 CFR 54.9816(b)(1)(ii)(A)(2), 29 CFR 2590.716–8(b)(1)(ii)(A)(2), and 45 CFR 149.510(b)(1)(ii)(A)(2) for open negotiation notice requirements; 26 CFR 54.9816(b)(1)(iii)(A)(2), 29

The Departments also expect that the notice of offer form will include the plan or issuer's registration number as a required field. Therefore, the Departments expect that plans and issuers will be unable to submit an offer or otherwise respond to or initiate an IDR dispute if they fail to register and receive a registration number by the later of the date that is 90 business days after the registry becomes available, or the date the plan, issuer, or FEHB carrier begins offering a plan or coverage subject to the Federal IDR process. Plans and issuers that realize, upon receipt of a dispute, that they are unable to engage in the dispute process because they have not registered and received a registration number, will have multiple opportunities to re-engage after receiving a registration number throughout the lifecycle of any given dispute, beginning with the open negotiation response notice, which must be provided within 15 business days of open negotiation initiation, as specified in 26 CFR 54.9816(b)(1)(iii)(A), 29 CFR 2590.716–8(b)(1)(iii)(A), and 45 CFR 149.510(b)(1)(iii)(A). The Departments expect that a registration number will typically be provided to a registrant immediately upon the registrant's completion of the online IDR registration form. Therefore, if the plan or issuer registers after the initiation of the dispute but before a dispute process deadline, such as before the deadline for the submission of offers, the plan or issuer will be able to respond to the dispute. However, the Departments do not anticipate providing extensions to plans or issuers who forfeit an opportunity to participate in any particular portion of the IDR process for a dispute (such as to send a notice of certified IDR entity selection) because the applicable timeline elapsed before the plan or issuer came into compliance with the registration requirement. The Departments expect that if a plan or issuer registers after the offer submission deadline has passed for a given dispute, the plan or issuer will be unable to submit an offer, and the certified IDR entity will make a determination accordingly.

The Departments solicited comment on compliance and enforcement measures that could be used to ensure

CFR 2590.716–8(b)(1)(iii)(A)(2), and 45 CFR 149.510(b)(1)(iii)(A)(2), for open negotiation response requirements; 26 CFR 54.9816(b)(2)(B)(ii)(A)(2), 29 CFR 2590.716–8(b)(2)(B)(ii)(A)(2), and 45 CFR 149.510(b)(2)(B)(ii)(A)(2) for notice of IDR initiation requirements; and 26 CFR 54.9816(b)(2)(B)(iii)(A)(2), 29 CFR 2590.716–8(b)(2)(B)(iii)(A)(2), and 149.510(b)(2)(B)(iii)(A)(2) for notice of IDR initiation response requirements.

registry information is accurate and on the appropriate way to treat disputes initiated based on a good faith reliance on incorrect information in the IDR registry. Some commenters supported the Departments' use of their enforcement, investigative, and referral authority to promote compliance and ensure the accuracy of the registry. One commenter supported the Departments' proposal that plans, issuers, and FEHB carriers provide updated information within 30 business days of the change of the information, as well as the proposal that all registrants confirm registration annually as a method of ensuring the proposed IDR registry's accuracy. Some commenters recommended that, if the registry does not contain the information needed to determine whether claims can be submitted as a batch or to assess the accuracy of a batched submission, or contains incorrect information, and a dispute is incorrectly batched as a result, the dispute should nevertheless be allowed to proceed as though it were correctly batched. These commenters emphasized that the initiating party and the certified IDR entity must be able to rely on the information in the registry. Another commenter recommended that if a dispute initiated in good faith based on information provided to the registry by the plan or issuer is later determined ineligible due to inappropriate batching caused by the incorrect information, the plan or issuer should pay all costs associated with that ineligible dispute. Additionally, some commenters suggested that a plan, issuer, or FEHB carrier's failure to register should result in the provider, facility, or air ambulance provider prevailing by default, without the plan, issuer, or FEHB carrier being allowed to submit an offer even if the plan, issuer, or FEHB carrier remedies its failure to register prior to the offer deadline.

The Departments understand that initiating parties and certified IDR entities must be able to rely on the completeness and accuracy of the registry to ensure its utility. However, a dispute that cannot be batched because it contains items and services paid by different plans or issuers or which is otherwise ineligible for the Federal IDR process under statute or regulation cannot be allowed to proceed through the Federal IDR process, even if the dispute was initiated in good faith based on information provided in the registry. Therefore, the Departments agree with the commenters who stated that a better approach to ensuring the accuracy of the registry is to use the Departments' existing authority over plans, issuers,

and FEHB carriers to encourage compliance, including through complaint investigations, targeted market conduct examinations, corrective action plans, and other enforcement mechanisms permitted under applicable law for entities found to be out of compliance with registration requirements and disclosure requirements (as plans, issuers, and FEHB carriers must include their IDR registration number as an element of the required QPA disclosures under new 29 CFR 2590.716–6(d)(1)(v), and 45 CFR 149.140(d)(1)(v)).

G. Transparency Regarding In-Network and Out-of-Network Deductibles and Out-of-Pocket Limitation

Section 9816(e) of the Code, section 716(e) of ERISA, and section 2799A–1(e) of the PHS Act, as added by section 107 of division BB of the CAA, require a group health plan or a health insurance issuer offering group or individual health insurance coverage and providing or covering any benefit for items or services to include, in clear writing, on any physical or electronic plan or insurance ID card issued to participants, beneficiaries, or enrollees, any applicable deductibles, any applicable out-of-pocket maximum limitations, and a telephone number and website address for individuals to seek consumer assistance information, such as information related to in-network hospitals and urgent care facilities. In the 2023 proposed rules, the Departments indicated they were considering, under the general rulemaking authority granted to the Departments to establish the Federal IDR process under section 9816(c)(2)(A) of the Code, section 716(c)(2)(A) of ERISA, and section 2799A–1(c)(2)(A) of the PHS Act, requiring that each plan or insurance ID card include information about whether the individual's plan or coverage is subject to Federal or State surprise billing protections. The Departments acknowledged that the ID cards may not be able to clarify the applicability of the Federal IDR process in all contexts, because in some States the Federal protections will apply for some items, services, and providers, while the State protections will apply for others. The Departments sought comment on this potential approach, including whether ID cards should display the plan or coverage type (such as self-insured or fully-insured ERISA plan, non-Federal governmental plan, church plan, FEHB plan, or individual health insurance coverage), as well as whether a symbol or code could be included on cards that would indicate the applicable regulatory authority of

the plan or coverage (that is, State or Federal entity, or both).

Many commenters supported adding language to ID cards to reflect which surprise billing protections apply to the plan or coverage, including requiring ID cards to display the plan or coverage type or a symbol or code on ID cards that would indicate the applicable regulatory authority of the plan or coverage. One commenter stated that the inclusion of this information on ID cards would help consumers understand where they might receive support or file complaints related to surprise billing protections, because current enforcement procedures still depend on consumers knowing their rights and complaining to the correct regulatory authority if they are wrongfully billed. One commenter stated that Texas currently requires State-regulated plans (that is, PPO, EPO and HMO plans) to have the letters “DOI” (for Department of Insurance) or “TDI” (for Texas Department of Insurance) on ID cards and requires self-insured ERISA plans that opt-in to Texas's specified State law as defined in 45 CFR 149.30 to have “TXI” on the front of the patient's ID card.

Several commenters opposed requiring ID cards to display plan or coverage type or a symbol or code indicating regulatory authority. A few commenters cited limited available space on plan or insurance ID cards today due to many required elements—both Federal and State—and that many members and providers find them challenging to navigate. These commenters also suggested that jurisdictional information on ID cards could be misleading, given an ID card for a self-insured group health plan would not indicate if it opted into the State process. They indicated that this information is unnecessary on ID cards, since it will already be provided to providers and facilities through other avenues, including the proposed IDR Registry, and the proposed use of RARC and CARCs to communicate remittance information. One commenter stated that other plan documents, namely the Summary of Benefits and Coverage, as well as a health plan's or issuer's consumer-facing mobile application or website, contain this information and allow for personalization. This commenter also noted that, in States where this information is required on ID cards, the information is often not captured by providers and rates of ineligible disputes are not significantly different from States without these requirements. Another commenter requested the Departments to recognize that in the vast majority of cases under

the No Surprises Act, hospital-based physician groups never see an insurance card for a patient receiving services in a facility, and therefore the suggestion to add information to ID cards is not a reliable method to communicate surprise billing jurisdictional information to providers.

A few commenters recommended other ways to clarify whether Federal or State surprise billing protections apply. One commenter recommended requiring each plan or issuer to include the applicable Federal IDR registration number assigned under proposed 26 CFR 54.9816–9, 29 CFR 2590.716–9, and 45 CFR 149.530, stating that as long as the Federal IDR registry is publicly available, displaying the registration number on the ID card would provide all users with key No Surprises Act-related information while using little space. A few commenters recommended that ID cards provide an email address and telephone number for initiating negotiations or to discuss questions regarding claims that may be covered by balance billing laws. One commenter recommended that a requirement that plans and issuers include the plan or coverage type on the open negotiation response notice would be a more efficient and a simpler way to help providers determine whether the Federal IDR process, an applicable specified State law, or All-Payer Model Agreement applies. Another commenter recommended including a funding status indicator on ID cards to indicate which laws govern a plan or policy and the appropriate venue for regulatory oversight. One commenter referenced Washington's requirement that plans and issuers include a HIPAA transaction code in their communication to providers indicating whether a claim is subject to the State's laws. This commenter explained that Washington also requires plans and issuers to provide patients with an EOB that indicates whether a claim is subject to the State's balance billing law. This commenter urged the Departments to consider requiring ID cards to include information, more generally, on whether a plan or policy is subject to State or Federal law, citing Texas and Colorado as States that require this information on ID cards.

The Departments appreciate these comments. The Departments solicited comments about requiring the inclusion of certain information on insurance ID cards to inform future rulemaking. The Departments did not propose, and are not finalizing, any such requirements. The Departments will consider these comments as they explore future rulemaking related to ID cards.

H. Applicability

1. Applicability Dates

These final rules modify and add to certain provisions of the July 2021 and October 2021 interim final rules. Those interim final rules generally became applicable for plan years (in the individual market, policy years) beginning on or after January 1, 2022. The Departments sought comment on whether disputing parties and certified IDR entities would need additional time to implement the proposed modifications after the final rules are published.

a. Definition of Bundled Payment Arrangement

The Departments proposed that the provision in 26 CFR 54.9816–3, 29 CFR 2590.716–3, and 45 CFR 149.30 that would add the definition of bundled payment arrangement, would apply beginning on the effective date of the final rules. The Departments received one comment regarding the proposed effective date for the definition of bundled payment arrangement, which supported an effective date of 30 days after publication, but no later than 60 days. As explained in section II.A of this preamble, these final rules codify the existing definition set forth in guidance and therefore providers, plans, issuers, or certified IDR entities should not be required to modify existing processes to comply with the definition. Therefore, it is appropriate for this definition to become applicable on the effective date of the final rules, which is 60 days after the publication date of these final rules, which aligns with the commenter's request.

b. Use of CARCs and RARCs

The Departments proposed that the provisions in 26 CFR 54.9816–6A, 29 CFR 2590.716–6A, and 45 CFR 149.100 that would require plans and issuers to communicate information using CARCs and RARCs, as specified in guidance, would take effect on the effective date of these final rules. In the preamble to the proposed rules, the Departments requested comments on two potential approaches for establishing an applicability date for the use of CARCs and RARCs. Under the first approach, the final rules would establish a standard interval, such as 6 months or 1 year, for CARCs and RARCs to be used after the issuance of guidance. Under the second approach, the timeframe would be set forth in future guidance, but would not be less than, for example, 6 months between when guidance is issued and when plans and issuers must begin using specified CARCs and

RARCs. The Departments sought comments on what timeframe would provide plans and issuers with a sufficient timeframe to comply.

Multiple commenters provided feedback on when the CARC and RARC provision should become applicable and when plans and issuers should be required to comply with the future guidance. Most commenters generally supported applying this provision on the effective date of the final rule. A few commenters urged the Departments to finalize the proposal and issue guidance as soon as possible, while several commenters recommended the Departments consider finalizing the CARC and RARC provisions separately from and earlier than other provisions of the 2023 proposed rules. These commenters expressed concerns with any approach that would unnecessarily delay improvements to the Federal IDR process. A few other commenters recommended that the Departments provide an applicability date ranging from 6 months to 1 year after guidance is issued. These commenters emphasized the need for plans and issuers to develop and test their payment systems to ensure effective implementation of the CARC and RARC provision. Another commenter advised that the appropriate applicability date should reflect the number and complexity of new CARCs and RARCs required under future guidance, estimating that a small number of new codes could be implemented in 2 to 3 months, whereas a requirement that plans and issuers use all current No Surprises Act-related RARCs could require up to 2 years given the need for new technical configurations. One commenter requested that the Departments establish an applicability date that would reflect a specific timeline for compliance with the CARC and RARC provision.

The Departments recognize that plans and issuers will need time to implement future guidance after it is issued, including for issuing paper remittance advice outside the purview of the HIPAA transaction standards. The Departments also recognize that the appropriate applicability date could vary based on the number and complexity of CARCs and RARCs issued in the guidance authorized in these final rules. Further, the Departments anticipate updating the guidance as new CARCs and RARCs are approved and as the needs of parties subject to the Federal IDR process evolve. For example, if the ASC X12 835 transaction standard is amended in the future to allow for additional No Surprises Act-related disclosures and subsequently

adopted and incorporated by reference under HIPAA regulations in 45 CFR part 162, the Departments could update guidance to avoid having duplicative requirements.²¹⁷ The Departments have determined that it is important to accommodate future changes efficiently. Therefore, while the provision will become effective upon the effective date of these final rules, the Departments intend to establish an applicability date through guidance for the use of specified CARCs or RARCs. The Departments intend to issue guidance on the DOL (<https://www.dol.gov/agencies/ebsa>) and CMS (<https://cciio.cms.gov>) websites within 6 months of publication of these final rules (and as necessary thereafter). It is anticipated that guidance will provide regulated entities no less than 4 months to come into compliance. This approach is intended to avoid unnecessary delay to improvements to the Federal IDR process while ensuring plans and issuers have sufficient time to operationalize the CARC and RARC requirements. Plans and issuers will not be required to use CARCs and RARCs under these final rules until the applicability date specified in guidance.

c. Information To Be Shared About the QPA

The Departments are finalizing modifications to the regulations at 26 CFR 54.9816–6T(d), 26 CFR 54.9816–6(d), 29 CFR 2590.716–6(d), and 45 CFR 149.140(d) addressing information to be shared about the QPA, which will apply to disclosures required to be provided on or after the effective date of the final rules. Until the relevant changes to these disclosure requirements are applicable, plans and issuers are required to continue to comply with the existing requirements. In response to the Departments' request for comment on an applicability date that would reflect an appropriate implementation period, some commenters stated that complying with the new disclosure requirements would necessitate technical and operational steps that would require a year to implement, while other commenters encouraged the Departments to make the disclosure requirements effective immediately

upon finalization. The Departments acknowledge that compliance with these new disclosure requirements, including the new content elements, may require some technical and operational changes. However, as discussed in section II.C of this preamble, in the Departments' view, these changes should apply without significant delay to ensure that all parties—including providers as well as certified IDR entities—have the information necessary to determine whether a payment dispute may be eligible for the Federal IDR process. Therefore, as proposed, these provisions will apply to disclosures required to be provided on or after the effective date of the final rules.

d. Definition of Batched Qualified Items and Services

The Departments proposed that the proposed modifications for batched qualified IDR items and services at 26 CFR 54.9816–8(a)(2)(i), 29 CFR 2590.716–8(a)(2)(i), and 45 CFR 149.510(a)(2)(i) would be applicable for disputes with open negotiation periods beginning 90 days after the effective day of these final rules. The Departments did not receive comments on this proposal, and are finalizing as proposed.

e. Open Negotiation, Initiation, Certified IDR Entity Selection, Authority to Continue Negotiations, Withdrawals, Eligibility, Batching, Submission of Offers and Payment Determination, Extensions

The Departments proposed that the proposed modifications to the Federal IDR process for open negotiation, IDR initiation, selection of the certified IDR entity, the Federal IDR process eligibility review, the authority to continue negotiations or withdraw, the treatment of batched and bundled qualified IDR items and services, the submission of offers and payment determination and notification, the suspension of certain subsequent IDR requests and subsequent submission of requests, and the extension of time periods for extenuating circumstances would apply to disputes with open negotiation periods beginning on or after the later of August 15, 2024, or 90 days after the effective date of the final rules, if finalized. The Departments are finalizing modifications such that the following provisions set forth in these final rules will apply to disputes with open negotiation periods beginning 90 days after the Departments issue guidance announcing that the functionality supporting these provisions has become available:

- The provisions regarding the open negotiation notice, open negotiation response notice, notice of IDR initiation, and notice of IDR initiation response at 26 CFR 54.9816–8(b), 29 CFR 2590.716–8(b), and 45 CFR 149.510(b);

- The provisions governing the selection of a certified IDR entity, the Federal IDR process eligibility review, withdrawals, and the treatment of batched and bundled qualified IDR items and services at 26 CFR 54.9816–8(c)(1), (2), (3)(c)(ii)(A) and (B), and (4), 29 CFR 2590.716–8(c)(1), (2), (3)(c)(ii)(A) and (B), and (4), and 45 CFR 149.510(c)(1), (2), (3)(c)(ii)(A) and (B), and (4);

- Amendments made to the deadline for the submission of offers and payment determination and notification at 26 CFR 54.9816–8(c)(5)(i) and (ii), 29 CFR 2590.716–8(c)(5)(i) and (ii), and 45 CFR 149.510(c)(5)(i) and (ii); and

- Amendments made to the suspension of certain subsequent IDR requests and subsequent submission of requests permitted at 26 CFR 54.9816–8(c)(5)(vii)(B) and (C), 29 CFR 2590.716–8(c)(5)(vii)(B) and (C), and 45 CFR 149.510(c)(5)(vii)(B) and (C);

The Departments anticipate that all functionality associated with these provisions will be available 24 months after the effective date of these final rules. The Departments will be implementing these provisions on a rolling basis and will issue guidance announcing when the functionality supporting each requirement becomes available and the corresponding applicability date. Following the finalization of these rules, the Departments intend to publish clarifying guidance regarding the implementation of these provisions.

The Departments proposed that the open negotiation and IDR initiation provisions at 26 CFR 54.9816–8T(b), 29 CFR 2590.716–8(b), and 45 CFR 149.510(b) would be applicable for disputes with open negotiation periods beginning on or after the later of August 15, 2024, or 90 days after the effective day of these final rules. A few commenters recommended that the Departments delay the applicability and implementation of the open negotiation provisions, including the transmission of notices through the Federal IDR portal, to ensure proper functionality. They noted that parties are not prepared to engage in the new process. One commenter suggested a 10-month delay in the implementation of the open negotiation provisions.

The Departments also proposed that the requirements for the treatment of batched and bundled qualified IDR items and services at 26 CFR 54.9816–

²¹⁷ The HIPAA standards adoption process for electronic, administrative healthcare transactions process generally requires the Secretary to adopt standards developed or modified by standard setting organizations (SSOs) accredited by the American National Standards Institute (ANSI), such as X12 and to rely on recommendations of the National Committee on Vital and Health Statistics (NCVHS). See 42 U.S.C. 1320d–1320d–8. ANSI accredited SSOs make modifications to standards through a structured process that involves public review and ensures consensus.

8(c)(4), 29 CFR 2590.716–8(c)(4), and 45 CFR 149.510(c)(4) would be applicable for disputes with open negotiation periods beginning on or after the later of August 15, 2024, or 90 days after the effective day of these final rules. Several commenters opposed the proposed effective date for the treatment of batched items and services. A few commenters stated that the effective date should be sooner, with one commenter stating that they should be effective as soon as possible. One commenter recommended that the Departments extend the effective date, asserting that providers are likely to need more time to make the necessary adjustments, if finalized.

The Departments consider the successful operations of the Federal IDR portal a top priority and agree that interested parties need time to adjust to the operations and processes. Therefore, Departments are finalizing a modification to the applicability of the open negotiation, IDR initiation, and batching provisions such that these provisions, as finalized, will apply for open negotiation periods beginning 90 days after the Departments issue guidance announcing that the functionality supporting these provisions has become available.

The Departments recognize that each of these proposed changes will require disputing parties and certified IDR entities to modify existing processes and systems to align with the proposed requirements. For example, some certified IDR entities may need to update their own proprietary portals to facilitate their eligibility and payment determinations to align with the new batching requirements. Further, the Departments will need to design and implement system changes to the Federal IDR portal, such as allowing the disputing parties to submit new and updated notices through the Federal IDR portal and updating the system's collection of newly permissible batched disputes. This applicability date is intended to ensure the Departments, disputing parties, and certified IDR entities have sufficient time to understand the finalized changes to the Federal IDR process and modify current operations. The Departments will announce the functionality implementing these provisions to disputing parties and certified IDR entities in advance of when they will become available, so that disputing parties have sufficient time to prepare for the changes made in the Federal IDR portal before each provision becomes applicable.

The Departments did not receive comments on the applicability dates for

the provisions governing the selection of a certified IDR entity, the Federal IDR process eligibility review, and the authority to continue negotiations or withdraw at 26 CFR 54.9816–8(c)(1) through (3), 29 CFR 2590.716–8(c)(1) through (3), and 45 CFR 149.510(c)(1) through (3), respectively; the modifications made to the deadline for the submission of offers and payment determination and notification at 26 CFR 54.9816–8(c)(5)(i) and (ii), 29 CFR 2590.716–8(c)(5)(i) and (ii), and 45 CFR 149.510(c)(5)(i) and (ii), respectively; the modifications made to the suspension of certain subsequent IDR requests and subsequent submission of requests permitted in 26 CFR 54.9816–8(c)(5)(vii)(B) and (C), 29 CFR 2590.716–8(c)(5)(vii)(B) and (C), and 45 CFR 149.510(c)(5)(vii)(B) and (C), respectively; or the modifications made to the extension of time periods for extenuating circumstances at 26 CFR 54.9816–8(g), 29 CFR 2590.716–8(g), and 45 CFR 149.510(g).

The Departments are finalizing as proposed the applicability date for the provisions, as finalized, governing the authority to continue negotiations or withdraw at 26 CFR 54.9816–8(c)(3)(i), 26 CFR 54.9816–8(c)(3)(ii)(C) and (D), 29 CFR 2590.716–8(c)(3)(i), 29 CFR 2590.716–8(c)(3)(ii)(C) and (D), 45 CFR 149.510(c)(3)(i), and 45 CFR 149.510(c)(3)(ii)(C) and (D), and the modifications made to the extension of time periods for extenuating circumstances at 26 CFR 54.9816–8(g), 29 CFR 2590.716–8(g), and 45 CFR 149.510(g), such that they apply 90 days after the effective date of these final rules.

The Departments are modifying the applicability date for the provisions governing the selection of a certified IDR entity and the Federal IDR process eligibility review at 26 CFR 54.9816–8(c)(1) and (2), 29 CFR 2590.716–8(c)(1) and (2), and 45 CFR 149.510(c)(1) and (2), respectively; the provisions for withdrawals 26 CFR 54.9816–8(c)(3)(ii)(A) and (B), 29 CFR 2590.716–8(c)(3)(ii)(A) and (B), and 45 CFR 149.510(c)(3)(ii)(A) and (B), the modifications made to the deadline for the submission of offers and payment determination and notification at 26 CFR 54.9816–8(c)(5)(i) and (ii), 29 CFR 2590.716–8(c)(5)(i) and (ii), and 45 CFR 149.510(c)(5)(i) and (ii), respectively; and the modifications made to the suspension of certain subsequent IDR requests and subsequent submission of requests permitted in 26 CFR 54.9816–8(c)(5)(vii)(B) and (C), 29 CFR 2590.716–8(c)(5)(vii)(B) and (C), and 45 CFR 149.510(c)(5)(vii)(B) and (C), respectively, such that they apply for

open negotiation periods beginning 90 days after the Departments issue guidance announcing that the functionality supporting these provisions has become available, to ensure the Departments have sufficient time to operationalize each of these provisions, as finalized. The Departments anticipate releasing such guidance on a rolling basis, beginning in Summer 2026.

f. Administrative and Certified IDR Entity Fee Collection

The Departments proposed to amend the administrative and certified IDR entity fee provisions of 26 CFR 54.9816–8(d), 29 CFR 2590.716–8(d), and 45 CFR 149.510(d) to make changes to the administrative fee methodology and to adjust the timing of collection of the administrative fee and certified IDR entity fee. The Departments also proposed to codify Federal IDR process guidance in circumstances involving the failure to pay the administrative fee and certified IDR entity fees and proposed establishing a framework for reducing the administrative fee for low-dollar and ineligible disputes.

The Departments are finalizing, with modifications, the proposals related to the establishment of the fee amount and timing of certified IDR entity fee collection. The Departments are also finalizing, with modifications, the proposals related to the application of Federal IDR process guidance in circumstances involving the failure to pay administrative and certified IDR entity fee. The Departments are not finalizing the proposals regarding the timing and manner of administrative fee collection or reducing administrative fee for low-dollar and ineligible disputes.

The modifications to the regulations at 26 CFR 54.9816–8(d)(2)(ii), 29 CFR 2590.716–8(d)(2)(ii), and 45 CFR 149.510(d)(2)(ii) regarding the amount of the administrative fee of \$15 per party per dispute will apply to disputes initiated on or after June 11, 2026, which is 5 business days from the publication date of August 3, 2026 of these final rules.

The Administrative Procedure Act (APA) ordinarily requires a 30-day delay in the effective date of a final rule from the date of its publication in the **Federal Register**.²¹⁸ This 30-day delay in effective date can be waived, however, if an agency finds good cause to support an earlier effective date.²¹⁹ Additionally, Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the

²¹⁸ 5 U.S.C. 553(d).

²¹⁹ 5 U.S.C. 553(d)(3).

Congressional Review Act or CRA) requires a 60-day delay in the effective date for major rules unless an agency finds good cause that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, in which case the rule shall take effect at such time as the agency determines.

The Departments have determined that there is good cause to waive the APA's and CRA's delayed effective date requirements for the provisions at 26 CFR 54.9816–8(d)(2)(ii), 29 CFR 2590.716–8(d)(2)(ii), and 45 CFR 149.510(d)(2)(ii) to lower the administrative fee to \$15 per party per dispute, because delay of the effective date for such provisions would be contrary to public interest and unnecessary.

Since the Departments set the administrative fee amount in the IDR Process Fees final rules at \$115 per party per dispute effective January 22, 2024, there have been significant increases in administrative fee collections due to higher than anticipated utilization of the Federal IDR process. These sustained levels of utilization increase the number of administrative fees collected and support lowering the administrative fee under the methodology for establishing the administrative fee as discussed in section II.E.3. of these final rules.²²⁰ As such, delaying the effective date of the lower administrative fee would constrain access to the Federal IDR process. This conclusion is supported by statements from interested parties indicating that as the non-refundable administrative fee amount rises, it becomes an obstacle to providers' ability to seek redress for underpayment from health plans. It is further supported by commenters, as explained in section II.E.3. of these final rules, requesting that the Departments reduce the administrative fee, and several of those commenters directly suggesting that reducing the administrative fee improves the financial accessibility of the Federal IDR process (especially for small and rural providers) and encourages providers with low-value claims to participate in the Federal IDR

process. Similarly, a few commenters requested for the reduced administrative fee to take effect as early as possible. Therefore, delaying the effective date of the new, lower administrative fee amount for 60 days would be contrary to the goal of ensuring an accessible Federal IDR process, and the Departments find that it is in the public interest to waive the delay in the effective date of the administrative fee.

Further, the effective date delay is intended to provide sufficient time for the regulated entities to implement the requirements before a final rule takes effect. Sometimes a waiver of the effective date delay directly impacts the entities required to comply with these rules by minimizing or even eliminating the time during which they can prepare to comply with these rules. However, lowering the administrative fee from \$115 per party per dispute to \$15 per party per dispute does not impede disputing parties' ability to comply with these rules, as disputing parties are already required to pay a non-refundable administrative fee to participate in the Federal IDR process and these final rules do not change this requirement.

For the foregoing reasons, the Departments have found good cause to waive the APA's and CRA's delayed effective date requirements and determined that the provisions of the lowered administrative fee at 26 CFR 54.9816–8(d)(2)(ii), 29 CFR 2590.716–8(d)(2)(ii), and 45 CFR 149.510(d)(2)(ii) finalized in this rule are effective June 11, 2026, which is 5 business days from the date these rules publish in the **Federal Register**.

The changes proposed at 26 CFR 54.9816–8(e)(2)(vii), 29 CFR 2590.716–8(e)(2)(vii), and 45 CFR 149.510(e)(2)(vii) and finalized at 26 CFR 54.9816–8(e)(2)(ix), 29 CFR 2590.716–8(e)(2)(ix), and 45 CFR 149.510(e)(2)(ix) regarding the certified IDR entity's procedures to retain the certified IDR entity fee are minor in nature, and therefore these provisions will be applicable upon the effective date of the final rules. The proposed changes at 26 CFR 54.9816–8(e)(2)(vi), 29 CFR 2590.716–8(e)(2)(vi), and 45 CFR 149.510(e)(2)(vi) regarding safeguards and controls for the certified IDR entity fee and administrative fee, and procedures to retain the administrative fee, are not being finalized, as discussed further in section II.E.3 of this preamble.

The changes at 26 CFR 54.9816–8(d)(1)(i) through (v), 29 CFR 2590.716–8(d)(1)(i) through (v), and 45 CFR 149.510(d)(1)(i) through (v) governing the timing of payment of the certified

IDR entity fee, failure to timely pay the certified IDR entity fee, and method of allocation of the certified IDR entity fee in the event of a payment determination, agreement, withdrawal, and settlement codify existing practices, and therefore these provisions will be applicable upon the effective date of the final rules.

Until the relevant applicability date for the requirements of the Federal IDR process at 26 CFR 54.9816–8, 29 CFR 2590.716–8, and 45 CFR 149.510, plans, issuers, providers, and certified IDR entities are required to continue to comply with the corresponding section of 29 CFR 2590.716–8 and 45 CFR 149.510 currently in effect. To ensure compliance with these requirements, the Departments will generally use existing processes for enforcing the relevant provisions of the Code, ERISA, and PHS Act that apply to group health plans and health insurance issuers, including the provisions added by the No Surprises Act.²²¹ The Departments intend to monitor for non-compliance with these requirements when they become applicable, subject to workforce availability.

The Departments received comments in regard to the modifications to the regulations at 26 CFR 54.9816–8(d), 29 CFR 2590.716–8(d), and 45 CFR 149.510(d) addressing the time and manner of payment and collection of the administrative fee, the procedures in the event that either party fails to pay the administrative fee, and the framework for establishing the administrative fee structures. Several commenters recommended the Departments finalize an earlier effective date for the reduced administrative fee structure for low-dollar and ineligible disputes. A few of these commenters urged the Departments to implement these proposals as quickly as possible to increase access to the Federal IDR process and provide a cost-effective forum for providers to obtain reimbursement. A few commenters specifically suggested that the Departments implement these

²²¹ See sections 502 (providing DOL with civil enforcement authority) and 504 of ERISA (providing DOL with authority to determine whether any person has violated or is about to violate any provision of ERISA or any regulation or order thereunder, including for group health plans); see also section 2723 of the PHS Act and 45 CFR 150.101 *et seq.* (setting forth HHS's enforcement procedures related to the provisions of title XXVII of the PHS Act, including bases for initiating investigations and performing market conduct examinations). For an overview of applicable enforcement mechanisms, see also Staman, Jennifer (2020). "Federal Private Health Insurance Market Reforms: Legal Framework and Enforcement," Congressional Research Service, available at <https://crsreports.congress.gov/product/pdf/R/R46637>.

²²⁰ The Departments' administrative fee collections increased by 195 percent between the first 6 months of calendar year 2024 and the last 6 months of calendar year 2024, which corresponds to the increased utilization of the Federal IDR process over the same period. See the Federal IDR Supplemental Tables for 2024 Q4 (May 28, 2025), Federal IDR Supplemental Tables for 2024 Q3 (May 28, 2025), Federal IDR Supplemental Tables for 2024 Q2 (March 18, 2025), and Federal IDR Supplemental Tables for 2024 Q1 (March 18, 2025), available at: <https://www.cms.gov/nosurprises/policies-and-resources/reports>.

administrative fee policies within 30 days of the effective date of these final rules, with one commenter suggesting that any timeline over 60 days would be unnecessary. However, a few commenters recognized the Departments' need to align the effective dates with the time needed to build in operational changes to effectuate any new policies. A few commenters suggested that 90 days after publication of the final rules would provide sufficient time for parties to comply with the administrative fee policy changes. Alternatively, one commenter recommended the Departments delay implementation of the new fee structure for low dollar disputes until the Departments have the ability to match the payment of fees to specific disputes.

After consideration of these comments and since the Departments are no longer finalizing the time and manner of payment and Departmental collection of the administrative fee and are codifying existing guidance, the changes at 26 CFR 54.9816–8(d)(2), 29 CFR 2590.716–8(d)(2), and 45 CFR 149.510(d)(2) regarding the failure to pay the administrative fee will be applicable upon the effective date of these final rules.

The modifications to the remaining provisions at 26 CFR 54.9816–8(d)(2), 29 CFR 2590.716–8(d)(2), and 45 CFR 149.510(d)(2) addressing the time and manner of payment and Departmental collection of the administrative fee, the collection, under applicable debt collection authorities, of an administrative fee that is not timely paid, and the framework for establishing the administrative fee structures are not being finalized, as discussed further in section II.E.3 of this preamble.

g. Federal IDR Registry

Finally, the Departments proposed that the provisions that establish the Federal IDR registry, and the associated requirements at 26 CFR 54.9816–9, 29 CFR 2590.716–9, and 45 CFR 149.530 would become applicable on the effective date of the final rules. The Departments solicited comment on this approach. Commenters did not directly support or oppose the proposal that these provisions become applicable on the effective date of the final rules, although several commented on timelines to complete registration outlined within these provisions. Some commenters supported the Departments' proposal to require registration within 30 business days of the registry becoming available, but many commenters requested at least 60 to 90 business days to register. As a result, and as discussed in section II.F. of these

final rules, the Departments are finalizing a modification to the Federal IDR registry applicability date, such that the requirements at 26 CFR 54.9816–9, 29 CFR 2590.716–9, and 45 CFR 149.530 will be applicable 90 business days after the Departments issue guidance announcing that the functionality supporting the registry provisions has become available.

2. Applicability of Surprise Billing Protections To Ground Ambulance Services

The Departments have received questions about how the surprise billing protections under the No Surprises Act apply to ground ambulance services. In section II.H.2. of the preamble to the 2023 proposed rules, the Departments clarified that the No Surprises Act's surprise billing provisions do not apply to emergency or non-emergency ground ambulance services. This includes transport by ground ambulance after a participant, beneficiary, or enrollee has been stabilized and needs to be transferred to another facility for continued observation or treatment.²²² Instead, the Congress enacted section 117 of the No Surprises Act, which required the Departments to establish and convene an advisory committee for the purpose of reviewing options to improve the disclosure of charges and fees for ground ambulance services, better inform consumers of insurance options for such services, and protect consumers from balance billing. Originally chartered on November 16, 2021, the advisory committee held a series of public meetings and issued a request for comment on 14 topics related to balance billing for ground ambulance services before issuing its final report on August 28, 2024.²²³ The report makes several recommendations, including that the Congress require coverage of ground ambulance emergency medical services outside of the framework of the No Surprises Act emergency services provisions; prohibit

²²² In contrast, if a plan or issuer provides or covers any benefits for air ambulance services (such as inter-facility air ambulance transports), such services are subject to the No Surprises Act surprise billing protections. Section 9817(a) of the Code, section 717(a) of ERISA, and section 2799A–2(a) of the PHS Act. See also FAQs about Affordable Care Act and Consolidated Appropriations Act, 2021 Implementation Part 55, Q7 (August 19, 2022), available at <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/aca-part-55.pdf> and <https://www.cms.gov/files/document/faqs-part-55.pdf>.

²²³ For more information about the Advisory Committee on Ground Ambulance and Patient Billing, including a link to the final report, see <https://www.cms.gov/regulations-guidance/advisory-committees/advisory-committee-ground-ambulance-and-patient-billing-gapb>.

balance billing for emergency ground ambulance services; and establish a national rate or rate methodology to guarantee reasonable payment for providers of ground ambulance emergency services. The Departments used the 2023 proposed rules as an opportunity to clarify their interpretation of the applicability of the surprise billing protections under the No Surprises Act to ground ambulance services.

Several commenters generally stated understanding that the No Surprises Act's surprise billing provisions do not apply to ground ambulance services, and no commenters disagreed with the Departments' interpretation. Other commenters recommended the Departments take specific actions to protect consumers from surprise ground ambulance bills, including taking action to ensure that ground ambulance providers receive fair payment directly from issuers on a reasonable timeframe or working with the Congress to prohibit balance billing for ground ambulance services. The Departments acknowledge these comments but note that the recommended actions are outside the scope of this rulemaking.

III. Severability

The Departments proposed that if any provision of the final rules is held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, the final rules will be construed so as to continue to give maximum effect to these rules as permitted by law, unless the holding is one of utter invalidity or unenforceability. The Departments also proposed that in the event a provision is found to be utterly invalid or unenforceable, the provision will be severable from the final rules, as well as the interim final rules and final rules they amend and will not affect the remainder thereof or the application of the provision to persons not similarly situated or to dissimilar circumstances. The Departments further proposed that, to the extent a reviewing court holds that any provision of the final rules is unlawful, the remaining rules should take effect and be given the maximum effect permitted by law. The Departments proposed severability clauses to emphasize that the provisions in 26 CFR 54.9816–6A, 54.9816–6, 54.9816–8, and 54.9816–9; 29 CFR 2590.716–6A, 2590.716–6, 2590.716–8, and 2590.716–9; and 45 CFR 149.100, 149.140, 149.510 and 149.530 are intended to be severable from one another to simplify the Federal IDR process regulations by having one regulation section for the severability

provisions applicable to the entire Federal IDR process. Additionally, the Departments proposed that if the severability provisions in new proposed 26 CFR 54.9816–8(i)(1) and (2), 29 CFR 2590.716–8(i)(1) and (2), and 45 CFR 149.510(i)(1) and (2) are finalized, the Departments would remove the severability provisions finalized in the IDR Process Fees final rules at 26 CFR 54.9816–8(d)(3)(i) and (ii), 29 CFR 2590.716–8(d)(3)(i) and (ii), and 45 CFR 149.510(d)(3)(i) and (ii). After considering the comments, the Departments are finalizing these policies as proposed.

A few commenters supported the inclusion of the severability provisions. These commenters noted that the Departments should ensure that as much of these final rules remain intact as possible to minimize uncertainty and ensure consistent, predictable, and successful implementation. The Departments received no comments opposed to the inclusion of the severability provisions.

The Departments agree that the severability clause will help mitigate uncertainty for the reasons described in section II of this preamble. While the policies in combination in these final rules ameliorate different difficulties in the Federal IDR process and result in a more efficient and transparent process for the disputing parties and certified IDR entities, the Departments intend for each of the policies to function independently. For the reasons described in section II of this preamble, the Departments have determined that their authority to implement each aspect of the Federal IDR process under section 9816 of the Code, section 716 of ERISA, and section 2799A–1 of the PHS Act in the regulation is well-supported in law and practice and should be upheld in any legal challenge. The Departments are also confident that the exercise of their authority reflects sound policy.

IV. Overview of the Proposed Rules—Office of Personnel Management

OPM proposed to amend existing 5 CFR 890.114(a) to include references to the Departments' regulations.²²⁴ OPM has the responsibility of administering the Federal Employees Health Benefits (FEHB) Program. This responsibility includes maintaining oversight and enforcement authority for FEHB plans,

which are Federal governmental plans. In the July and October 2021 interim final rules, OPM adopted the Departments' regulations that implement the sections of the Code, ERISA, and the PHS Act that are referenced in 5 U.S.C. 8902(p). Generally, under 5 U.S.C. 8902(p), each FEHB contract must require a carrier to comply with requirements described in the Code, ERISA, and PHS Act in the same manner as they apply to a group health plan or health insurance issuer.

Subject to OPM regulations and contract provisions, FEHB carriers must comply with the specified provisions of the Departments' regulations. The Departments proposed amendments to 5 CFR 890.114 to allow for continued conformity, oversight, and enforcement. Specifically, through 5 CFR 890.114 and its proposed amendments, FEHB carriers and their plans would be required to comply with all provisions of these final rules. Among other things, under the 2023 proposed rules, FEHB carriers would be required to:

- Comply with these final rules' new requirements relating to the disclosure of information that FEHB carriers must include along with the initial payment or notice of denial of payment for certain items and services subject to the surprise billing protections in the No Surprises Act;
- Communicate information by using CARCs and RARCs when providing any remittance advice (including in paper or electronic form) to an entity that does not have a direct or indirect contractual relationship with the FEHB carrier;
- Comply with amended requirements related to the open negotiation period preceding the Federal IDR process, the initiation of the Federal IDR process, the Federal IDR dispute eligibility review, and the payment and collection of certified IDR entity and administrative fees;
- Comply with amended requirements related to the extension of timeframes due to extenuating circumstances, batched items and services, and bundled payment arrangements; and
- Register in the Federal IDR portal established by the Departments and provide the required data elements as applicable to FEHB carriers.

OPM did not receive comments on this provision and is finalizing this provision as proposed.

V. Economic Impact and Paperwork Burden

A. Summary

These final rules add new 26 CFR 54.9816–6A, 29 CFR 2590.716–6A, and

45 CFR 149.100 requiring plans and issuers to use CARCs and RARCs, as specified in guidance issued by the Departments, or as required under any applicable adopted standards and operating rules under 45 CFR part 162, on any remittance advice (including in paper or electronic form), to communicate information related to whether a claim for an item or service furnished by an entity (other than a participant, beneficiary, or enrollee) that does not have a direct or indirect contractual relationship with the plan or issuer for the furnishing of such item or service under the plan or coverage is subject to the provisions of 26 CFR 54.9816 and 54.9817; 29 CFR 2590.716 and 2590.717; or 45 CFR part 149, subpart B, E, or F.

The Departments are also finalizing revisions to the regulation addressing information to be shared about the QPA to make clear these disclosures are required when the recognized amount (or for air ambulance services, the amount on which cost sharing is based) is the QPA or the amount billed by the provider, facility, or provider of air ambulance services. This change reflects that the term "recognized amount" is not used for air ambulance services and make technical corrections to address omissions where providers of air ambulance services were not listed alongside other providers and facilities in the current regulatory text.

The Departments are also finalizing amendments to the content of the statement regarding open negotiation that is a required element of the information to be shared about the QPA. Specifically, the Departments are finalizing that the required statement specify that the 30-day period for open negotiation is 30 business days; reference providers of air ambulance services (in addition to providers and facilities); specify that a party wishing to initiate open negotiation must provide the required open negotiation notice generally within 30 business days of receiving an initial payment or notice of denial of payment; and include language in the QPA disclosure notifying the provider, facility, or provider of air ambulance services that it must notify the Departments and the plan or issuer to initiate the open negotiation period.²²⁵ The Departments are also finalizing requirements that plans and issuers disclose the legal business name (if any) of the plan or issuer; the legal business name of the self-insured group health plan sponsor

²²⁴ OPM also finalizes a technical correction in 5 CFR 890.114 that would add a cross-reference to 26 CFR 54.9817–2, which concerns the independent dispute resolution process for air ambulance services. The addition of this cross-reference is necessary because 5 CFR 890.114 also cites to parallel provisions at 29 CFR 2590.717–2 and 45 CFR 149.520.

²²⁵ For a description of the requirement for parties to notify the Departments when they initiate open negotiation, see section II.D.1 of this preamble.

(if applicable); and the registration number assigned to the plan or issuer, as required under 26 CFR 54.9816–9, 29 CFR 2590.716–9, or 45 CFR 149.530, as applicable.

These final rules also require the party initiating open negotiation to provide an open negotiation notice and supporting documentation to the other party and to the Departments via the Federal IDR portal to initiate the open negotiation period. The Departments are also finalizing several new content requirements for the open negotiation notice. Furthermore, these final rules require the party in receipt of the open negotiation notice to provide a response to the open negotiation notice, with specified content and supporting documentation to the other party and the Departments no later than the 15th business day of the 30-business-day open negotiation period.

In addition, the Departments are finalizing amendments to the notice of IDR initiation content requirements to require the initiating party to submit certain additional information in the notice of IDR initiation. The Departments are also finalizing that the non-initiating party must submit a written response to the notice of IDR initiation to the initiating party and to the Departments within 3 business days after the date of IDR initiation. These final rules require the notice of IDR initiation response to include an attestation that the item or service that is the subject of the dispute is a qualified IDR item or service that is eligible for the Federal IDR process, or an assertion that the item or service is not a qualified IDR item or service that is eligible for the Federal IDR process, and an explanation and documentation to support the assertion. Furthermore, the Departments are finalizing that the non-initiating party is also required to indicate in the notice of IDR initiation response whether it agrees or objects to the initiating party's preferred certified IDR entity and provide a statement designating an alternative preferred certified IDR entity if the non-initiating party objects to the initiating party's preferred certified IDR entity.

These final rules require parties furnishing the open negotiation notice, open negotiation response notice, notice of IDR initiation, and notice of IDR initiation response to provide the notices and supporting documentation to the other party and to the Departments on the same day via the Federal IDR portal.

The Departments are finalizing that if the party last in receipt of either the notice of IDR initiation response or the notice of certified IDR entity selection

received the notice on the third business day after the date of IDR initiation, the Departments will provide the party 2 additional business days to agree or object to other party's alternative preferred certified IDR entity selection. The Departments are finalizing that if the party agrees with the other party's alternative preferred certified IDR entity and notifies the Departments of such agreement, or if the party fails to notify the Departments of its objection by the fifth business day after the date of IDR initiation, the Departments will select the alternative preferred certified IDR entity as the certified IDR entity for the dispute. The Departments are finalizing that if the party notifies the Departments of its objection to the alternative preferred certified IDR entity by the fifth business day after the date of IDR initiation, the Departments will proceed with random selection of the certified IDR entity.

Furthermore, the Departments are finalizing that the date of preliminary selection of the certified IDR entity will be 3 business days after the date of IDR initiation if the parties jointly selected a certified IDR entity, or 6 business days after the date of IDR initiation if the parties fail to agree and jointly select a certified IDR entity, and the Departments randomly select a certified IDR entity. These final rules establish that if a selected certified IDR entity attests to having a conflict of interest, the Departments will randomly select another certified IDR entity, and the date of final selection of the certified IDR entity will be the date the Departments provide notice to the parties that the new certified IDR entity has attested that it meets the conflict-of-interest requirements.

The Departments are finalizing several requirements regarding eligibility determinations. Specifically, the Departments are finalizing that after the selected certified IDR entity attests that it meets the conflict-of-interest requirements, the selected certified IDR entity must review the information provided in the notice of IDR initiation and notice of IDR initiation response, as well as any additional information requested and received, and make an eligibility determination no later than 5 business days after the date of final selection of the certified IDR entity.

The Departments are finalizing a process for disputes to be withdrawn from the Federal IDR process. Specifically, the Departments are finalizing that a dispute may be withdrawn from the Federal IDR process if: (1) the initiating party provides notification through the Federal IDR portal to the Secretary and the certified

IDR entity (if selected) that both parties agree to withdraw the dispute from the Federal IDR process, with signatures from authorized signatories for both parties; (2) the initiating party provides a standard withdrawal request notice to the Departments, the certified IDR entity (if selected) and the non-initiating party notifies the Secretary, certified IDR entity (if selected), and initiating party of its agreement to withdraw the dispute within 5 business days of the initiating party's request (or the non-initiating party fails to respond within 5 business days of the initiating party's request); (3) the certified IDR entity or the Departments cannot determine eligibility, for example, because both parties are nonresponsive to any requests for additional information to determine eligibility; or (4) the certified IDR entity cannot make a payment determination, for example, because both parties have failed to submit an offer as described in section II.E.4. of this preamble.

The Departments are also finalizing amendments to the batching regulations for the Federal IDR process to increase efficiency and create a workable framework for disputing parties and certified IDR entities. Specifically, the Departments are finalizing amendments to allow qualified IDR items and services to be batched if: (1) the items and services were furnished to a single patient during a patient encounter on one or more consecutive dates of service and billed on the same claim form (single patient encounter); (2) the items and services were furnished to one or more patients and were billed under the same service code, or a comparable code under a different procedural code system; or (3) anesthesiology, radiology, pathology, and laboratory qualified IDR items and services were furnished under service codes belonging to the same Category I CPT code range, as specified in guidance by the Departments. These final rules also require that no more than 50 qualified IDR items and services may be considered jointly as part of one payment determination for the purposes of batched determinations.

The Departments are additionally finalizing a new administrative fee amount, which was calculated by updating the inputs to the administrative fee methodology finalized in the IDR Process Fees final rule with the most recent Federal IDR portal data available. The Departments are also finalizing requirements for when a party fails to pay the administrative fee or fails to timely pay the certified IDR entity fee associated with the Federal IDR process. The Departments are also finalizing changes

to the timing and collection of the certified IDR entity fee. The Departments are also finalizing the allocation of certified IDR entity fees in the event disputing parties agree to an out-of-network rate or agree to withdraw a dispute before an eligibility determination is made, or after an eligibility determination is made but before a payment determination is made.

The Departments are also finalizing clarifications to the extenuating circumstances in which the time periods, other than under 29 CFR 2590.716–8(c)(4)(ix) and 45 CFR 149.510(c)(4)(ix), may be extended. Specifically, the Departments are finalizing that such extenuating circumstances include circumstances that contribute to systematic delays in processing disputes under the Federal IDR process, such as an unforeseen volume of disputes or Federal IDR portal system failures. The Departments are also finalizing that when the Departments determine that the parties or certified IDR entities cannot meet applicable timeframes due to systemic delays in processing disputes, the Departments will post a public notice regarding any extension of time periods due to such extenuating circumstances. These final rules also establish that such extenuating circumstances include, for a specific dispute, when the Departments determine that the parties or certified IDR entity cannot meet applicable timeframes due to matters beyond the control of one or both parties or the certified IDR entity, or for other good cause. Further, the Departments are finalizing that a certified IDR entity may submit a request for an extension due to extenuating circumstances to the Departments through the Federal IDR portal.

Finally, the Departments are finalizing a requirement that self-insured group health plans, issuers, and FEHB Program carriers that are subject to the Federal IDR process register with the Federal IDR portal and submit certain information to the Departments. Under these final rules, initial registration is required to be completed by the later of the date that is 90 business days after the registry becomes available or the date the group health plan or health insurance issuer begins offering a group health plan or health insurance coverage or FEHB Program carrier begins offering an FEHB plan subject to the Federal IDR process.

The Departments have examined the effects of these final rules as required by Executive Order 13563 (76 FR 3821, January 21, 2011, Improving Regulation and Regulatory Review); Executive

Order 12866 (58 FR 51735, October 4, 1993, Regulatory Planning and Review); Executive Order 14192 (90 FR 9065, January 31, 2025, Unleashing Prosperity Through Deregulation); the Regulatory Flexibility Act (Pub. L. 96–354, enacted September 19, 1980, Pub. L. 96–354); section 1102(b) of the Social Security Act (42 U.S.C. 1302(b)); section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995, Pub. L. 104–4); and Executive Order 13132 (64 FR 43255, August 10, 1999, Federalism); and the Congressional Review Act (5 U.S.C. 804(2)).

B. Executive Orders 12866, 13563, and 14192

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity), and Executive Order 14192 (90 FR 9065) directs agencies to reduce unnecessary regulatory burdens.

Under Executive Order 12866, “significant” regulatory actions are subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a “significant regulatory action” as an 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, the President’s priorities, or the principles set out in the Executive Order.

Based on the Departments’ estimates, OMB’s Office of Information and Regulatory Affairs (OIRA) has determined these rules are significant under section 3(f)(1) of Executive Order 12866, and a regulatory impact analysis (RIA) has been prepared. Under Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act), OIRA has also determined that this is a major rule as defined under 5 U.S.C. 804(2).

C. Need for Regulatory Action

As outlined in section II.B of this preamble, gaps in communication between plans and issuers and providers have resulted in confusion around issues such as whether an item or service is eligible for resolution in the Federal IDR process; how cost sharing and out-of-network rates must be determined (that is, through an All-Payer Model Agreement, specified State law, or Federal rules); how and with whom to initiate open negotiation; and which eligible items and services can be batched or bundled into one dispute. Additionally, a higher-than-expected number of disputes have been submitted to the Federal IDR process for resolution, with many found to be ineligible,²²⁶ contributing to inefficiencies in resolving disputes in the Federal IDR process.

These final rules require plans and issuers to use CARCs and RARCs, as specified in guidance issued by the Departments, or as required under any applicable, adopted standards and operating rules under 45 CFR part 162, to communicate information related to whether a claim for an item or service furnished by an entity that does not have a direct or indirect contractual relationship with the plan or issuer for the furnishing of the item or service under the plan or coverage is subject to the provisions of 26 CFR 54.9816 and 54.9817; 29 CFR 2590.716 and 2590.717; or 45 CFR part 149, subpart B, E, or F.

The July 2021 interim final rules require plans and issuers to disclose the QPA and certain other information regarding the QPA for an item or service furnished by a provider, facility, or provider of air ambulance services, and specific information regarding the initiation of the Federal IDR process. These requirements were later amended by the August 2022 final rules. As outlined in section II.C of this preamble, the Departments are finalizing amendments to regulations at 29 CFR 2590.716–6(d) and 45 CFR 149.140(d) to specify that plans and issuers must disclose the QPA and certain information about the QPA not only

²²⁶ In the first 6 months of 2025, approximately 17 percent of disputes were determined ineligible for the Federal IDR process. As a result of process improvements and greater familiarity among disputing parties of eligibility requirements, the percent of disputes found ineligible has declined significantly since the first full year of Federal IDR process operations. See U.S. Department of Health and Human Services, U.S. Department of Labor, and U.S. Department of the Treasury, *Supplemental Background on Federal Independent Dispute Resolution Public Use Files January 1, 2024–June 30, 2025* (January 21, 2026), available at <https://www.cms.gov/files/document/federal-idr-supplemental-background-2025-q1-2025-q2.pdf>.

when the recognized amount (or for air ambulance services, the amount on which cost sharing is based) is the QPA but also when the recognized amount is the amount billed by the provider, facility, or provider of air ambulance services, as these items and services will also be eligible for the Federal IDR process (provided all other eligibility criteria are satisfied).

In addition, the Departments are finalizing amendments to the statement required to be provided by plans and issuers regarding the initiation of open negotiation and availability of the Federal IDR process. The Departments are also finalizing amendments to the content of the statement to refer to providers of air ambulance services (as well as providers and facilities), and to specify that the open negotiation period is counted in business days and that a party wishing to initiate open negotiation must provide the required notice generally within 30 business days of receiving an initial payment or notice of denial of payment. Furthermore, the Departments are finalizing that the statement must also note that the provider, facility, or provider of air ambulance services must notify the plan or issuer and the Departments, through the Federal IDR portal, to initiate open negotiation. To ensure payment disputes are directed to the correct parties, the Departments are finalizing a requirement, with a modification clarifying that disclosures regarding the QPA include the legal business name (if any) of the plan or issuer; the legal business name of the self-insured group health plan sponsor (if applicable); and the registration number assigned to the plan or issuer as required under new 26 CFR 54.9816–9, 29 CFR 2590.716–9, or 45 CFR 149.530, as applicable.

As outlined in section II.D.1 of this preamble, interested parties generally report that disputing parties are not negotiating with each other during the open negotiation period that is required before initiation of the independent dispute resolution process to the extent expected by the Departments. To encourage effective use of the open negotiation period, the Departments are finalizing requirements that the party initiating open negotiation must use a standardized open negotiation notice form, which includes an enumerated list of information, and must send supporting documentation to the other party and the Departments to initiate the open negotiation period. Furthermore, the party in receipt of the open negotiation notice will be required to provide a response to the open negotiation notice to the other party and the Departments no later than the 15th

business day of the 30-business-day open negotiation period. This will create more certainty regarding whether and when the initiating party began open negotiation by ensuring that start and end dates are documented in the Federal IDR portal. Additionally, this may reduce the number of ineligible disputes initiated by requiring the exchange of eligibility information during open negotiation.

As outlined in section II.D.2 of this preamble, to accelerate dispute processing and reduce the burden on certified IDR entities, the Departments are finalizing a requirement that the initiating party provide an enumerated list of additional information in the notice of IDR initiation, including the claim number and an attestation that the item or service under dispute is a qualified IDR item or service that is eligible for the Federal IDR process and the basis on which the party believes it is so. Similarly, the Departments are finalizing a requirement that the non-initiating party must provide a response to the notice of IDR initiation that must also include an enumerated list of information, including an agreement to the preferred certified IDR entity identified in the notice of IDR initiation or an alternate preferred certified IDR entity selection, an attestation that the item or service under dispute is a qualified IDR item or service that is eligible for the Federal IDR process, and for each item or service that the non-initiating party asserts is not a qualified IDR item or service that is eligible for the Federal IDR process, an explanation and documentation to support the assertion. These additional elements will assist in determining whether the item or service is a qualified IDR item or service that is eligible for the Federal IDR process, allow for a streamlined process to track the initiation of the Federal IDR process, enhance communication among the parties, and facilitate a more efficient Federal IDR process.

As outlined in section II.E.1.a of this preamble, since the implementation of the Federal IDR process, the Departments have identified potential areas to improve upon and provide additional clarity for the process for selecting a certified IDR entity. In the Departments' experience implementing this process, when a non-initiating party waits until the third business day after the date of IDR initiation to select an alternative preferred certified IDR entity, the initiating party lacks sufficient time to agree or object to the alternative preferred certified IDR entity. To provide the parties sufficient opportunity to agree or object to the

alternative preferred certified IDR entity, the Departments are finalizing amendments to the process for selecting a certified IDR entity when the parties fail to jointly agree on a certified IDR entity. Specifically, the Departments are finalizing that if the party last in receipt of either the notice of IDR initiation response or the notice of certified IDR entity selection received the notice on the third business day after the date of IDR initiation without the other party's agreement to the other party's alternative preferred certified IDR entity by the end of third business day after the date of IDR initiation, the Departments will provide the party 2 additional business days to agree or object to other party's preferred certified IDR entity selection.

To provide clarity and to codify the process and timeframes for selecting a certified IDR entity, the certified IDR entity's conflict-of-interest review, and the date the certified IDR entity is considered finally selected, the Departments are finalizing a process for preliminary selection of the certified IDR entity and final selection of the certified IDR entity. The Departments have determined that the conflict-of-interest review by the certified IDR entity should not cut into the time periods for either the disputing parties to submit their offers or for the certified IDR entity to make a payment determination. Thus, the Departments are finalizing requirements providing for a certified IDR entity conflict-of-interest review process that must be conducted before a preliminarily selected certified IDR entity is considered to be a final selected certified IDR entity. Under these final rules, final selection of the certified IDR entity will trigger the timeframes for conducting an eligibility review, accepting offers of an out-of-network payment amount and making a payment determination.

As outlined in section II.E.1.d.ii of this preamble, the Departments have identified potential areas to improve upon and provide additional clarity for the process for disputes to be withdrawn from the Federal IDR process. Currently, there is no clear uniform process for parties, the certified IDR entity, or the Departments to withdraw a dispute from the Federal IDR process. To establish a process for withdrawals, the Departments are finalizing four conditions in which a dispute may be withdrawn from the Federal IDR process by the initiating party, the Departments, or the certified IDR entity before a payment determination is made. Specifically, the Departments are finalizing that a

dispute may be withdrawn from the Federal IDR process if: (1) the initiating party provides notification through the Federal IDR portal to the Departments and the certified IDR entity (if selected) that both parties agree to withdraw the dispute from the Federal IDR process, with signatures from authorized signatories for both parties; (2) the initiating party provides a standard withdrawal request notice to the Departments, the certified IDR entity (if selected), and the non-initiating party, and the non-initiating party notifies the Secretary, certified IDR entity (if selected), and initiating party of its agreement to withdraw within 5 business days of the initiating party's request (or the non-initiating party fails to respond within 5 business days of the initiating party's request); (3) the certified IDR entity or the Departments cannot determine eligibility, for example, because both parties to the dispute are nonresponsive to any requests for additional information to determine eligibility; or (4) the certified IDR entity cannot make a payment determination, for example, because both parties to the dispute have failed to submit an offer as described in section II.E.4 of this preamble. The Departments have determined that these policies strike a balance between fairness to the disputing parties and efficiency of the Federal IDR process by generally requiring mutual agreement by the disputing parties to withdraw the dispute and providing that a dispute will be withdrawn in the event the parties are nonresponsive within the required timeframes.

As outlined in section II.E.2 of this preamble, in response to the Departments' experiences with batched determinations and operationalizing the Federal IDR process, as well as consideration of interested parties' feedback, the Departments are finalizing batching policies for the Federal IDR process to increase efficiency and create a workable framework for disputing parties and certified IDR entities. The Departments are finalizing that initiating parties may submit up to 50 qualified IDR items and services (or "line items") jointly to be considered as part of a single payment determination, provided they meet the Departments' remaining batching requirements. The Departments are finalizing batching provisions that allow parties the flexibility to batch line items that relate to the treatment of similar conditions, with necessary limitations to encourage efficiency. Specifically, the policy allows all qualified IDR items and services within the following groupings

to be batched together: (1) the items and services were furnished to a single patient during a patient encounter on one or more consecutive dates of service and billed on the same claim form (single patient encounter); (2) the items and services were furnished to one or more patients and billed under the same service code, or a comparable code under a different procedural code system; or (3) anesthesiology, radiology, pathology, and laboratory qualified IDR items and services were furnished under service codes belonging to the same Category I CPT code range, as specified in guidance published by the Departments. The Departments have determined that this approach appropriately balances several objectives of the Federal IDR process, including: encouraging efficiency (including minimizing costs) within the Federal IDR process without unreasonably impeding plans and issuers' or providers' access to the Federal IDR process and considering relative costs and administrative burden; providing a framework to expedite processing of the backlog of Federal IDR disputes by simplifying the Federal IDR process while avoiding creating new operational complexities; and ensuring that items and services included in batched determinations have a clear organizing principle that makes for logical and consistent payment determinations across certified IDR entities to reduce the chance of disparate outcomes. The Departments are also finalizing the codification of the definition of a bundled payment arrangement, as currently set forth in guidance, at 26 CFR 54.9816–3, 29 CFR 2590.716–3, and 45 CFR 149.30.

As outlined in section II.E.3 of this preamble, to implement a fair and efficient Federal IDR process, the Departments are finalizing amendments to the certified IDR entity fee provisions of the Federal IDR process to align financial incentives for disputing parties with the efforts associated with administering the Federal IDR process. The Departments are also finalizing a new administrative fee amount, calculated by updating the inputs to the administrative fee methodology finalized in the IDR Process Fees final rules with the most recent Federal IDR portal data available. This new administrative fee is a reduction from the administrative fee previously finalized in the IDR Process Fees final rules and will improve accessibility of the Federal IDR process while ensuring sufficient administrative fee collections to carry out the Federal IDR process.

As outlined in section II.E.5 of this preamble, the Departments are

finalizing a general extension of time when the Departments determine that such extension is necessary due to extenuating circumstances that contribute to systematic delays in processing disputes under the Federal IDR process, such as a high volume of disputes or Federal IDR portal system failures. This will allow the Departments to extend the time periods under the Federal IDR process without requiring a case-by-case analysis of individual extension requests. The Departments have determined that granting certain extensions in this manner will provide protection for parties engaged in the Federal IDR process from the impact of systematic processing delays and ensure that unforeseen circumstances do not unfairly disadvantage a party or hinder its ability to comply with the Federal IDR process timeframes. This will also provide more transparency into the timing it would take for a dispute to be processed.

As outlined in section II.F of this preamble, the Departments are finalizing a requirement that self-insured group health plans, health insurance issuers, and FEHB Program carriers subject to the Federal IDR process register with the Departments and provide general information on the application of the Federal IDR process to items or services covered by the plan or coverage. Providers report that when they initiate open negotiation prior to initiating the Federal IDR process, it is often difficult to identify the plan or issuer with which they are seeking to initiate a dispute, determine the correct contact information for initiating open negotiation or a dispute, and distinguish between different self-insured group health plans with the same third-party administrator. To address these issues, the Departments are finalizing a registry containing this information, which will help providers initiate open negotiation and the Federal IDR process with all required information by resolving the aforementioned information-sharing issues between parties.

D. Summary of Impacts and Accounting Table

The expected benefits and costs of these final rules are summarized in Table 4 and discussed in this section of the preamble. In accordance with OMB Circular A–4, Table 4 depicts an accounting statement summarizing the Departments' assessment of the benefits and costs associated with this regulatory action. The Departments are unable to quantify all benefits and costs of these final rules but have sought, where possible, to describe these non-

quantified impacts. The effects in Table 4 reflect non-quantified impacts and estimated direct monetary costs

resulting from the provisions of these final rules.

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TTABLE 4: Accounting Table

Accounting Statement				
Benefits:	Estimate	Year Dollar	Discount Rate	Period Covered
Annualized Quantified (\$/Year)	\$77.61 million	2026	7 percent	2026-2030
	\$78.52 million	2026	3 percent	2026-2030
Quantified Benefits: • Savings of approximately \$45.6 million to \$68.4 million (averaged to approximately \$57 million) annually beginning in 2027 attributable to the prevention of ineligible disputes through the required use of CARCs and RARCs. • Savings of \$22,626,630 annually beginning in 2026 due to efficiencies gained for the parties to submit notice of certified IDR entity selection forms. • Savings of approximately \$8,775,000 to \$13,162,500 (averaged to \$10,968,750) annually beginning in 2026 to parties that would no longer incur administrative fee payments for the approximately 50 to 75 percent of ineligible disputes that potentially would no longer be initiated as a result of the policies finalized in these rules.				
Non-Quantified: • Reduced wasted effort on inappropriately initiated disputes for certified IDR entities as well as both initiating and non-initiating parties by providing information necessary for dispute initiation in a centralized registry, thus minimizing: (1) open negotiation and/or disputes initiated against the wrong party; (2) disputes over items or services that are actually subject to a specified State law or All-Payer Model Agreement; and (3) incorrectly batched disputes. • Increased efficiency (including minimizing costs) within the Federal IDR process without unreasonably impeding plans and issuers' or providers' access to the Federal IDR process considering potential administrative burden by revising the batching policies to reduce the chance of disparate outcomes. • Savings to initiating and non-initiating parties annually beginning in 2026 due to efficiencies gained in submitting notice of IDR initiation forms and responses to the Departments and the other party.				
Costs:	Estimate	Year Dollar	Discount Rate	Period Covered
Annualized Quantified (\$/Year)	\$1,038.08 million	2026	7 percent	2026-2030
	\$1,038.03 million	2026	3 percent	2026-2030
Quantified Costs: • Costs to issuers and TPAs of approximately \$1,359,993 to make one-time changes, in 2026, to their information technology (IT) systems to accommodate the use of CARCs and RARCs related to the No Surprises Act in accordance with guidance issued by the Departments or as required under any applicable adopted standards and operating rules under 45 CFR part 162. • Costs to issuers and TPAs of approximately \$451,154 to make one-time changes, in 2026, to their IT systems to incorporate changes to the disclosures that accompany the QPA notification as described in the new 26 CFR 54.9816-6(d)(1)(v), 29 CFR 2590.716-6(d)(1)(v), and 45 CFR 149.140(d)(1)(v). • Costs to initiating parties of approximately \$304,063,500 annually beginning in 2026 to submit additional information in the open negotiation notice to the Departments and the other party for an estimated 3,750,000 disputes entering open negotiation annually. • Costs to non-initiating parties of approximately \$304,063,500 annually beginning in 2026 to create and submit open negotiation notice responses to the Departments and the other party for an estimated 3,750,000 disputes entering open negotiation annually. • Costs to initiating parties of approximately \$202,709,000 annually beginning in 2026 to submit additional information in the notice of initiation to the Departments and the other party for an estimated 2,600,000 disputes initiated annually. • Costs to non-initiating parties of approximately \$202,709,000 annually beginning in 2026 to submit additional information in the notice of initiation to the Departments and the other party for an estimated 2,600,000 disputes initiated annually. • Costs to the Departments of approximately \$11,000,000 in 2026, \$17,500,000 in 2027, and \$18,000,000 annually in 2028-2030 for system builds in the Federal IDR portal in 2026 to operationalize the policies in these final rules related to submission and exchange of open negotiation, initiation, and certified IDR entity selection notices and information between parties, which includes changes to implement the batching rules. • Costs to initiating parties of approximately \$4,599,400 annually beginning in 2026 associated with submitting notices of withdrawal request.				

Accounting Statement				
- Costs to non-initiating parties of approximately \$1,090,440 annually beginning in 2026 associated with submitting notices of withdrawal response. - Costs to certified IDR entities of approximately \$210 annually beginning in 2026 associated with submitting requests for extensions. - Costs to the Departments of approximately \$3,000,000 in 2026 and \$150,000 annually beginning in 2027 for system and operations development related to the Federal IDR registry. - One-time costs to issuers and TPAs in 2026 of approximately \$1,417,783 to submit information to register for a permanent IDR registration number, and annual costs beginning in 2027 of approximately \$88,760 to update this information in a timely manner. - Costs to interested parties of \$4,061,087 to review and interpret these rules in 2026.				
Transfers:	Estimate	Year Dollar	Discount Rate	Period Covered
Annualized Quantified (\$/Year)	\$504.2 million	2026	7 percent	2026-2030
	\$504.2 million	2026	3 percent	2026-2030
Quantified Transfers: Savings to the parties of approximately \$504,240,000 annually beginning in 2026 associated with the lower administrative fee amount in these final rules, accounting for both the lower administrative fee amount and the expected increase in dispute volume.				
Intermediate effects, leading to benefits and costs: - Provide standardized information, via CARCs and RARCs, to providers to increase their understanding of whether and how the No Surprises Act applies to claims for out-of-network items and services and help them determine whether disputes are eligible for the Federal IDR process or are subject to a specified State law or an All-Payer Model Agreement that determines the out-of-network payment amount. - Improved information sharing among the disputing parties and the Departments and increased certainty regarding when open negotiation and Federal IDR process initiation begin by: (1) requiring a disputing party to provide an open negotiation notice and supporting documentation to the other party and the Departments to initiate the open negotiation period; (2) requiring a response from the party in receipt of the open negotiation notice; and (3) requiring the non-initiating party to furnish a response to the notice of IDR initiation. - Increased transparency by clarifying how the Federal IDR process applies when either party fails to pay the fees associated with the Federal IDR process. - Improved accessibility to the Federal IDR process for the parties by lowering the administrative fee to \$15 per party per dispute. - Provide a framework to expedite processing of the backlog of Federal IDR disputes by simplifying the Federal IDR process, and ensure items and services included in batched determinations have a clear organizing principle that makes for logical and consistent payment determinations across certified IDR entities by revising the batching policies to reduce the chance of disparate outcomes.				

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1. Benefits

These final rules seek to maximize benefits to providers, plans, and issuers and to reduce burdens on certified IDR entities. The Departments solicited comment regarding the assumptions made in this section and any additional benefits that would be associated with the policies in the 2023 proposed rules. The Departments also sought comment from individuals from minority and underserved communities, and providers who serve these individuals, to help address the benefits that are associated with these final rules related to these communities specifically. The Departments did not receive any such comments.

a. Use of Claim Adjustment Reason Codes and Remittance Advice Remark Codes

The new provisions at 26 CFR 54.9816-6A, 29 CFR 2590.716-6A, and 45 CFR 149.100 require plans and issuers to use CARCs and RARCs, as specified in guidance issued by the Departments or as required under any applicable adopted standards and operating rules under 45 CFR part 162, to convey information related to the No Surprises Act when providing any remittance advice (including in paper or electronic form) in response to a claim for payment for health care items and services furnished by an entity that does not have a direct or indirect contractual relationship with the plan or issuer. These provisions will help to ensure plans and issuers convey information to providers in a standardized manner so

that they may understand whether and how the No Surprises Act applies to claims for out-of-network items and services and to determine whether disputes over payments are eligible for the Federal IDR process or subject to a specified State law or All-Payer Model Agreement for purposes of determining the out-of-network rate. The use of CARCs and RARCs will reduce the potential for the communication issues discussed in section II.B of this preamble, and will help providers identify items and services that are not subject to the No Surprises Act's surprise billing protections and thus identify items and services that are not eligible for the Federal IDR process.

By improving plan or issuer communication with providers, the CARC and RARC requirements, in combination with other provisions of

these final rules, will reduce the number of ineligible disputes submitted to the Federal IDR process, as further described throughout this section and section II.B of this preamble, and reduce the need for providers to engage in resource-intensive manual examination of paper or other non-standardized eligibility information. The potential reduction in ineligible Federal IDR disputes could result in lower administrative costs for certified IDR entities and disputing parties, and faster payment determinations, which in turn could result in providers receiving reimbursements sooner.

The Departments have estimated the cost savings attributable specifically to the CARC and RARC requirements by quantifying the potential avoided cost and burden associated with those ineligible disputes related to the No Surprises Act that these provisions are anticipated to avert. As discussed in section V.D.1.k. of this preamble, Federal IDR process data from 2025 indicates that approximately 450,000 disputes were determined to be ineligible by certified IDR entities in that year and that the Departments anticipate a 30 percent increase in dispute volume, including ineligible disputes, could occur due to the reduced administrative fee amount finalized in these rules. The Departments also note in section V.D.1.k. of these final rules that the cumulative impact of all provisions in these final rules could result in a total decrease in ineligible disputes of approximately 50 to 75 percent, or 292,500 to 438,750 disputes, annually. Furthermore, the Departments estimate that approximately 50 percent of that total reduction (146,250 to 219,375 disputes) will be attributable specifically to the CARC and RARC requirements.

This estimate reflects the Departments' view that receipt of a standardized CARC and RARC code, communicating that a claim is not subject to the NSA's provisions, may deter an initiating party from submitting a dispute that would otherwise be found ineligible. The Departments recognize that some initiating parties may continue to submit disputes despite receiving this information. As such, the Departments consider the 50 percent attribution to be an assumption that reflects uncertainty about the degree to which the CARC and RARC requirements alone, relative to the other provisions in these final rules, will drive reductions in ineligible submissions.

For each ineligible dispute prevented, the Departments estimate the avoided

costs and burden incurred by the initiating and non-initiating parties. As described in sections V.F.4. and V.F.5.a. of this preamble, the Departments estimate that preparing and submitting each of the four required notices (the open negotiation notice, the open negotiation response notice, the notice of IDR initiation, and the notice of IDR initiation response) will require 1.5 hours per party, or 3 hours combined across both parties, with an associated estimated combined cost of \$311.88. The Departments estimate a total avoided cost of approximately \$311.88 per ineligible dispute prevented, resulting in a total annualized cost savings of approximately \$45.6 million to \$68.4 million per year beginning in 2027 for the prevention of an estimated 146,750 to 219,375 ineligible disputes being submitted as a direct result of the CARC and RARC requirements.²²⁷

The Departments acknowledge several sources of uncertainty in this estimate. Due to the overall lack of data, the Departments are unable to accurately estimate the proportion of ineligible disputes specifically attributable to NSA applicability and the CARC and RARC requirements' overall ability to deter ineligible submissions, and the estimated per-dispute and total costs and burdens. Due to this uncertainty, the Departments acknowledge that the actual savings realized, because of the CARC and RARC provisions of these final rules, may be higher or lower than the Departments estimate. The Departments have applied conservative assumptions throughout this analysis and present the estimate as a reasonable approximation of the expected savings.

b. Information To Be Shared About the QPA

These final rules revise 29 CFR 2590.716–6(d) and 45 CFR 149.140(d) to specify that plans and issuers must disclose the QPA and certain information about the QPA when the recognized amount (or for air ambulance services, the amount on which cost sharing is based) is the lesser of the QPA or the amount billed by the provider of air ambulance services. These revisions provide greater clarity regarding when these disclosures must be provided so that parties have critical information for any dispute that may be eligible for the Federal IDR process.

Further, the amendments at 26 CFR 54.9816–6(d)(1)(v), 29 CFR 2590.716–6(d)(1)(v), and 45 CFR 149.140(d)(1)(v)

²²⁷ This is calculated as follows: \$77.97 per notice × 4 notices = \$311.88 per party. \$311.88 × 146,250 disputes = \$45.6 million (low); \$311.88 × 219,375 disputes = \$68.4 million (high).

require plans and issuers to disclose the legal business name (if any) of the self-insured group health plan, FEHB Program carrier, or issuer; the legal business name of the self-insured group health plan sponsor (if applicable); and the registration number assigned to the plan or issuer, as required under 26 CFR 54.9816–9, 29 CFR 2590.716–9, or 45 CFR 149.530, as applicable. The amendments will help to direct payment disputes to the appropriate parties, facilitate more productive open negotiation, and reduce the number of ineligible disputes ultimately submitted to the Federal IDR process (as further described in section V.D.1.k of this preamble).

c. Open Negotiation

The Departments are finalizing open negotiation provisions at 26 CFR 54.9816–8(b)(1), 29 CFR 2590.716–8(b)(1), and 45 CFR 149.510(b)(1) to require the party initiating open negotiation to provide an open negotiation notice and supporting documentation to the other party and the Departments through the Federal IDR portal to initiate the open negotiation period. The Departments are also expanding the required information on the open negotiation notice to include new elements. Furthermore, the Departments are finalizing that the party in receipt of the open negotiation notice will be required to provide a response to the open negotiation notice and supporting documentation to the other party and the Departments no later than the 15th business day of the 30-business-day open negotiation period. Both of these notice provisions require the parties to provide specific information detailed in the regulatory text of these final rules.

The Departments are finalizing these changes to improve information sharing among the parties and the Departments. These changes create more certainty regarding whether and when a party began open negotiation by recording start and end dates. Furthermore, these changes may allow the parties to focus negotiations on items or services they believe would ultimately be eligible for the Federal IDR process. Additionally, these changes create an additional exchange of eligibility-related disclosures between the parties that may reduce the number of ineligible disputes submitted to the Federal IDR process, as further described in section V.D.1.k of this preamble. While the Departments have issued guidance to clarify that the use of an issuer's proprietary open negotiation portal is not required by the parties, many issuers currently maintain their own open negotiation portals and

encourage parties to submit notices through them. These final rules will benefit providers by creating a centralized location in which they can exchange information for open negotiation, as opposed to using different portals and systems depending on the plan or issuer. These requirements reduce the number of platforms or vehicles the party submitting the open negotiation notice currently use to furnish the notices and supporting documentation to both the Departments and the other party.

d. Initiating the Federal IDR Process and Notice of IDR Initiation

The Departments are finalizing changes to 26 CFR 54.9816–8(b)(2), 29 CFR 2590.716–8(b)(2), and 45 CFR 149.510(b)(2). Specifically, under these final rules, the initiating party is required to provide additional elements on the notice of IDR initiation, including expanded information to identify the disputing parties (as well as any third party representing a party) and additional information to identify the item or service subject to the dispute.

Similarly, the non-initiating party must provide a response to the notice of IDR initiation including an enumerated list of information with additional disclosures, such as either a statement agreeing to the preferred certified IDR entity or an alternative preferred certified IDR entity, and an attestation as to the eligibility of the item or service that is the subject of the dispute. These additional elements will assist in determining whether the item or services is eligible for the Federal IDR process, allow for a streamlined process to track dispute initiation, enhance communication between the parties, and facilitate a more efficient process of IDR initiation. Information about why the non-initiating party believes the dispute is ineligible for the Federal IDR process will assist the certified IDR entity in its review of dispute eligibility, thereby streamlining the eligibility review process.

Additionally, by streamlining the submission of these notices through the Federal IDR portal, including the open negotiation notice and open negotiation response notice, the Departments anticipate upgrading the Federal IDR portal functionality such that information submitted for one notice may be used to pre-populate subsequent notices, reducing the burden of providing duplicative information. For instance, if a party that submitted the open negotiation notice through the Federal IDR portal decides to initiate the Federal IDR process after the open negotiation period has ended, the

Departments anticipate that the Federal IDR portal may be able to pre-populate the fields in the notice of IDR initiation with the same information that was provided in the open negotiation notice. Furthermore, these requirements will reduce the number of platforms or vehicles the initiating party must use to furnish the notice of IDR initiation and supporting documentation to both the Departments and the other party. This administrative streamlining will simplify the burden on initiating parties and will create greater efficiency.

e. Certified IDR Entity Selection

The Departments are amending 26 CFR 54.9816–8(c)(1), 29 CFR 2590.716–8(c)(1), and 45 CFR 149.510(c)(1) regarding the process for certified IDR entity selection and submission of the notice of certified IDR entity selection. In the Departments' experience implementing the Federal IDR process, when a non-initiating party waits until the third business day after the date of IDR initiation to select an alternative preferred certified IDR entity, the initiating party lacks sufficient time to agree or object to the alternative preferred certified IDR entity. To provide the parties sufficient opportunity to agree or object to an alternative preferred certified IDR entity, the Departments proposed that if the party last in receipt of either the notice of IDR initiation response or the notice of certified IDR entity selection received the notice on the third business day after the date of IDR initiation without agreement to the other party's alternative preferred certified IDR entity by the end of third business day after the date of IDR initiation, the Departments will provide the party 2 additional business days to agree or object to other party's alternative preferred certified IDR entity selection.

Further, to provide clarity and to codify the process and timeframes for selecting a certified IDR entity, the certified IDR entity's conflict-of-interest review, and the date the certified IDR entity selection is considered finally selected, the Departments proposed to establish a process for preliminary selection of the certified IDR entity and final selection of the certified IDR entity. The Departments have determined that the conflict-of-interest review by the certified IDR entity should not reduce the time periods for either the disputing parties to submit their offers or for the certified IDR entity to make a payment determination. For this reason, the requirements that will provide for a certified IDR entity conflict-of-interest review process that must be conducted before a preliminary

selection of the certified IDR entity is considered a final selected certified IDR entity. Under these final rules, the final selection of the certified IDR entity will trigger the timeframes for conducting an eligibility review and the requirement to pay the administrative fee. Further, completion of final selection of the certified IDR entity will trigger the timeframes for accepting offers of an out-of-network payment amount, and making a payment determination. The Departments have determined that this will streamline the exchange of information between parties, provide clarity on the dates that trigger the timeframes for offer submission and payment determinations, and relieve the time constraints on disputing parties and certified IDR entities by not having the conflict-of-interest review reduce the timeframe for submitting offers and payment determinations, and therefore are finalizing as proposed.

f. Federal IDR Process Eligibility Determinations

The Departments are not finalizing the proposal to amend 26 CFR 54.9816–8(c), 29 CFR 2590.716–8(c), and 45 CFR 149.510(c) to make Federal IDR process eligibility determinations the responsibility of the Departments in certain circumstances.

As the Departments are maintaining current operations, there is no impact associated with this provision.

g. Withdrawals

The Departments are finalizing the addition of 26 CFR 54.9816–8(c)(3)(ii), 29 CFR 2590.716–8(c)(3)(ii), and 45 CFR 149.510(c)(3)(ii) to establish a process for disputes to be withdrawn from the Federal IDR process. First, these final rules allow a dispute to be withdrawn from the Federal IDR process if the initiating party provides notification through the Federal IDR portal to the Departments and the certified IDR entity (if selected) that both parties agree to withdraw the dispute, with signatures from authorized signatories for both parties. These final rules also establish that the initiating party could withdraw a dispute by submitting a standard withdrawal request notice to the Departments, the non-initiating party, and the certified IDR entity (if selected) through the Federal IDR portal. In this case, the non-initiating party will then be required to provide the standard withdrawal request response notice within 5 business days indicating agreement or objection to the request for withdrawal. If the non-initiating party fails to respond within 5 business days of the initiating party's request, the non-

initiating party would be considered to have agreed to the dispute's withdrawal.

The Departments are also finalizing the proposal to establish that the certified IDR entity or the Departments may withdraw a dispute from the Federal IDR process if the certified IDR entity or the Departments cannot determine eligibility, for example, because both parties are nonresponsive to any requests for additional information to determine eligibility, or if the certified IDR entity cannot make a payment determination, for example, because both parties have failed to submit an offer as described in 26 CFR 54.9816–8(c)(5)(i), 29 CFR 2590.716–8(c)(5)(i), and 45 CFR 149.510(c)(5)(i). The Departments have determined that these policies will both provide fairness to the disputing parties and encourage efficiency of the Federal IDR process by generally requiring mutual agreement by the disputing parties to withdraw the dispute and providing that the dispute will be withdrawn in the event the parties are nonresponsive within the required timeframes. Permitting the withdrawal of a dispute in such cases will decrease the number of payment determinations the certified IDR entity is required to adjudicate, improving efficiency of the Federal IDR process.

h. Treatment of Batched Items and Services

The Departments are finalizing amendments to the batching policies in response to the Departments' experiences with batched determinations and operationalizing the Federal IDR process and the District Court's order vacating certain batching provisions,²²⁸ as well as consideration of interested parties' feedback regarding the Federal IDR process. The Departments are finalizing that initiating parties may submit up to 50 qualified IDR items and services (or "line items") jointly to be considered as part of a single payment determination, provided the line items meet the Departments' remaining batching requirements. Under these final regulations, parties have flexibility to batch line items that relate to the treatment of similar conditions with necessary limitations to encourage efficiency. Specifically, the regulations allow all qualified IDR items and services to be batched by: (1) items and services furnished to a single patient during a patient encounter on one or more consecutive dates of service and billed on the same claim form (single

patient encounter); (2) items and services furnished to one or more patients and billed under the same service code, or a comparable code under a different procedural code system; or (3) anesthesiology, radiology, pathology, and laboratory qualified IDR items and services furnished under service codes belonging to the same Category I CPT code range, as specified in guidance by the Departments, to address the unique circumstances of certain medical specialties and provider types.

As outlined in section II.E.2 of this preamble, this approach will encourage efficiency (including minimizing costs) within the Federal IDR process without unreasonably impeding plans and issuers' or providers' access to the Federal IDR process considering relative costs and administrative burden; provide a framework to expedite processing of the backlog of Federal IDR disputes by simplifying the Federal IDR process; and ensure that items and services included in batched determinations have a clear organizing principle that makes for logical and consistent payment determinations across certified IDR entities to reduce the chance of disparate outcomes.

i. Extension of Time Periods for Extenuating Circumstances

The Departments are amending 26 CFR 54.9816–8(g), 29 CFR 2590.716–8(g), and 45 CFR 149.510(g) to establish at paragraph (g)(1)(i) that for a specific dispute, the Departments on their own initiative, may determine whether an extension is necessary because the parties or certified IDR entity cannot meet applicable timeframes due to matters beyond the control of the certified IDR entity or one or both parties, or for other good cause. Under these final rules, the Departments will provide an extension on a case-by-case basis. Paragraph (g)(1)(i) also provides that the certified IDR entity or either party may also submit a request for an extension due to extenuating circumstances to the Secretary through the Federal IDR portal, and must attest that it will take prompt action to ensure that the certified IDR entity's payment determination may be made as soon as practicable under the circumstances.

The Departments are also finalizing at 26 CFR 54.9816–8(g)(1)(ii), 29 CFR 2590.716–8(g)(1)(ii), and 45 CFR 149.510(g)(1)(ii) a generally applicable extension of time periods when the Departments determine that such extension is necessary due to extenuating circumstances that contribute to systematic delays in processing disputes under the Federal

IDR process, such as a high volume of disputes or Federal IDR portal system failures. The Departments will also post a public notice about any generally applicable extensions of time periods. Under these final rules, the Departments may extend the time periods under the Federal IDR process without requiring a case-by-case analysis of individual extension requests. Granting certain extensions in this manner will provide protection for parties engaged in the Federal IDR process from the impact of systematic processing delays and ensure that unforeseen circumstances do not unfairly disadvantage a party or hinder its ability to comply with the Federal IDR process timeframes. This will also provide more transparency into the time it would take for a dispute to be processed.

j. Registration of Group Health Plans and Health Insurance Issuers

The Departments are finalizing under 26 CFR 54.9816–9, 29 CFR 2590.716–9, or 45 CFR 149.530 a requirement for self-insured group health plans, health insurance issuers, and FEHB Program carriers to submit certain information to the Departments through an IDR registry. The Departments will make the resulting registry available to parties initiating open negotiation requests or disputes through the Federal IDR portal. Access to the IDR registry will provide a single, centralized place for parties to find contact information for a plan or issuer, therefore reducing time spent by providers when they initiate open negotiation. The registry will also help reduce wasted effort on inappropriately initiated disputes for certified IDR entities, as well as both initiating and non-initiating parties, by minimizing: (1) disputes initiated against the wrong party; (2) disputes over items or services that are subject to a specified State law or All-Payer Model Agreement; and (3) disputes that are incorrectly batched.

k. Reduction in Ineligible Disputes

The Departments anticipate that these final rules, including the use of CARCs and RARCs, the requirements in the open negotiation notice and response and the IDR initiation notice and response, the modifications to batching requirements, and the registry for group health plans and health insurance issuers, will reduce the number of ineligible disputes initiated in the Federal IDR process each year. Federal IDR process data from 2025 indicate that approximately 450,000 disputes were determined to be ineligible by certified

²²⁸ See *Tex. Med. Ass'n v. U.S. Dep't of Health & Hum. Servs.*, Case No. 6:23–cv–00059–JDK, (E.D. Tex. August 3, 2023) (TMA IV).

IDR entities in that year.²²⁹ As discussed in section V.D.3.a.1. of this preamble, due to the reduced administrative fee amount finalized in these rules, the Departments anticipate an increase in dispute volume of approximately 30 percent resulting from these rules. Therefore, in the future, the Departments estimate approximately 585,000 disputes could be determined ineligible by certified IDR entities annually. Based on this data and the rates of ineligibility attributable to various reasons (for example, State jurisdiction over the dispute or the dispute being initiated against the wrong non-initiating party), the Departments estimate that a total decrease in ineligible disputes of approximately 50 to 75 percent, or 292,500 to 438,750 disputes, could result from the cumulative impact of these policies each year. This could represent a cost savings of approximately \$8,775,000 to \$13,162,500 to parties that would no longer incur the finalized administrative fee amount of \$15 per party per dispute for these ineligible disputes that potentially would no longer be initiated as a result of the policies finalized in these rules (thus freeing societal resources to an extent approximated by the fee amount).²³⁰

The Departments have calculated this estimated range to reflect that the policies in these final rules, while severable, may work in concert with one another to reduce ineligible disputes. Uncertainties in the reduction of ineligible disputes remain, and the

Departments note that variables such as the number of disputes initiated have changed over time and may continue to fluctuate. Therefore, it is possible that the number of ineligible disputes ultimately prevented by the policies in these final rules could be outside of the range estimated in this paragraph.

2. Costs

These final rules seek to minimize costs to providers, plans, and issuers. The Departments sought comments on the assumptions made in this section and any additional costs that would be incurred by affected parties associated with the policies in these final rules. The Departments also sought comment from individuals from minority and underserved communities, and providers who serve these individuals, to help address the costs that would be associated with these final rules related to these communities specifically.

a. Required Use of CARCs and RARCs

Plans and issuers will incur costs to comply with the requirements of these final rules related to the use of CARCs and RARCs. Plans and issuers will be required to use CARCs and RARCs on remittance advice (including in paper or electronic form), in accordance with guidance issued by the Departments or as required under any applicable adopted standards and operating rules under 45 CFR part 162. This will be necessary when processing out-of-network claims²³¹ to communicate information related to whether a claim for an item or service furnished by an

entity that does not have a direct or indirect contractual relationship with the plan or issuer for the furnishing of the item or service under the plan or coverage is subject to the No Surprises Act's surprise billing requirements and Federal IDR process provisions.

The Departments estimate that 1,380 issuers²³² and 205 TPAs²³³ will incur a one-time cost to automate the process to include the appropriate CARCs and RARCs in the appropriate remittance advice and comply with the policies. The Departments anticipate that issuers and TPAs will need to make a one-time change to their IT systems to accommodate new No Surprises Act-related CARCs and RARCs specified by the Departments in future guidance, or as required under any applicable adopted standards and operating rules under 45 CFR part 162. The Departments estimate that each issuer or TPA will require a computer programmer 8 hours (at an hourly rate of \$94.88)²³⁴ to make changes to their IT system to allow for the incorporation of newly developed No Surprises Act-related CARCs and RARCs (or already-developed RARCs that might be required) into their remittance advice and an operations manager 1 hour (at an hourly rate of \$99.00)²³⁵ to verify accuracy and accessibility. The Departments estimate that each issuer or TPA will require a total of 9 hours, with an associated cost of \$858.²³⁶ For all issuers and TPAs, the Departments estimate a one-time burden of 14,265 hours, with an associated total cost of \$1,359,993, in 2026.

TABLE 5: One-Time IT Costs for Issuers and TPAs Related to CARCs and RARCs

	Estimated Number of Issuers and TPAs	Hours per Issuer/TPA (Hours)	Total Annual (Hours)	Total Estimated Cost
Annual IT Changes	1,585	9.0	14,265	\$1,359,993

The Departments anticipate that most issuers and TPAs that are subject to

HIPAA Administrative Simplification requirements currently use ERA and

therefore are already required to use CARCs and RARCs in their ERAs to

²²⁹ See Independent Dispute Resolution Reports, November 30, 2025, available at <https://www.cms.gov/nosurprises/policies-and-resources/reports>.

²³⁰ This range is calculated as follows: Low estimate of 292,500 ineligible disputes × 2 parties per dispute × \$15 per party per dispute administrative fee = \$8,775,000. High estimate of 438,750 ineligible disputes × 2 parties per dispute × \$15 per party per dispute administrative fee = \$13,162,500.

²³¹ This requirement does not apply to remittance advice for payment made directly to a participant, beneficiary, or enrollee.

²³² Based on data from MLR annual report for the 2023 MLR reporting year. See <https://www.cms.gov/CCIIO/Resources/Data-Resources/mlr>. Issuers are defined as health insurance company/State combination and refers to the legal entities or subsidiaries that are licensed and operate within a specific State.

²³³ Non-issuer TPAs based on data derived from the 2016 benefit year reinsurance program contributions.

²³⁴ Wage rate derived from the BLS May 2024 National Occupational Employment and Wage Estimates for Computer Programmer (occupation 15–1251). Median hourly rate (\$47.44) has been

increased by 100 percent to account for the cost of fringe benefits and other indirect costs (\$47.44 × 200% = \$94.88).

²³⁵ Wage rate derived from the BLS May 2024 National Occupational Employment and Wage Estimates for General and Operations Managers (occupation 11–1021). Median hourly rate (\$49.50) has been increased by 100 percent to account for the cost of fringe benefits and other indirect costs (\$49.50 × 200% = \$99.00).

²³⁶ This is calculated as follows: (8 hours × \$94.88 hourly rate for a computer programmer) + (1 hour × \$99.00 for an operations manager) = \$858.04.

providers. However, the Departments recognize that some plans, issuers, and TPAs might not have the capacity to use more than one CARC and RARC per line item or might not currently use CARCs and RARCs when providing paper remittances. These issuers and TPAs will incur a higher burden and cost associated with these provisions, particularly to the extent that an issuer or TPA is required to use multiple CARCs and RARCs per line item. In addition, plans and issuers with narrow networks may incur increased costs, as they will likely process more out-of-network claims to which this requirement will apply. The Departments anticipate that TPAs will, in general, pass on the costs to implement the use of CARCs and RARCs to plan sponsors, which in turn may be passed on to participants in the form of higher premiums or contributions.

The Departments sought comment on these estimates, the number of issuers or TPAs that do not currently have the ability to include CARCs and RARCs on paper remittance advice, what the burden and cost would be, and if any of those costs would be passed on to plan sponsors, to meet the requirements of this provision. The Departments specifically sought comment on whether plans and issuers generally have the ability to use CARCs and RARCs in both paper and electronic remittance advice, or just electronic remittance advice. The Departments did not receive any comments indicating that the ability to use CARCs and RARCs is limited to electronic remittance advice.

As discussed in section II.B.2.f. of this preamble, a couple of commenters stated that the use of paper remittance advice increases administrative burden for providers, and one commenter recommended the Departments apply the proposed RARC and CARC requirements to electronic remittance advice only, as the commenter was of the view that providers who receive paper remittance advice do not generally furnish items and services subject to the No Surprises Act. The Departments recognize that an issuer's or TPA's current IT structure could play a role in their ability to meet the requirements of these final provisions and the ability to apply more than one CARC and RARC combination on a single line item, if required in certain scenarios. The Departments sought comment on issuers' and TPAs' capability to implement No Surprises Act-specific CARCs and RARCs and to use more than one CARC and RARC combination on a single line item if necessary; what barriers plans, issuers,

and TPAs may face in developing and implementing this capability; and what associated burden and cost would be incurred to implement and operationalize this capability for both electronic and paper remittance advice. Comments received for plans' or TPAs' capability to implement No Surprises Act-specific CARCs and RARCs and to use more than one CARC and RARC combination on a single line item if necessary are discussed and addressed in section II.B.2.f. of this preamble. However, no comments were received that specified associated cost or burden that would be incurred to implement and operationalize this capability.

In addition, the use of CARCs and RARCs on remittance advice (including in paper or electronic form) is expected to potentially reduce costs to certified IDR entities by reducing the number of ineligible disputes submitted to the Federal IDR process, as further described in section V.D.1.k. of this preamble. It will also reduce administrative costs incurred by parties related to initiating and responding to ineligible disputes.

b. Information To Be Shared About the QPA

As detailed in section V.F.3. of this preamble, the Departments estimate that in the aggregate, plans (or their TPAs) and issuers will incur a one-time cost, in 2026 of approximately \$451,154 to make changes to their IT systems to incorporate the required QPA disclosure information described in the amendments to 26 CFR 54.9816–6(d)(1)(iv) and (v), 29 CFR 2590.716–6(d)(1)(iv) and (v), and 45 CFR 149.140(d)(1)(iv) and (v).²³⁷

c. Open Negotiation

The Departments proposed amendments to the open negotiation provisions to require the party initiating open negotiation to provide an open negotiation notice and supporting documentation to the other party and the Departments through the Federal IDR portal to initiate the open negotiation period. The Departments are also expanding the required information on the open negotiation notice to include new elements. Furthermore, the party in receipt of the open negotiation notice will be required to provide a response to the open negotiation notice within the first 15 business days of the 30-business-day open negotiation period.

²³⁷ As explained in section V.F.3, this is calculated based on a one-time cost estimate of \$284.64 per issuer/TPA to be incurred in 2026. \$284.64 per issuer/TPA x (1,380 issuers + 205 TPAs) = \$451,154 in total one-time costs.

To implement the final rules impacting the submission of information to the Federal IDR portal (including the policies pertaining to the notice of IDR initiation and notice of IDR initiation response forms, and the notice of certified IDR entity selection form), the Departments will implement system changes to the Federal IDR portal to ensure parties are able to submit the open negotiation notice through the portal to the other party and the Departments, and to allow for a response from the non-initiating party. The Departments estimate that their costs to implement all portal system changes described in these final rules will be approximately \$11,000,000 in fiscal year 2026, \$17,500,000 in 2027, and \$18,000,000 annually in 2028–2030 based on internal contract estimates.

The Departments estimate that these final rules increase burden for the parties submitting the open negotiation notice and the open negotiation response notice.²³⁸ The total burden associated with these new requirements for parties will be 5,850,000 hours at a cost of \$608,127,000 annually beginning in 2026.²³⁹ The burden associated with this information collection is discussed further in section V.F.4. of this preamble.

The Departments sought comment on these costs and any other burdens interested parties foresee resulting from this proposal. The Departments did not receive comments on these estimates and therefore are finalizing them as discussed in this preamble section.

d. Initiating the Federal IDR Process and Notice of IDR Initiation

The Departments are finalizing changes impacting the process for initiating the Federal IDR process and the notice of IDR initiation. The cost associated with updates to the Federal IDR portal for IDR initiation are described in the previous section V.D.2.c regarding open negotiation costs. The Departments are finalizing these changes to accelerate dispute processing and reduce the burden on certified IDR entities. Specifically, the Departments are finalizing the requirement for the initiating party to provide additional information and supporting documentation on the notice of IDR initiation. The Departments are also finalizing the requirement that the non-initiating party to provide a response to the notice of IDR initiation within 3 business days of the date of

²³⁸ OMB Control Number: 1210–0169 (No Surprises Act: IDR Process).

²³⁹ As explained in section V.F.4, this is calculated based on the unrounded hourly rate, which is approximately \$103.9533.

IDR initiation that must include an enumerated list of information with additional disclosures, including a statement agreeing to the preferred certified IDR entity or providing an alternative preferred certified IDR entity, information regarding the eligibility of the item or service subject to the dispute, and supporting documentation.

These changes will add requirements that parties must submit information at the initiation of the Federal IDR process. The Departments estimate that these requirements, as finalized, will represent an annual burden of 3,900,000 hours with an associated cost of \$405,418,000 beginning in 2026. The burden associated with this information collection is discussed further in section V.F.5.a. of this preamble.

e. Certified IDR Entity Selection

The Departments are amending the process for the preliminary selection of the certified IDR entity and the submission of the notice of certified IDR entity selection. Specifically, under these final rules, the Departments are finalizing the requirement that the non-initiating party must agree or object to the preferred certified IDR entity in the notice of IDR initiation response within 3 business days after the date of IDR initiation as outlined in section II.D.2.b. of this preamble. Due to this change, the initiating party will only be required to submit the notice of certified IDR entity selection if the non-initiating party submits an alternative preferred certified IDR entity in the notice of IDR initiation response. The initiating party will submit its notice agreeing or objecting to the non-initiating party's alternative preferred certified IDR entity through the Federal IDR portal. The non-initiating party will only be required to submit the notice of certified IDR entity selection if the initiating party provides an alternative preferred certified IDR entity in the notice of certified IDR entity selection within the 3-business-day period following the date of IDR initiation.

Compared to the existing estimated burden to select a certified IDR entity, the Departments estimate that the efficiencies gained from these requirements, as finalized, will represent an annual burden savings of 539,500 hours with an associated cost savings of \$22,626,630 beginning in 2026.²⁴⁰ The burden associated with

this information collection is discussed further in section V.F.5.b. of this preamble.

f. Federal IDR Eligibility Determinations

The Departments are not finalizing the proposed amendments at 26 CFR 54.9816–8(c)(2)(ii), 29 CFR 2590.716–8(c)(2)(ii), and 45 CFR 149.510(c)(2)(ii) to make Federal IDR process eligibility determinations the responsibility of the Departments in certain circumstances, at the discretion of the Departments, and are maintaining the current regulations and flexibilities permitted under subregulatory guidance such that certified IDR entities continue to determine dispute eligibility for the Federal IDR process. In the 2023 proposed rules, the Departments estimated that when the departmental eligibility review is in effect it would cost approximately \$17,199,000 in 2025 and \$41,277,600 per year beginning in 2026.²⁴¹ The Departments sought comment on these estimates.

As the Departments are maintaining the current operations and not finalizing this policy in these final rules, there is no cost associated with this provision.

g. Withdrawals

The Departments are adding 26 CFR 54.9816–8(c)(3)(ii), 29 CFR 2590.716–8(c)(3)(ii), and 45 CFR 149.510(c)(3)(ii) to establish a process for disputes to be withdrawn from the Federal IDR process. If the withdrawal is not agreed upon by both parties, these final rules require the initiating party to submit a withdrawal request to the Departments and the non-initiating party through the Federal IDR portal. The non-initiating party will then be required to provide a response within 5 business days indicating agreement or objection to the request for withdrawal. If the non-initiating party fails to respond within 5 business days of the initiating party's request, the non-initiating party will be considered to have agreed to the dispute's withdrawal. This new collection will result in a cost to the parties of \$5,689,840 (\$4,599,400 for initiating parties and \$1,090,440 for non-initiating parties) annually

saved annually. 539,500 hours × \$41.94 per hour = \$22,626,630 total annual cost savings.

²⁴¹ At the time of the 2023 proposed rules, the Departments estimated the annual cost of conducting eligibility review would be \$41,277,600 and prorated this to \$17,199,000 for 2024 as the Departments anticipated that, if finalized as proposed, Departmental eligibility review would begin in August 2024. See the 2023 proposed rules for additional background on these estimates. 88 FR 75822.

beginning in 2026, as outlined further in section V.F.7 of this preamble.²⁴²

h. Treatment of Batched Items and Services

The Departments are finalizing revisions to the batching policies in response to the Departments' experiences with batched determinations and operationalizing the Federal IDR process, the District Court's order vacating certain batching provisions,²⁴³ as well as consideration of interested parties' feedback regarding the Federal IDR process. Under these final regulations, the Departments will allow parties the flexibility to batch qualified IDR items and services (or "line items") that relate to the treatment of a similar condition with necessary limitations to encourage efficiency. Specifically, the regulations will allow all qualified IDR items and services to be batched by: (1) items and services furnished to a single patient during a patient encounter on one or more consecutive dates of service and billed on the same claim form (single patient encounter); (2) items and services furnished to one or more patients and billed under the same service code, or a comparable code under a different procedural code system; or (3) anesthesiology, radiology, pathology, and laboratory qualified IDR items and services furnished under service codes belonging to the same Category I CPT code range, as specified in guidance by the Departments, to address the unique circumstances of certain medical specialties and provider types.

To implement this policy, the Departments will need to implement system changes to the Federal IDR portal to ensure that the ability to batch under the new rules is operationalized. The total cost to implement system changes associated with submitting information through the portal, including those related to batching, is described in the open negotiation cost section of these final rules (section V.D.2.c of this preamble). While the Federal IDR portal currently has batching capabilities, these final rules allow for additional permissible mechanisms of batching which would need to be collected and captured in the Federal IDR portal.

²⁴² This is calculated as follows: \$44.23 per initiating party to submit a withdrawal request × approximately 104,000 disputes withdrawn annually = \$4,599,400 in total annual costs to initiating. \$10.49 per non-initiating party to submit a withdrawal request response × approximately 104,000 disputes withdrawn annually = \$1,090,440 in total annual costs to non-initiating parties.

²⁴³ See *Tex. Med. Ass'n, et al. v. U.S. Dep't of Health and Human Servs.*, Case No. 6:23-cv-00059-JDK, (E.D. Tex. August 3, 2023) (*TMA IV*).

²⁴⁰ This is calculated as follows: Existing estimate of 1.25 hours per respondent to complete the notice of certified IDR entity selection—new unrounded estimate of 0.53448 hours per respondent = reduction of 0.71552 hours per respondent. 0.71552 hours × 754,000 respondents = 539,500 total hours

i. Administrative and Certified IDR Entity Fee Collection

For the reasons explained in section II.E.3 of this preamble, the Departments are not finalizing the proposed provisions regarding the manner of administrative fee collection, timing of administrative fee collection, and reduced administrative fees for low-dollar and ineligible disputes, and therefore, there are no costs associated with these provisions. Here, the Departments summarize and respond to comments on the costs associated with the administrative and certified IDR entity fee provisions that are being finalized in these rules and are discussed further in section II.E.3 of this preamble.

1. Establishment of the Administrative Fee Amount and Methodology

The Departments are finalizing a new administrative fee amount for disputes initiated on or after June 11, 2026. This administrative fee amount was calculated by updating the estimates used in the inputs to the administrative fee methodology finalized in the IDR Process Fees final rules using the most recent available data. In the 2023 proposed rules, the Departments estimated that these policies would cost disputing parties approximately \$36,198,000 annually beginning in 2025.²⁴⁴ This cost estimate was based on an estimate of 420,000 disputes initiated annually. The Departments sought comment on these estimates and assumptions.

The Departments received a few comments stating that the estimate of 420,000 disputes initiated annually was too low. The Departments also received a few comments indicating that the number of disputes initiated annually may increase as a result of the provisions proposed in the 2023 proposed rules, specifically the reduced administrative fee for low-dollar disputes and the provisions that would result in increased information-sharing across the parties. Another commenter stated that the proposed administrative fee provisions in the 2023 proposed rules would reduce the number of disputes, specifically the number of ineligible disputes. Finally, a commenter requested that the Departments monitor the impact of any finalized administrative fee provisions on the number of disputes.

As discussed in section II.E.3.a of this preamble, after consideration of comments and for the reasons described in these final rules, the Departments are

not finalizing the proposed modifications to the administrative fee methodology and are finalizing updated estimates in the current administrative fee methodology to reflect the most recent data available and establish a new administrative fee amount for disputes initiated on or after June 11, 2026. To further explain, the Departments will continue to use the methodology finalized in the IDR Process Fees final rules that estimates the total number of administrative fees paid using the estimated number of administrative fees paid to certified IDR entities rather than using the number of disputes initiated. As explained in section II.E.3.a of this preamble, using Federal IDR process data from between May 2025 and April 2026, the Departments estimate that 6.9 million administrative fees will be paid to certified IDR entities annually. In addition, as explained in section II.E.3.e of this preamble, the Departments recognize that lowering the administrative fee from \$115, as finalized in the Federal IDR Process Fees final rule, to \$15, as finalized in these final rules, could increase the number of disputes initiated in the Federal IDR process, but the Departments also note that other finalized provisions in these rules, such as the enhanced disclosure requirements and open negotiation through the Federal IDR portal, may reduce the number of ineligible disputes initiated, and therefore mitigate some of the increased utilization that may result from the decrease in the administrative fee. The Departments will continue to monitor dispute trends and propose any new administrative fee amounts that may be appropriate given future trends in future notice and comment rulemaking.

As the Departments are finalizing a lower administrative fee amount, as discussed further in section II.E.3 of this preamble, the Departments are updating the transfer estimates associated with the administrative fee amount finalized in these final rules as described in section V.D.3.a.1 of this preamble.

2. Time of Collection of Certified IDR Entity Fee

The Departments are finalizing clarifications to and codifications of existing policy that each party to a dispute that the certified IDR entity determines eligible for the Federal IDR process must pay the predetermined certified IDR entity fee to the certified IDR entity no later than the time the party submits its offer. The Departments are also finalizing codifications of existing policy that the certified IDR

entity must retain the certified IDR entity fee paid by the party whose offer was not selected, and must return the fee paid by the prevailing party within 30 business days following the date of the certified IDR entity's payment determination. Further, the Departments are finalizing that in the event of a batched dispute in which each party prevails in an equal number of determinations, the certified IDR entity fee will be split evenly between the parties, and the certified IDR entity will be required to return half of the fee paid by each party within 30 business days following the date of the certified IDR entity's payment determination.

The Departments are also finalizing that when the parties reach an agreement on an out-of-network rate for qualified IDR items and services or agree to withdraw a dispute that has already been assigned to a certified IDR entity and determined eligible for the Federal IDR process but for which the certified IDR entity has not made a payment determination, the certified IDR entity will be required to return half of each party's certified IDR entity fee within 30 business days of the agreement or withdrawal. Finally, the Departments are finalizing that when parties reach an agreement on an out-of-network rate or agree to withdraw the dispute for which there is a final selection of the certified IDR entity, but the dispute has been determined ineligible or no eligibility determination has been made for the dispute (excluding situations where a certified IDR entity cannot determine eligibility), the certified IDR entity will be required to return the entirety of each party's certified IDR entity fee within 30 business days of the date both parties notify the certified IDR entity that they have reached an agreement on an out-of-network rate for qualified IDR items or services before the certified IDR entity has made its payment determination or withdrawn the dispute before the certified IDR entity has made its payment determination. The Departments do not anticipate any costs associated with the finalization of these provisions, given that these provisions, as finalized, are consistent with the No Surprises Act and the Departments' existing guidance.

3. Application of Federal IDR Process Requirements in Circumstances Involving a Failure To Pay Certified IDR Entity Fees or Administrative Fees

The Departments are finalizing clarifications to and codifications of existing policies related to the application of Federal IDR process requirements in circumstances when a

²⁴⁴ 88 FR 75744, 75822–75823 (November 3, 2023).

party fails to timely pay the certified IDR entity fee. The Departments are also finalizing, with modifications, requirements for when a party fails to pay the administrative fee. Specifically, nonpayment of the certified IDR entity or administrative fee by a party will result in the party's offer not being received and such party will be responsible for the payment of the fees. The Departments have determined that the impact of this rule will be minimal, as the purpose of these provisions is to codify existing practices. Further, the Departments clarify that, consistent with current operations, any administrative fee amounts determined to be owed by a disputing party under the Federal IDR process are governed by Federal Debt Collection Law.²⁴⁵ As the Departments are maintaining current rules and operations, there is no impact associated with these rules.

After consideration of comments, as discussed in more detail in section II.E.3.d of this preamble, the Departments clarify that representative entities are allowed to manage the Federal IDR process on behalf of a disputing party, including remitting the administrative fee on behalf of the party to the dispute, and an affirmative attestation may indicate that a representative entity is responsible for incurring the debt for nonpayment of administrative fees that would result in joint and several liability for administrative fee debts. The impact of this clarification will be minimal for the parties, as the purpose of this rule is to clarify that parties to a dispute can enforce their existing (or future) contracts with a representative entities in a manner that delegates authority to act on behalf of that disputing party in the Federal IDR process, including the duty to pay the associated administrative fee. To align with standard business practices, including common terms included in contracts between representative entities and disputing parties, streamline communication of the delegation of the duty to pay the administrative fee, and reduce burden, the Departments clarify that an attestation related to the obligation to pay the administrative fee may result in the Departments pursuing applicable Federal debt collection actions against the representative entity and the disputing party on whose behalf the representative entity is acting. Further, it will take a *de minimis*

amount of time for the initiating and non-initiating parties to include their TINs (which is required to link debts owed by the disputing parties to the Departments) on the notice of IDR initiation and the notice of IDR initiation response.

j. Extension of Time Periods for Extenuating Circumstances

The Departments are finalizing that the Departments, at their own initiative or at the request of a certified IDR entity or a party, may determine whether an extension is necessary because the parties or certified IDR entity cannot meet applicable timeframes due to matters beyond the control of the certified IDR entity or one or both parties, or for other good cause. The process for requesting an extension due to extenuating circumstances will remain the same as when this process was established in the October 2021 interim final rules, and entities will continue to submit the Request for Extension due to Extenuating Circumstances form through the Federal IDR portal. However, based on the changes in these regulations, the Departments estimate that the number of requests will increase due to the addition of certified IDR entities, thus slightly increasing the total burden associated with this collection. The Departments estimate that the costs associated with certified IDR entity requests for the extension will be \$210 annually beginning in 2026.²⁴⁶ This cost is explained in further detail in section V.F.9 of this preamble.

k. Registration of Group Health Plans and Health Insurance Issuers

Establishing the Federal IDR registry will impose a cost on the Departments by requiring them to develop and build the registry. The Departments anticipate incurring a cost of approximately \$3,000,000 to develop and build the Federal IDR registry in FY 2026, with annual ongoing costs to maintain the registry of \$150,000 on average thereafter, based on internal contract estimates. Additionally, enrolling in the Federal IDR registry will impose a cost on plans and issuers by requiring them to submit information to the Departments. These costs amount to \$1,417,783 in 2026 and \$88,760 annually beginning in 2027 and are further described in section V.F.10 of this preamble.²⁴⁷

3. Transfers

a. Administrative and Certified IDR Entity Fee Collection

For the reasons explained in section II.E.3 of this preamble, the Departments are not finalizing the proposed provisions regarding the manner of administrative fee collection, timing of administrative fee collection, and reduced administrative fees for low-dollar and ineligible disputes, and therefore, there are no costs, benefits, or transfers associated with these provisions. The Departments summarize and respond to comments on the effects associated with the administrative and certified IDR entity fee provisions that are being finalized in section II.E.3 of this preamble.

1. Establishment of the Administrative Fee Amount and Methodology

The Departments are finalizing a new administrative fee amount for disputes initiated on or after June 11, 2026.

The administrative fee amount was calculated by updating the inputs to the administrative fee methodology finalized in the IDR Process Fees final rules with recent Federal IDR portal data as discussed in section II.E.3.a of this preamble, and complies with the statutory requirement that the Departments set the administrative fee amount such that the total amount of fees paid for a year is estimated to be equal to the amount of expenditures estimated to be made by the Departments in carrying out the Federal IDR process for such year. This administrative fee amount will allow the Departments to administer the Federal IDR process and maintain the administrative fee methodology that reflects the current structure of administrative fee collections.

In the 2023 proposed rules, the Departments estimated that there would be costs associated with the proposed administrative fee policies as the Departments would directly collect administrative fees from parties closer to the time of initiation rather than the time a dispute is closed.²⁴⁸ However, after consideration of comments and for the reasons described in section V.D.2.i.1 of this preamble, the Departments are modifying the proposed assumptions and cost estimates and estimate that lowering the administrative fee from \$115 per party

per respondent. $\$894.50 \times 1,585 \text{ respondents} = \$1,417,783 \text{ total one-time cost}$. $0.75 \text{ hours per respondent for annual updates} \times \$74.67 \text{ combined average hourly rate} = \$56 \text{ cost per respondent}$. $\$56 \times 1,585 \text{ respondents} = \$88,760 \text{ total annual cost}$.

²⁴⁸ See 88 FR 75744, 75822–75823 (November 3, 2023).

²⁴⁵ The authorities applicable to HHS' debt collection activities generally include, but are not limited to, 31 U.S.C. 3711, *et seq.*; 45 CFR 156.1215; 42 CFR part 401, subpart F; 31 CFR part 901; 45 CFR part 30; and applicable common law (collectively, "Federal Debt Collection Law").

²⁴⁶ This is calculated as follows: $0.25 \text{ hours per request} \times 20 \text{ requests} = 5 \text{ total hours}$. $5 \text{ hours} \times \$41.94 \text{ hourly rate} = \$209.70 \text{ total cost}$.

²⁴⁷ These estimates are calculated as follows: $11.5 \text{ hours per respondent for initial registration} \times \$77.78 \text{ combined average hourly rate} = \$894.50 \text{ cost}$

per dispute, as finalized in the IDR Process Fees final rules, to \$15 per party per dispute, as finalized in these final rules, will result in a reduction in administrative fees paid as follows. Under current administrative fee collection operations and based on data from May 2025 to April 2026, the Departments estimate that parties pay certified IDR entities an average monthly volume of 440,000 administrative fees. The Departments project this figure forward by 12 months to estimate that approximately 5.3 million administrative fees would be paid annually if the current administrative fee policies were to remain applicable. Therefore, if the current administrative fee of \$115 per party per dispute were to remain applicable, parties would pay approximately \$607,200,000 in administrative fees.²⁴⁹

In these final rules, the Departments are finalizing an administrative fee of \$15 per party per dispute for disputes initiated on or after June 11, 2026. The Departments now project a total of 6.9 million administrative fees will be paid annually based on internal data from one year of Federal IDR process operations.²⁵⁰ Thus, based on this data and assuming the number of administrative fees paid remains stable year over year and the administrative fee amounts are not subsequently changed through notice and comment rulemaking, the Departments estimate that disputing parties will pay approximately \$102,960,000 in administrative fees annually beginning on the publication date of these rules.²⁵¹ Therefore, the reduction in administrative fees paid associated with this policy, representing transfers from the Departments (which otherwise would have received these fees) to the parties (who will now retain a large portion of these fees) will be \$100 per party per dispute (\$115 current fee—\$15 new fee finalized in these rules), totaling approximately \$504,240,000 annually beginning on the publication date of these provisions (\$607,200,000 if the administrative fee amount were to remain \$115 and the volume of disputes

were to remain constant—\$102,960,000 as finalized).

After consideration of comments, the Departments are finalizing these estimates with modifications as discussed in the prior paragraphs.

2. Time of Collection of Certified IDR Entity Fee

The Departments are finalizing clarifications to and codifications of existing policy that each party to a dispute that the certified IDR entity determines eligible for the Federal IDR process must pay to the certified IDR entity the predetermined certified IDR entity fee no later than the time the parties submit their offers. The Departments are also finalizing codifications of existing policy that the certified IDR entity must retain the certified IDR entity fee paid by the party whose offer was not selected, and must return the fee paid by the prevailing party within 30 business days following the date of the certified IDR entity's payment determination. Further, the Departments are finalizing that in the event of a batched dispute in which each party prevails in an equal number of determinations, the certified IDR entity fee will be split evenly between the parties, and the certified IDR entity will be required to return half of the fee paid by each party within 30 business days following the date of the certified IDR entity's payment determination or the date the certified IDR entity is notified by both parties of an agreement or withdrawal. Given that these policies are consistent with the No Surprises Act and existing guidance, these amendments provide clarity to disputing parties and certified IDR entities regarding the timing and collection of certified IDR entity fees.

The Departments are also finalizing that when the parties reach an agreement on out-of-network rates for qualified IDR items and services or agree to withdraw a dispute that has already been assigned to a certified IDR entity and determined eligible for the Federal IDR process but for which the certified IDR entity has not made a payment determination, the certified IDR entity will be required to return half of each party's certified IDR entity fee within 30 business days of the agreement or withdrawal. Finally, the Departments are finalizing that when parties reach an agreement on an out-of-network rate or agree to withdraw the dispute for which there is a final selection of the certified IDR entity but the dispute has been determined ineligible or no eligibility determination has been made for the dispute (excluding situations where a certified

IDR entity cannot determine eligibility), the certified IDR entity will be required to return the entirety of each party's certified IDR entity fee within 30 business days of the date both parties notify the certified IDR entity that they have reached an agreement on an out-of-network rate for qualified IDR items or services before the certified IDR entity has made its payment determination or withdrawn the dispute before the certified IDR entity has made its payment determination. These provisions encourage disputing parties to engage in meaningful negotiations while ensuring that certified IDR entities are compensated for the resources invested in making eligibility determinations and payment determinations prior to the settlement or withdrawal of disputes.

3. Application of Federal IDR Process Requirements in Circumstances Involving a Failure To Pay Certified IDR Entity Fees or Administrative Fees

The Departments are finalizing clarifications to and codifications of existing policies related to the application of Federal IDR requirements in circumstances when a party fails to timely pay the certified IDR entity fee. The Departments are also finalizing, with modifications, requirements for when a party fails to pay the administrative fee. Specifically, the failure to timely pay the certified IDR entity fee or the failure to pay the administrative fee will result in the certified IDR entity not considering the party's offer received and such party will continue to be responsible for payment of the fees. The Departments have determined that the impact of this policy will be minimal as the purpose is to codify an existing policy in regulation. Additionally, as discussed in more detail in section II.E.3.d of this preamble, after consideration of comments, the Departments clarify that representative entities are allowed to manage the Federal IDR process on behalf of a disputing party, including remitting the administrative fee on behalf of the party to the dispute. Further, an affirmative attestation may be used to indicate that a representative entity is responsible for incurring the debt for nonpayment of administrative fees that would result in joint and several liability for administrative fee debts. The Departments have determined that the impact of this change will be minimal, but this clarification helps ensure that parties to a dispute can enforce their existing (or future) contracts with a representative entity in a manner that delegates authority to act on behalf of that

²⁴⁹ This is a rounded calculation and is approximated as follows: (5,280,000 administrative fees paid × \$115 administrative fee) = \$607,200,000.

²⁵⁰ This estimate includes a 30 percent increase in the total number of administrative fees paid during the period from May 2025 to April 2026 to account for potential increased utilization as a result of the significant decrease in the administrative fee amount finalized in these rules.

²⁵¹ This is a rounded calculation and is approximated as follows: (6,864,000 administrative fees paid × \$15 administrative fee) = \$102,960,000.

disputing party in the Federal IDR process, including the duty to pay the associated administrative fee. To simplify this communication to the Departments, allow maximum payment related flexibilities, and avoid constraining the contractual relationships between disputing parties and their respective representative entities, the Departments clarify that an attestation related to the obligation to pay the administrative fee may result in the Departments pursuing applicable Federal debt collection actions for administrative fee debts against the representative entity and the disputing party on whose behalf the representative entity is acting.

4. Uncertainties

While the ASC X12 835 transaction standard, mandated under HIPAA regulations,²⁵² already requires issuers and TPAs to use CARCs and RARCs when sending ERA transactions and allows for use of multiple CARCs and RARCs for each line item, the Departments are uncertain whether issuers and TPAs currently have the capability to incorporate this information on paper remittance advice or to use multiple CARC and RARC combinations for individual line items on any remittance advice (including in paper or electronic form); what barriers and challenges issuers and TPAs will face to implement and operationalize this capability; and whether substantial system changes will need to be implemented to effectuate this final policy as operationalized in guidance.

It is unclear whether the Federal IDR process will experience the same operating conditions, such as the number of disputes initiated or the number of ineligible disputes submitted, in light of these final rules. Changes to operating conditions will impact the resources required to carry out the Federal IDR process over time. However, as it is difficult to project the overall net effect of these finalized provisions on the operating conditions, it is also difficult to project the impact on expenditures to carry out the Federal IDR process over time. Changes to the expenditures to carry out the Federal IDR process may place upwards or downwards pressure on the administrative fee amount depending on whether estimated expenditures increase or decrease.

The economies of scale that may be realized by batching qualified IDR items and services are uncertain, including whether there will be a reduction in the amount of fees each party has to pay

since parties will generally be allowed to batch more items and services in a single dispute under these final rules than under the vacated provisions (discussed in section II.E.2 of this preamble). The specific provisions of the batching policies may have differing effects on the trends in dispute initiation overall. For example, the increased flexibility to batch based on a single patient encounter may increase initiation of batched disputes, while the cap on the number of line items within a batch may require parties that previously submitted batches with a high number of line items to divide the claims across multiple batched disputes. For these reasons, the Departments recognize the uncertainty in estimating the potential impact on the number of disputes initiated, and thus the fees collected, due to the batching provisions. Further, it is uncertain if increased batching will lead to fewer disputes and decreased collection of administrative fees by the Departments.

It is uncertain how much time will be needed for plans, issuers, carriers, and TPAs to collect the registration information that they will be required to provide under these final rules. Furthermore, it is unclear how many group health plans will choose to self-register in the IDR registry, rather than relying on a TPA or other third party to register on their behalf. If a significant number of group health plans self-register, this may increase the burden to industry as well as the operational burden to the Departments to create and maintain the registry.

Although the Departments have analyzed the last 12 months of Federal IDR process data available to inform their projections of Federal IDR process utilization, it is uncertain if the trends in this data will remain applicable for two reasons. First, the Federal IDR process is still in an early phase of implementation and has not yet achieved the stabilization that occurs with long-term uptake of the process. Initially, the Departments estimated that approximately 22,000 disputes would be submitted to the process each year;²⁵³ uptake of the process, however, has rapidly outpaced that estimate as dispute initiations have grown exponentially since implementation, and analysis has revealed an estimated

number closer to 2,000,000 annual disputes is more accurate.²⁵⁴

Second, although each provision of these final rules could be implemented separately and is severable, when reviewed holistically, implementation of these final rules will create comingled impacts, including on the number and type of disputes initiated, such that it is uncertain what the overall collective impact of these policies will be. For example, although the Departments project a 50 to 75 percent decrease in the number of ineligible disputes as outlined further in section V.D.1.k of this preamble, other provisions such as expanded batching and the new, lower administrative fee amount for all disputes are anticipated to increase access to the Federal IDR process, such that the total number of disputes initiated yearly may increase overall. Further, the provisions designed to increase communication between the disputing parties, such as the registry, open negotiation, and dispute initiation provisions, are anticipated to reduce the number of ineligible disputes initiated and increase the number of disputes resolved through open negotiation. However, the Departments are uncertain whether additional parties will utilize the Federal IDR process due to these process improvements, which could ultimately bring more disputes into the process.

Overall, some of these provisions, as finalized, may reduce the number of disputes while others may increase the number of disputes initiated. Additionally, whether there will be a reduction in costs to the disputing parties is also uncertain under these collective rules. For example, a provider that previously believed that the nature of their practice made it infeasible to initiate a dispute due to financial concerns may find the Federal IDR process more financially accessible under the new, lower administrative fee, thus incurring the associated cost and administrative fees and increasing the annual dispute number. While a lower administrative fee increases accessibility of the Federal IDR process

²⁵⁴ Over 850,000 disputes were initiated in the last 6 months of 2024, and nearly 1.2 million disputes were initiated in the first 6 months of 2025. The Departments project these numbers forward to arrive at an annual estimate of 2 million. See the Supplemental Background on Federal Independent Dispute Resolution Public Use Files July 1, 2024–December 31, 2024 (May 28, 2025), available at: <https://www.cms.gov/files/document/Federal-idr-supplemental-background-2024-q3-2024-q4.xlsx>. See also the Supplemental Background on Federal Independent Dispute Resolution Public Use Files January 1, 2025–June 30, 2025 (January 21, 2026), available at: <https://www.cms.gov/files/document/federal-idr-supplemental-background-2025-q1-2025-q2.pdf>.

²⁵³ In the regulatory impact analysis of the October 2021 interim final rules, the Departments estimated that 17,333 disputes involving non-air ambulance services and 4,899 disputes involving air ambulance services would be submitted to the Federal IDR process during the first year of implementation, totaling 22,232 anticipated disputes.

²⁵² 45 CFR 162.1602.

to providers with lower-revenue practices, the Departments do not anticipate significant increases in the number of disputes initiated when considering the lower administrative fee alongside the other finalized provisions in this rule.

5. Regulatory Review Cost Estimation

If regulations impose administrative costs on entities, such as the time needed to read and interpret rules, regulatory agencies should estimate the total cost associated with regulatory review. Based on comments received on the 2023 proposed rules, the Departments estimate that at least 2,013 entities will review these final rules, including 1,380 issuers, 205 TPAs, and at least 428 other interested parties (for example, State insurance departments, State legislatures, industry associations, advocacy organizations, and providers and provider organizations). The Departments acknowledge that this assumption may understate or overstate the number of entities that will ultimately review these final rules.

Using the median hourly wage rate from the Bureau of Labor Statistics for a Lawyer (Code 23–1011) to account for average labor costs (including a 100 percent increase for the cost of fringe benefits and other indirect costs), the Departments estimate that the cost of reviewing these final rules will be \$145.34 per hour.²⁵⁵ The Departments estimate, based on an average reading speed of 200 to 250 words per minute, that it will take each reviewing entity approximately 14.5 hours to review these final rules, with an associated cost of approximately \$2,107.43 (14.5 hours × \$145.34 per hour). Therefore, the Departments estimate that the total burden to review these final rules will be approximately 29,189 hours (2,013 reviewers × 14.5 hours per reviewer), with an associated cost of approximately \$4,061,087 (2,013 reviewers × \$2,107.43 per reviewer). The Departments solicited comment on this approach to estimating the total burden and cost for interested parties to read and interpret these final rules. No comments were received on the number of entities that will review these final rules, so the Departments are finalizing these estimates as discussed in the previous paragraphs.

E. Regulatory Alternatives

In developing these final rules, the Departments considered various alternative approaches.

1. Required Use of CARCs and RARCs (26 CFR 54.9816–6A, 29 CFR 2590.716–6A, and 45 CFR 149.100)

The Departments are finalizing the proposal at 26 CFR 54.9816–6A, 29 CFR 2590.716–6A, and 45 CFR 149.100 to require plans and issuers to use CARCs and RARCs on remittance advice (including in paper or electronic form) in accordance with guidance issued by the Departments or as required under any applicable, adopted standards and operating rules under 45 CFR part 162. The Departments considered applying the requirement to use CARCs and RARCs under new 26 CFR 54.9816–6A, 29 CFR 2590.716–6A, and 45 CFR 149.100 only to claims subject to the surprise billing protections of the No Surprises Act. However, providers have sought to initiate open negotiation or the Federal IDR process for a sizeable number of claims that are not subject to the No Surprises Act. Therefore, the Departments concluded that plans and issuers should be required to communicate information regarding the applicability of the No Surprises Act for all out-of-network claims, and that a narrower application would be less impactful. Thus, the finalized approach may reduce the number of ineligible claims submitted to the Federal IDR process.

The Departments considered specifying in regulation which CARCs and RARCs must be used, rather than providing this information in guidance. The Departments concluded that retaining the flexibility to identify the CARCs and RARCs to be used in specified scenarios in guidance rather than through notice-and-comment-rulemaking will provide greater ability to quickly address communication gaps that are contributing to the backlog of Federal IDR disputes and future implementation challenges, as the Departments better understand these gaps. This approach mirrors the longstanding framework in which interested parties may submit requests to add, remove, or modify existing CARCs and RARCs, but updates to the lists of approved CARCs and RARCs and the required CARC and RARC code combinations provided for in the HIPAA-mandated operating rule are issued outside of the notice-and-comment rulemaking processes.

The Departments also considered continuing to allow plans and issuers to use No Surprises Act-specific RARCs on a solely voluntary basis. However, since the RARC Committee approved a set of RARCs for optional use, effective March 1, 2022, providers and plans and issuers have continued to report

communication challenges and to request more standardized mechanisms for communicating information. The Departments concluded that requiring certain CARCs and RARCs to be used in specific circumstances will provide a more effective means of standardizing communication and better achieve a number of aims, including improving information flow between plans and issuers and providers and consequently reducing the submission of ineligible claims to the Federal IDR process.

The Departments did not propose changes to the HIPAA transaction standards (such as the ASC X12 835 standard) or operating rules in the 2023 proposed rules and are not finalizing any changes to these standards in these final rules.²⁵⁶ However, the Departments received several comments in response to the 2023 proposed rules that included recommendations for modifying or leveraging the existing ASC X12 835 standard to improve communications between plans and issuers and providers, and improve the functioning of the Federal IDR process. Although modifications to HIPAA-mandated transaction standards are outside of the scope of these final rules, the Departments acknowledge and appreciate these comments. As noted by several commenters, changes to the ASC X12 835 transaction standard would be a lengthy undertaking that would also require adoption and incorporation by reference of any such updated transaction standard under HIPAA regulations in 45 CFR part 162. This would not immediately address the current backlog or underlying inefficiencies in the Federal IDR process. The Departments also note that these changes would not address non-electronic communications, such as paper remittance advice.

Thus, the Departments determined that it was appropriate to adopt the requirement finalized in these rules to require the use of certain to-be-determined CARCs and RARCs in specific circumstances, as this requirement will provide a more immediate solution that could be aligned with changes to the ASC X12 835 transaction standards later. The Departments continue to monitor the implementation of the No Surprises Act to determine whether future changes to the HIPAA transaction standards and operating rules, in accordance with the mandated HIPAA standards and operating rules development and adoption processes, might provide a long-term mechanism for facilitating communication related to the No

²⁵⁵ May 2024 National Occupational Employment and Wage Estimates. https://www.bls.gov/oes/current/oes_nat.htm.

²⁵⁶ See 88 FR 75744, 75762 (November 3, 2023).

Surprises Act between plans or issuers and providers.

2. Open Negotiation Provision Changes (26 CFR 54.9816–8(b)(1), 29 CFR 2590.716–8(b)(1), and 45 CFR 149.510(b)(1))

The Departments are finalizing amendments to the open negotiation provisions at 26 CFR 54.9816–8(b)(1)(i), 29 CFR 2590.716–8(b)(1)(i), and 45 CFR 149.510(b)(1)(i) to require the party initiating open negotiation to provide an open negotiation notice and supporting documentation to the other party and the Departments to initiate the open negotiation period. Furthermore, the party in receipt of the open negotiation notice will be required to provide a response to the open negotiation notice to the other party and the Departments no later than the 15th business day of the 30-business-day open negotiation period.

The Departments considered alternative ways for the party initiating open negotiation to notify the Departments of the initiation of open negotiation instead of submitting the notice through the Federal IDR portal. The Departments considered requiring the party submitting the open negotiation notice to notify the Departments via mail or email but concluded that the portal would provide a more logical place for the notice to be provided, as this is where Federal IDR process information is stored. The Departments also considered taking no action and maintaining the current process in which parties initiating open negotiation do not inform the Departments directly of the initiation of open negotiation. However, the Departments determined that these changes are necessary to clarify when open negotiation are initiated to best track the flow of Federal IDR process dispute initiations. The amendments to this regulation will create more certainty regarding whether and when the party initiating open negotiation begins open negotiation by ensuring that start and end dates are documented in the Federal IDR portal, which is the official place of record for the Federal IDR process. Further, the Departments acknowledge the additional burden that small entities may face in meeting the requirements of the Federal IDR process since they may not have dedicated staff to perform all the functions necessary to meet the requirements. However, the Departments have determined that centralizing the submission of open negotiation notices through the Federal IDR portal will reduce the burden on small entities as it will reduce the

number of channels through which they have to submit these notices.

The Departments also considered alternatives to requiring the party in receipt of the open negotiation notice to provide a response to the open negotiation notice within the 30-business-day open negotiation period. The Departments considered maintaining the status quo of not requiring this response but have determined that creating this requirement is the better alternative, because it will create an additional exchange of eligibility-related disclosures between the parties and foster better communication between the parties to improve the Federal IDR process. The Departments also proposed that the open negotiation response notice would include a counteroffer of an out-of-network rate for each item or service or an acceptance of the other party's offer. After reviewing comments, the Departments have determined that this element is not necessary for parties to meaningfully negotiate prior to and during open negotiation, or after initiation of the Federal IDR process. In addition, the Departments agree that this is not information that either the Departments or certified IDR entities need to oversee or adjudicate disputes in the Federal IDR process. Therefore, the Departments are not finalizing the proposed requirement to submit a counteroffer as part of the open negotiation response notice.

The Departments are also finalizing requirements that the open negotiation notice contain additional specific information and be in a specific format as outlined in section II.D.1.c of this preamble. The Departments are further finalizing requirements that the open negotiation response notice must be provided, using the standard form developed by the Departments, no later than the 15th business day of the 30-business-day open negotiation period through the Federal IDR portal, resulting in receipt by the party initiating open negotiation and the Departments on the same day. The Departments considered maintaining the status quo and not requiring the additional information, the specific format, or timing, but these rules create an additional exchange of information necessary to help the Federal IDR process operate more efficiently, improve communication between the parties, and allow certified IDR entities to more easily confirm completion of the open negotiation period.

3. Changes to the Initiation of the Federal IDR Process and the Notice of IDR Initiation (26 CFR 54.9816–8(b)(2), 29 CFR 2590.716–8(b)(2), and 45 CFR 149.510(b)(2))

The Departments are finalizing, with modifications, amendments to the IDR initiation provisions of 26 CFR 54.9816–8(b)(2), 29 CFR 2590.716–8(b)(2), and 45 CFR 149.510(b)(2) to accelerate dispute processing and reduce the burden on certified IDR entities. Specifically, the Departments are finalizing requirements that the initiating party provide an enumerated list of additional information on the notice of IDR initiation, including specific contact information on whether the initiating party is a provider, facility, or provider of air ambulance services, or a plan or issuer, as well as any third party representing the initiating party in the dispute, including legal business name, email address, phone number, mailing address, and TIN. The initiating party will also be required to include the NPI to identify the provider, facility, or provider of air ambulance services and the plan or issuer IDR registration number. Further, if any third party represents the initiating party, the notice of IDR initiation must include an attestation that the third party has the authority to act on behalf of the party it represents in the Federal IDR process.

Similarly, the Departments are finalizing requirements that the non-initiating party provide a response to the notice of IDR initiation, within 3 business days after the date of IDR initiation, that must include an enumerated list of information, including an agreement or disagreement that the dispute is eligible for the Federal IDR process, supporting documentation if the non-initiating party believes a dispute is not eligible, and an agreement to the preferred certified IDR entity identified in the notice of IDR initiation or an alternate preferred certified IDR entity selection.

The Departments are finalizing that these notices must be provided to the other party and the Departments electronically through the Federal IDR portal.

The Departments considered alternatives to these notices and the information they are required to contain, including contemplating notices that required less information. The Departments also considered not requiring these notices, recognizing the potential for administrative burden to provide this additional information within the specified timeframe, particularly for the small entities that may regularly engage with the Federal

IDR process and may not have staff dedicated to perform this function. However, the Departments determined that these notices are necessary to address processing and communication issues caused by the lack of information. These new requirements will provide information to the certified IDR entities that is frequently missing under the status quo. Additionally, compared to previous burden estimates in the October 2021 interim final rules, the Departments estimate that due to efficiencies gained as a result of these final rules, there will be a reduction in administrative burden to initiate the Federal IDR process, as discussed further in section V.F.5.a of this preamble.

Each of the new required elements will provide specific information needed by the certified IDR entities to successfully conduct the Federal IDR process. The lack of these information elements creates a burden on the certified IDR entities, as they are currently required to undertake concerted efforts to obtain the information from the parties or other sources. This has resulted in additional time and effort for the certified IDR entities and caused the Federal IDR process to move at a slower pace than is desired. The Departments have determined that requiring the parties to provide these notices and the information contained in them within the timeframes and in the manner being finalized will result in a reduction in this burden on the certified IDR entities and will result in greater efficiency of the Federal IDR process overall. These additional elements will assist in determining whether the items or services associated with the dispute are eligible for the Federal IDR process, allow for a streamlined process to track dispute initiation, enhance communication between the parties, and facilitate a more efficient process of IDR initiation.

4. Certified IDR Entity Selection (26 CFR 54.9816–8(c)(1), 29 CFR 2590.716–8(c)(1), and 45 CFR 149.510(c)(1))

The Departments are finalizing a process for the preliminary selection of the certified IDR entity and final selection of the certified IDR entity at 26 CFR 54.9816–8(c)(1), 29 CFR 2590.716–8(c)(1), and 45 CFR 149.510(c)(1). Specifically, the Departments are finalizing amendments to the preliminary selection of the certified IDR entity process to establish that if the party last in receipt of either the notice of IDR initiation response or the notice of certified IDR entity selection received the notice on the third business day

after the date of IDR initiation and failed to respond to the other party's alternative preferred certified IDR entity by the end of third business day after the date of IDR initiation, the Departments will provide the party 2 additional business days to agree or object to other party's alternative preferred certified IDR entity selection. Further, the Departments are finalizing that the date of preliminary selection of the certified IDR entity will be 3 business days after the date of IDR initiation if the parties jointly selected a certified IDR entity, or 6 business days after the date of IDR initiation if the parties fail to jointly select a certified IDR entity and the Departments select a certified IDR entity either based on the agreement (or failure to respond) of the party in receipt of the last notice (either the notice of IDR initiation response or the notice of certified IDR entity selection) or through random selection. Lastly, the Departments are finalizing a process for finalizing selection of the certified IDR entity at 26 CFR 54.9816–8(c)(1)(iv), 29 CFR 2590.716–8(c)(1)(iv), and 45 CFR 149.510(c)(1)(iv), which establishes that the date of final selection of the certified IDR entity is the date the Departments provide notice to the parties that the preliminarily selected certified IDR entity attests that it meets the conflict-of-interest requirements.

The Departments considered alternatives to these provisions. The Departments considered maintaining the status quo and not modifying the process of selecting a certified IDR entity. However, the current rules require the conflict-of-interest review to occur concurrently with the eligibility review, within 3 business days, which the Departments have determined is not sufficient time, particularly given the complexity of properly determining eligibility for the Federal IDR process. The Departments have determined that finalizing the provisions for preliminary and final selection will not increase burden for disputing parties, including small entities, as the time period for disputing parties to jointly select a certified IDR entity is not changing. However, the Departments acknowledge that in separating the conflict-of-interest review and eligibility determination activities by finalizing the final selection and eligibility determination provisions, the Departments are extending the time between a dispute's initiation and payment determination by a maximum of 5 business days. The Departments have determined that the certified IDR entity must be considered preliminarily selected until it is

determined that the certified IDR entity has no conflict of interest, and that the conflict-of-interest review should not cut into the time periods for either disputing party to submit their offers or for the certified IDR entity to make a payment determination.

5. Federal IDR Eligibility Determinations (26 CFR 54.9816–8(c)(2)(ii), 29 CFR 2590.716–8(c)(2)(ii), and 45 CFR 149.510(c)(2)(ii))

The Departments are not finalizing amendments to 26 CFR 54.9816–8(c), 29 CFR 2590.716–8(c), and 45 CFR 149.510(c) regarding Federal IDR eligibility determinations which would have made Federal IDR process eligibility reviews the responsibility of the Departments under certain circumstances.

The Departments considered being more involved in the entire eligibility review process on a permanent basis; however, the Departments have determined that the majority of eligibility work—in particular, eligibility determinations—should be conducted by certified IDR entities, particularly if the other policies in these final rules and non-regulatory improvements are successful in improving throughput. The Departments also considered maintaining the status quo of certified IDR entities performing the full scope of the eligibility determination process. After review of comments and significant improvements in certified IDR entity throughput in making eligibility determinations, the Departments determined the status quo should be maintained. The Departments do not anticipate that this provision will have a differential impact on small entities. Therefore, the Departments are not finalizing this provision to move the responsibility for Federal IDR eligibility determinations between the Departments and certified IDR entities.

6. Withdrawals (26 CFR 54.9816–8(c)(3), 29 CFR 2590.716–8(c)(3), and 45 CFR 149.510(c)(3))

The Departments are finalizing the addition of 26 CFR 54.9816–8(c)(3)(ii), 29 CFR 2590.716–8(c)(3)(ii), and 45 CFR 149.510(c)(3)(ii) to establish a process for disputes to be withdrawn from the Federal IDR process. Specifically, the Departments are finalizing that a dispute may be withdrawn from the Federal IDR process if: (1) the initiating party provides notification through the Federal IDR portal to the Secretary and the certified IDR entity (if selected) that both parties agree to withdraw the dispute from the Federal IDR process, with signatures from authorized

signatories for both parties; (2) the initiating party provides a standard withdrawal request notice to the Departments, the certified IDR entity (if selected), and the non-initiating party, and the non-initiating party notifies the Secretary, certified IDR entity (if selected), and initiating party of its agreement to withdraw within 5 business days of the initiating party's request (or the non-initiating party fails to respond within 5 business days of the initiating party's request); (3) the certified IDR entity or the Departments cannot determine eligibility, for example, because both parties to the dispute are nonresponsive to any requests for additional information to determine eligibility; or (4) the certified IDR entity cannot make a payment determination, for example, because both parties to the dispute have failed to submit an offer as described in 26 CFR 54.9816–8(c)(5)(i), 29 CFR 2590.716–8(c)(5)(i), and 45 CFR 149.510(c)(5)(i).

The Departments considered alternatives to this policy. The Departments considered maintaining the status quo and not formalizing the process for disputes to be withdrawn. The Departments recognize that the withdrawal process may place a particular burden on resource constrained small entities, which are more likely to face greater challenges meeting the timetables finalized in this policy. However, given that the current rules do not establish a clear uniform process for disputes to be withdrawn, this policy will encourage efficiency by creating a centralized process for the parties to request a withdrawal of a dispute and requiring the dispute to be withdrawn in the event the parties are nonresponsive within the required timeframes. Further, the Departments also have determined that permitting the withdrawal of a dispute in these cases will decrease the number of payment determinations the certified IDR entity is required to adjudicate. Therefore, the Departments are finalizing this policy as proposed.

7. Treatment of Batched Items and Services (26 CFR 54.9816–8(c)(4), 29 CFR 2590.716–8(c)(4), and 45 CFR 149.510(c)(4))

The Departments are finalizing, with modification, the amendments at 26 CFR 54.9816–8(c)(4), 29 CFR 2590.716–8(c)(4), and 45 CFR 149.510(c)(4) for the treatment of batched items and services in the Federal IDR process. After considering feedback from interested parties, the Departments have determined that the batching rules should be amended to capture

additional efficiencies and expand access to the Federal IDR process, while avoiding combinations of unrelated claims in a single dispute that could unnecessarily complicate an IDR payment determination and reduce efficiency. The Departments also anticipate that these batching policies will be particularly beneficial to small entities. By offering greater flexibility, these policies will reduce the economic cost of the Federal IDR process and the burden on small entities' billing and coding staff.

The Departments considered different approaches to expand the batching rules at 26 CFR 54.9816–8(c)(4), 29 CFR 2590.716–8(c)(4), and 45 CFR 149.510(c)(4) for determining whether the items or services are related to treatment of a similar condition. In particular, the Departments considered approaches that relied on existing code sets that would capture a wider range of items and services than those under the current regulations, including the vacated provisions (discussed in section II.E.2 of this preamble). The rationale underlying batching based on code sets (or subsets of those code sets) is that, based on the manner in which these code sets were built (by medical and coding professionals and others), the code sets present a reasonable basis upon which to conclude that certain sections (or subsections) of those code sets describe items and services that are related to the treatment of a similar condition.

The broadest potentially workable standard the Departments considered for determining whether the items or services are related to treatment of a similar condition is the Berenson-Eggers Type of Service (BETOS) codes. The BETOS coding system was originally developed for analyzing the growth in Medicare expenditures and is not utilized for the purposes of billing.²⁵⁷ The Restructured BETOS Classification System (RBCS) includes HCPCS Level I codes (commonly referred to as “CPT codes”) and HCPCS Level II codes (commonly referred to as “HCPCS codes”) and groups CPT and HCPCS procedural codes into a few very broad categories: (1) anesthesia, (2) evaluation and management, (3) procedures, (4) imaging, (5) tests, (6) durable medical equipment, (7) treatment, and (8) other. However, this could theoretically offer unlimited batching of services furnished by specialty providers and, accordingly,

result in batches that would be difficult for certified IDR entities to adjudicate in a timely manner. While this coding system is stable over time and is relatively immune to minor changes in technology or practice patterns, this approach would require parties and certified IDR entities to learn and become familiar with a new framework for categorizing items and services for the specific purpose of engaging with the Federal IDR process. The Departments have determined that this would result in confusion and an exacerbation of backlog issues.

The Departments also considered allowing initiating parties to batch all items and services with the same ICD–10 diagnosis code. Every medical claim includes at least one ICD–10 diagnosis code, including a primary diagnosis code and optional secondary diagnosis codes. There are approximately 68,000 ICD–10 diagnosis codes that cover a wide variation in patient diagnoses. Given the wide variation in diagnoses and the fact that a single ICD–10 diagnosis code can cover a wide range of individual items or services, the Departments determined that diagnosis codes are not a reasonable basis upon which to determine that items or services provided to different patients sufficiently relate to treatment of a similar condition. Furthermore, the Departments have determined that this level of variation could create complexity for disputing parties and certified IDR entities and increase the risk of inconsistent batching determinations.

In addition to batching based on code sets, the Departments considered specific recommendations from interested parties on creating additional batching flexibilities for determining whether the items or services are related to treatment of a similar condition. As outlined in section II.E.2 of this preamble, anesthesiologists have advocated for batching by conversion factor since contracting practices for anesthesiology items and service focus on conversion factor rates. The Departments have determined that this approach would undermine the Departments' efforts to increase efficiency in the Federal IDR process. Because conversion factors would be identical for every out-of-network service furnished by an anesthesiologist provider or provider group, the “same conversion factor” requirement would result in the provider or provider group being able to batch every out-of-network service it furnishes that otherwise satisfies the requirements of the batching rules at finalized 26 CFR 54.9816–8(c)(4), 29 CFR 2590.716–

²⁵⁷ Centers for Medicare & Medicaid Services. (October 20, 2022). *Restructured BETOS Classification System*. <https://data.cms.gov/provider-summary-by-type-of-service/provider-service-classifications/restructured-betos-classification-system>.

8(c)(4), and 45 CFR 149.510(c)(4). Instead, the Departments have determined that batching based on CPT code categories will lead to greater efficiency, will more closely align with the interpretation of treatment of a similar condition, and will lead to less risk in the variability among the items and services and factual circumstances that certified IDR entities must consider.

Additionally, the Departments considered feedback provided by emergency physicians, who stated that the nature of emergency care makes it difficult for them to batch claims under the current rules and suggested that the batching rules should allow for the most common evaluation and management CPT codes (99281–99285) to be batched together. However, the Departments have concluded that in the context of emergency care, the acuity of a patient may vary substantially in these

circumstances. This means that certified IDR entities would need to review complex and disparate factual conditions for each item or service in a batch pertaining to emergency care, which would be extremely time consuming. Batching in these circumstances would therefore exacerbate payment determination delays and compound the backlog of disputes.

Similarly, the Departments considered allowing batching of all items and services within one of the six major sections of the CPT code book: (1) evaluation & management, (2) anesthesiology, (3) surgery, (4) radiology, (5) pathology and laboratory, and (6) medicine. This could allow batching of the services most often provided by emergency physicians, anesthesiologists, radiologists, pathologists, and other specialty

providers. Due to the breadth of CPT codes relevant to surgery and radiology services, the Departments considered further limiting providers’ batching ability to the specific services represented by the code spans relevant to each row in Table 6 that correlates to surgery or radiology services. While these delineations could serve as straightforward guidelines that may result in consistent application of a batching standard across certified IDR entities, the Departments have determined that variations in these services within a batched dispute could present challenges to certified IDR entities’ efficient resolution of disputes due again to the fact-specific and time-intensive nature of reviewing information specific to each item or service within a batch.

TABLE 6: CPT Level I HCPCS Codes Groupings

CPT Level I HCPCS Codes (CPT) Code Span	Description
99202 - 99499	Evaluation and Management
00100 - 01999	Anesthesia
10004 - 19499	Surgery/Integumentary System
20100 - 29999	Surgery/Musculoskeletal System
33016 - 39599	Surgery/Cardiovascular System
40490 - 49999	Surgery/Digestive System
50010 - 53899	Surgery/Urinary System
54000 - 55980	Surgery/Male Genital System
56405 - 58999	Surgery/Female Genital System
60000 - 60599	Surgery/Endocrine System
61000 - 64999	Surgery/Nervous System
65091 - 68899	Surgery/Eye and Ocular Adnexa
69000 - 69979	Surgery/Auditory System
70010 - 77092	Radiology/Diagnostic Radiology/Diagnostic Ultrasound
77261 - 79999	Radiology/Radiation Oncology/Nuclear Medicine
80047 - 89398	Pathology and Laboratory/Proprietary Laboratory
0001U - 0284U	Analysis
90281 - 99607	Medicine

The Departments have determined that specific, narrower ranges within CPT Category I sections for anesthesiology, radiology, pathology, and laboratory services could mitigate this risk, more closely relate to the treatment of a similar condition, and encourage efficiencies of the Federal IDR process. The Departments have also determined that including Category I CPT code ranges for other specialties may result in overly broad batches that will relate to dissimilar conditions. Further, the Departments have

determined that batching based on CPT code categories will lead to greater efficiency, will more closely align with the interpretation of treatment of a similar condition, and will lead to less variability among the items and services and factual circumstances that certified IDR entities must consider.

Thus, in balancing the need to create a workable batching rule for all parties and encouraging efficiency (including minimizing costs) to the Federal IDR process, the Departments determined that it is appropriate to finalize

amendments to allow qualified IDR items and services to be batched by: (1) items and services furnished to a single patient during a patient encounter on one or more consecutive dates of service and billed on the same claim form (single patient encounter); (2) items and services furnished to one or more patients and billed under the same service code, or a comparable code under a different procedural code system; or (3) anesthesiology, radiology, pathology, and laboratory qualified IDR items and services furnished under

service codes belonging to the same Category I CPT code range, as specified in guidance by the Departments, to address the unique circumstances of certain medical specialties and provider types.

These final rules impose a limit of 50 qualified IDR items and services as part of a single batched dispute to prevent a circumstance where an unlimited number of qualified IDR items or services are batched together. The Departments considered different approaches to mitigate the risk of large batches that may require certified IDR entities to review the eligibility for each line item, the acuity of each patient, and/or other payment determination factors for each line item in the batch. First, the Departments considered modifying regulations related to the certified IDR entity fee to permit certified IDR entities to charge per line item. However, the Departments determined that a per-line-item charge would present cost challenges for providers with lower dollar-value claims when utilizing the Federal IDR process. The Departments subsequently considered modifying the certified IDR entity fee structure such that the certified IDR entity could charge per unique service code, so that certified IDR entities would be able to be adequately compensated for the time and work involved in payment determinations, while allowing for flexibility to batch a greater number of line items per dispute. However, given the Departments' experience in managing the Federal IDR process, the Departments have determined that such a modification to the certified IDR entity fee structure would still necessitate a line-item limit to ensure certified IDR entities are able to make payment determinations within the required 30-business-day period. It is the Departments' understanding that a per service code charge and line-item limit combined may unnecessarily restrict access to the Federal IDR process.

The Departments also considered limiting a batched dispute to more than 50 different payment offers. For line items in which the payment offers are equal, the certified IDR entity could resolve all such line items through its review of a single set of facts and documentation. A few certified IDR entities noted that it is easier to resolve payment determinations if the QPA is the same across codes. However, to accommodate batching of more than 50 qualified IDR items and services with equal payment offers, the initiating party would need to provide the offer for each line item or service earlier in the process such as during open

negotiation or in the notice of IDR initiation as opposed to only at the time of the notice of offer. The Departments have determined that this option would prove challenging because it would raise the issue of how to handle the limit of unique payment offers if the non-initiating party disagrees with the amount of unique payment offers. Further, under this approach, if the Departments would require offer information at the time of IDR initiation, the initiating party would only have 4 days to establish their offer following the end of the open negotiation period.

Lastly, the Departments considered imposing line-item limits to mitigate the risk of unwieldy batches. Specifically, the Departments proposed a limit of no more than 25 qualified IDR items or services in a batched determination, but considered alternative limits, such as 50 qualified IDR items or services. As of September 15, 2025, the average number of line items per batched dispute was 7 line items from April 2022 to September 2025. The Departments considered that while the average number of line items per batched dispute is much lower than the 50-line-item limit, this data is reflective of the number of line items a party can submit under the same service code, or a comparable code under a different procedural code system, and that there may likely be a higher average with the additional proposed batching flexibilities.

After review of comments and recently available internal data regarding the size of batches submitted to the Federal IDR process, the Departments are finalizing a 50 line-item limit for batched disputes.

8. Administrative and Certified IDR Entity Fee Collection (26 CFR 54.9816–8(d), 29 CFR 2590.716–8(d), and 45 CFR 149.510(d))

The Departments considered maintaining the current administrative fee collection policies, in which certified IDR entities have until the time of offer submission to collect both the administrative fee and the certified IDR entity fee. The Departments have determined that this is the best course of action given current Federal IDR process operating conditions and the other provisions finalized in these rules, such as the new, lower administrative fee amount.

Further, the Departments considered requiring the initiating party to pay the administrative fee within 1 business day of the date of preliminary selection of the certified IDR entity. The Departments considered whether the initiating party, by virtue of being the party that brings the dispute into the

Federal IDR process, takes a more active role from the outset, and it should therefore be aware that it would be required to pay the administrative fee soon after initiating the dispute. In contrast, the Departments considered whether it was appropriate to allow the non-initiating party an additional business day from the date of notice of an eligibility determination to pay the administrative fee, because the non-initiating party neither controls when the dispute is initiated nor when eligibility is determined. On balance, and in considering comments received requesting more time to pay, the Departments determined that maintaining the current policy and operations such that the selected certified IDR entity must collect the administrative fee from both parties by the time the parties submit their offers for the dispute, was appropriate to allow equitable and longer payment timeframes for both disputing parties.²⁵⁸

The Departments considered maintaining the status quo of certified IDR entities collecting the administrative fee on behalf of the Departments. While during the first year of Federal IDR process operations, collection of the administrative fee by the certified IDR entities was inefficient, the Departments and certified IDR entities have improved their collections operations in recent years and realized significant gains in efficiency and invoicing. Therefore, the Departments have determined that continuing current collections operations, whereby the certified IDR entities collect both the administrative fee and the certified IDR entity fee from each party and subsequently remit collected administrative fees to the Departments, is appropriate and will support stability in the Federal IDR process.

The Departments considered various options to scale the administrative fee based on the circumstances of the parties. For example, the Departments proposed, but are not finalizing, an administrative fee structure that would have provided an administrative fee reduction when the initiating party attested that the highest offer made during open negotiation by either party was less than a predetermined threshold. The Departments also considered creating an administrative

²⁵⁸ As explained previously, as amended by these final rules and established in 26 CFR 54.9816–8(c)(1)(iv), 29 CFR 2590.716–8(c)(1)(iv), and 45 CFR 149.510(c)(1)(iv), selection under paragraph (c)(1) requires preliminary and final selection of the certified IDR entity. Therefore, parties to disputes that complete final selection of the certified IDR entity are responsible for paying the administrative fee within this timeframe.

fee that would be scaled based on the value of the dispute initiated, such as charging each disputing party an administrative fee that was 20 percent of the value of the dispute submitted. The Departments, however, have determined that this approach is not appropriate for two reasons. First, the value of disputes can have a wide range, such as a \$5 million dispute for a NICU inpatient hospital stay compared to a \$500 outpatient service. This example structure would result in parties to the former dispute paying a \$1 million administrative fee and parties to the latter dispute paying a \$100 administrative fee. Second, the Departments recognize that resolving a dispute generally costs the Departments the same amount regardless of whether the dispute involves low-dollar or high-dollar items or services, and the Federal IDR process is intended to streamline resolution of payment disputes between plans or issuers and providers.

Further, the nature of estimating the administrative fee based on the expenditures made by the Departments in a given year means the administrative fee is not particularized to an individual dispute. This makes a sliding scale impractical to apply to the wide range of disputes subject to the Federal IDR process. Many commenters supported a reduced administrative fee for initiating and non-initiating parties in low-dollar disputes, in part to promote equitable access, balance the costs of maintaining a Federal IDR process that operates efficiently and effectively with the costs to participate, and improve the financial accessibility of the Federal IDR process, especially for small and rural providers or providers with low-value claims. The Departments determined that the lower administrative fee being finalized in these final rules for all disputes, regardless of dispute value, makes administrative fee reductions unnecessary, and therefore the Departments are maintaining a standardized administrative fee for all parties in all disputes to advance equitable access for all parties to the Federal IDR process.

Additionally, the Departments proposed, but are not finalizing, an administrative fee structure that would have reduced the administrative fee amount for non-initiating parties in ineligible disputes to 20 percent of the full administrative fee amount. Many commenters supported a reduced administrative fee for non-initiating parties for ineligible disputes; however, commenters also urged the Departments to extend the reduced administrative fee to initiating parties in ineligible disputes to recognize non-initiating

parties' responsibility in the submission of ineligible disputes, recognize the complexity of determining eligibility, or promote equity in the Federal IDR process. Many commenters highlighted concerns with assigning the responsibility for ineligible submissions to initiating parties, stating that initiating parties often lack information to determine if a dispute is eligible due to perceived non-compliance with open negotiation and dispute eligibility disclosure requirements by non-initiating parties.

In deciding to maintain a standardized administrative fee for all parties in all disputes, regardless of dispute eligibility, the Departments determined a uniform application of administrative fees better accounts for dispute initiation costs that attach to every dispute, regardless of eligibility. The Departments determined this standardized administrative fee for all parties in all disputes was a more appropriate distribution of the Departments' expenditures which the administrative fee is designed to recoup. The Departments also had concerns that initiating parties could be penalized by paying for an ineligible dispute if an initiating party submitted disputes in good faith and the non-initiating party later provided evidence the dispute was not eligible. Further, the Departments considered not charging non-initiating parties for ineligible disputes; however, because the statute indicates that each party to a dispute is responsible for the administrative fee, and even in ineligible disputes the non-initiating party is benefiting from Federal IDR process safeguards such as access to the Federal IDR registry and open negotiation, the Departments determined that payment of an administrative fee for non-initiating parties is appropriate.

Because the Departments are not finalizing a change to the existing requirements, there is no additional burden to small entities associated with the administrative fee. Rather, as the Departments are finalizing a lower administrative fee amount in these final rules, all parties, including small entities, will experience cost savings for the administrative fee.

9. Extension of Time Periods for Extenuating Circumstances (26 CFR 54.9816–8(g), 29 CFR 2590.716–8(g), and 45 CFR 149.510(g))

Under the amendments to 26 CFR 54.9816–8(g), 29 CFR 2590.716–8(g), and 45 CFR 149.510(g), the Departments may provide an extension of the time periods associated with the Federal IDR process if they identify unforeseen or

good cause delays on a case-by-case basis, as opposed to solely relying on one of the parties to submit an extension request. Further, the Departments are also codifying a generally applicable extension of time periods when the Departments determine that such extension is necessary due to extenuating circumstances that contribute to systematic delays in processing disputes under the Federal IDR process, such as an unforeseen high volume of disputes or Federal IDR portal system failures.

The Departments considered alternatives to these provisions, including maintaining the status quo and not modifying the ability of the Departments to provide extensions on a case-by-case basis or for generally applicable extensions of time periods. Additionally, the Departments considered only finalizing the former, and not finalizing the codification of generally applicable extensions. However, the Departments have determined that both pathways to granting extensions of time periods for extenuating circumstances are necessary for the parties and entities participating in the Federal IDR process and thus are finalizing them. In particular, the Departments have determined that the ability to grant generally applicable extensions of time periods due to extenuating circumstances that contribute to systematic delays will provide protection for parties engaged in the Federal IDR process from the impact of systematic processing delays and ensure that unforeseen circumstances do not unfairly disadvantage a party or hinder its ability to comply with the Federal IDR process timeframes. Furthermore, these additional protections may be especially beneficial to small entities, which may face difficulty in complying with the timelines finalized in this rulemaking. This policy may partially offset the additional timeframe compliance burden placed on small entities, as described throughout this section, by providing greater flexibility in obtaining extensions in extenuating circumstances.

10. Registration of Group Health Plans and Health Insurance Issuers (26 CFR 54.9816–9, 29 CFR 2590.716–9, and 45 CFR 149.530)

These final rules require self-insured group health plans, health insurance issuers, and FEHB Program carriers to submit certain information to the Departments by the later of the date that is 90 business days after the registry becomes available or the date the group health plan or health insurance issuer

begins offering a group health plan or health insurance coverage or FEHB Program carrier begins offering an FEHB plan subject to the Federal IDR process, through an IDR registration process, and will make the resulting registry available to parties initiating open negotiation requests or disputes through the Federal IDR portal. The Departments recognize that this finalized policy may impose burden on resource constrained small entities by requiring them to submit additional information to the Departments. In the 2023 proposed rules, the Departments discussed alternatives such as limiting registration information to a plan's or issuer's contact information and plan type or requiring more comprehensive registration information, including a list of items and services that the plan covers which would be subject to a specified State law or All-Payer Model Agreement.²⁵⁹ Commenters suggested additional alternatives, which are discussed in detail in section II.F. of this preamble. In consideration of these comments, the Departments are modifying the registration requirement in these final rules to provide a longer registration timeline, reduce the

registration information required, and clarify that issuers need only register once on behalf of all their fully-insured coverage.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501–3520, the Departments are required to provide notice in the **Federal Register** and solicit public comment before a collection of information requirement 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, 44 U.S.C. 3506(c)(2)(A) requires that the Departments 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.

The Departments solicited comment on each of these issues for the following sections of this document that contain information collection requirements (ICRs):

1. Wage Estimates

To derive wage estimates, the Departments generally used data from the Bureau of Labor Statistics to derive median labor costs (including a 100 percent increase for fringe benefits and overhead) for estimating the burden associated with the information collection requirements (ICRs).²⁶⁰ Table 7 presents the median hourly wage, the cost of fringe benefits and overhead, and the adjusted hourly wage from the May 2024 National Occupational Employment and Wage Estimates (https://www.bls.gov/oes/current/oes_nat.htm).

As indicated, employee hourly wage estimates have been adjusted by a factor of 100 percent. This is necessarily a rough adjustment, both because fringe benefits and overhead costs vary significantly across employers and because methods of estimating these costs vary widely across studies.

TABLE 7: Adjusted Hourly Wages Used in Burden Estimates

Occupation Title	Occupational Code	Median Hourly Wage (\$/hour)	Fringe Benefits and Overhead (\$/hour)	Adjusted Hourly Wage (\$/hour)
Computer Programmers	15-1251	\$47.44	\$47.44	\$94.88
Operations Manager	11-1021	\$49.50	\$49.50	\$99.00
Compensation and Benefits Manager	11-3111	\$67.48	\$67.48	\$134.96
Office Clerk	43-9061	\$20.97	\$20.97	\$41.94
Secretaries and Administrative Assistants, Except Legal, Medical, and Executive	43-6014	\$22.26	\$22.26	\$44.52
Lawyer	23-1011	\$72.67	\$72.67	\$145.34

2. Annual Estimates of Disputes Used in the Paperwork Reduction Act Analyses

Table 8 summarizes the annual estimated number of disputes that are

expected to go through each part of the Federal IDR process for purposes of the Paperwork Reduction Act analyses in these final rules. Further details on how

these estimates were calculated are discussed throughout section V.F of this preamble.

²⁵⁹ 88 FR 75744, 75883 (November 3, 2023).

²⁶⁰ May 2024 National Occupational Employment and Wage Estimates. https://www.bls.gov/oes/current/oes_nat.htm.

TABLE 8. Annual Estimates of Disputes Used in the Paperwork Reduction Act Analyses

Federal IDR Process Step	Number of Occurrences
Open Negotiation Notice	3,900,000
Open Negotiation Response Notice	3,900,000
Notice of IDR Initiation	2,600,000
Notice of IDR Initiation Response	2,600,000
Initiating Party and Non-Initiating Party Select Certified IDR Entity on the First Attempt	702,000
Initiating Party and Non-Initiating Party Select Certified IDR Entity on Multiple Attempts	52,000
Notice of Request for Withdrawal	104,000
Notice of Withdrawal Response	104,000
Request for Extension	20

3. ICRs Regarding Information to be Shared About the QPA (26 CFR 54.9816–6(d), 29 CFR 2590.716–6(d), and 45 CFR 149.140(d))

The July 2021 interim final rules, as amended by the August 2022 final rules, require plans and issuers to provide certain information regarding the QPA to providers when making an initial payment or notice of denial of payment when the QPA is the recognized amount.

These final rules require plans and issuers to disclose the legal business name (if any) of the self-insured group health plan, FEHB Program carrier, or issuer; the legal business name of the self-insured group health plan sponsor (if applicable); and the assigned Federal IDR registration number (once the plan or issuer is required to register with the Federal IDR registry). In addition, these final rules amend the statement required under 26 CFR 54.9816–6T(d)(1)(iv), 29 CFR 2590.716–6(d)(1)(iv), and 45 CFR 149.140(d)(1)(iv) to make technical and

conforming changes to the content of the statement.

The Departments assume that TPAs will provide this information on behalf of the self-insured plans they administer. The Departments assume that 1,380 issuers and 205 TPAs²⁶¹ will automate the process of preparing and providing this information to providers. The Departments anticipate that issuers and TPAs will need to make one-time changes to their IT systems to incorporate the changes to the disclosures that accompany the QPA notification. The Departments estimate that for each plan and issuer, on average, it will take a computer programmer 3 hours (at an hourly rate of \$94.88) to incorporate the changes. The Departments estimate the one-time burden for each plan or issuer, to be incurred in 2026, will be 3 hours on average, with an equivalent cost of approximately \$285. The Departments estimate a total one-time burden, for all issuers and TPAs, of 4,755 hours,²⁶² with an associated cost of approximately \$451,154. As the

Departments share jurisdiction, HHS will account for 50 percent of the total one-time burden, or approximately 2,378 burden hours, with an equivalent cost of approximately \$225,577. The Departments of Labor and the Treasury will each account for 25 percent of the total burden, or approximately 1,189 burden hours, with an equivalent cost of approximately \$112,789. The Departments sought comment on these burden estimates but did not receive any.

In addition, the Departments are revising the regulations addressing information to be shared about the QPA to make clear these disclosures are required when the recognized amount (or for air ambulance services, the amount on which cost sharing is based) is the lesser of the QPA or the amount billed by the provider, facility, or provider of air ambulance services. The Departments anticipate that the latter is not a common occurrence and therefore will not result in an increase in burden for plans and issuers.

TABLE 9: One-Time IT Burden and Cost for Plans and Issuers to Incorporate and Update Information Related to QPA to Providers

Year	Department	Estimated Number of Respondents	Estimated Number of Responses	Burden per Response (Hours)	Total Annual Burden (Hours)	Total Estimated Cost
2026	HHS	793	793	3	2,378	\$225,577
	Labor	396	396	3	1,189	\$112,789
	Treasury	396	396	3	1,189	\$112,789

²⁶¹ Based on data from MLR annual report for the 2023 MLR reporting year. See <https://www.cms.gov/CCIIO/Resources/Data-Resources/mlr>. Issuers are defined as health insurance company/State

combination and refers to the legal entities or subsidiaries that are licensed and operate within a specific State and Non-issuer TPAs based on data

derived from the 2016 benefit year reinsurance program contributions.

²⁶² This is calculated as follows: (1,380 issuers + 205 TPAs) × 3 hours = 4,755 total annual hours.

The Departments will revise the information collection currently approved under OMB control number 0938–1401 to account for this new burden.²⁶³

4. ICRs Regarding Open Negotiation (26 CFR 54.9816–8(b)(1), 29 CFR 2590.716–8(b)(1), and 45 CFR 149.510(b)(1))

These final rules require a party to provide an open negotiation notice containing additional required elements and supporting documentation to the other party and the Departments to initiate the open negotiation period. These final rules expand the required information in an open negotiation notice to include new content described at 26 CFR 54.9816–8(b)(1)(ii)(A), 29 CFR 2590.716–8(b)(1)(ii)(A), and 45 CFR 149.510(b)(1)(ii)(A).

Furthermore, the Departments are finalizing the requirement that the party in receipt of the open negotiation notice must provide a response to the open negotiation notice through the Federal IDR portal no later than the 15th business day of the 30-business-day open negotiation period. The open negotiation response notice will require the elements described at 26 CFR 54.9816–8(b)(1)(iii)(A), 29 CFR 2590.716–8(b)(1)(iii)(A), and 45 CFR 149.510(b)(1)(iii)(A).

In the 2023 proposed rules, the Departments estimated that this policy would result in a total annual hour burden of 840,000 hours with an equivalent cost of approximately \$88,158,000 for 560,000 disputes annually beginning in 2025.²⁶⁴ The Departments sought comment on these estimates, and after considering comments received and analyzing more recent data available since the publication of the 2023 proposed rules, the Departments are revising these estimates as discussed further in the subsequent paragraphs.

A couple of commenters provided feedback on the assumptions used to calculate the burden associated with the submission of the open negotiation notice and open negotiation response notice. Some of these commenters disagreed with the Departments estimated annual number of open negotiation initiated (560,000) and noted that the volume of annual open negotiation is likely much higher. A couple of commenters noted that to complete new proposed fields in the

open negotiation response notice, and based on the Departments' labor hour estimate, large staffing increases would be necessary.

The Departments acknowledge commenters' concerns that the estimated number of annual open negotiation (560,000) used to calculate the estimated burden does not reflect an appropriate estimation of open negotiation. Because open negotiation currently occur outside of the Federal IDR portal, there is a paucity of data with which to calculate the estimates. The Departments carefully considered the assumptions used to generate the estimated burden associated with this policy and determined that using the existing data on the number of disputes submitted to the portal in 2022, and the previous assumptions regarding the proportion of items and services which go through open negotiation provided the most reasonable estimate at the time. Since publication of the 2023 proposed rules, the Departments have released updated data on the number of disputes initiated in the Federal IDR process and have been able to update their estimates on open negotiation to reflect an increased volume of submissions. As further described in this section, based on the most recently available Federal IDR process data²⁶⁵ and an assumption that dispute volume will increase by 25 percent based on the reduced administrative fee amount finalized in these rules, as discussed in section V.D.3.a.(1) of this preamble, the Departments estimate that 2,600,000 disputes will be initiated annually, and that 33 percent of disputes would be resolved in open negotiation before entering the Federal IDR process. Therefore, the Departments are revising the estimated number of annual open negotiations to 3,900,000.

Further, the Departments acknowledge that the estimated increase in burden associated with the submission of notices may necessitate staffing increases on the part of parties initiating open negotiation. Two of the key policy goals of these final rules are to encourage parties to resolve out-of-network payments through open negotiation, before incurring the costs associated with the Federal IDR process, and to reduce the number of ineligible disputes submitted to the Federal IDR process. The requirements, which increase burden and may necessitate greater staff support, are balanced by the reduction in fees paid in the Federal IDR process, and in particular,

administrative fees paid on ineligible disputes. The Departments will closely monitor the impact of the burden on interested parties to determine if further refinements to policy are needed.

In addition to the paperwork costs for the Federal IDR process previously accounted for in the July 2021 interim final rules and October 2021 interim final rules, the Departments estimate that it will take a compensation and benefits manager 30 minutes (at an hourly rate of \$134.96) and an office clerk 15 minutes (at an hourly rate of \$41.94) on average to prepare and submit the additional information for open negotiation for each plan, issuer, or FEHB carrier and provider, facility or provider of air ambulance services initiating open negotiation. This results in a cost of \$77.97 per party per open negotiation notice. Similarly, the Departments estimate that it will take a compensation and benefits manager 30 minutes (at an hourly rate of \$134.96) and an office clerk 15 minutes (at an hourly rate of \$41.94) on average to prepare and submit the open negotiation response notice for each party in receipt of the open negotiation notice, resulting in a cost of \$77.97 per party per open negotiation response notice. The Departments estimate that 33 percent of disputes would be resolved in open negotiation before entering the Federal IDR process, and the Departments estimate that 2,600,000 disputes will be initiated annually based on Federal IDR portal data.²⁶⁶ Accordingly, the Departments estimate that 3,900,000 disputes per year would go through open negotiation, requiring 3,900,000 initiating parties to prepare and submit the additional materials for the open negotiation notice and 3,900,000 non-initiating parties to prepare and submit the additional materials for the open negotiation notice response notice.²⁶⁷ ²⁶⁸

²⁶⁶ As previously explained, the Departments project the number of disputes initiated in the last 6 months of 2024 and the first 6 months of 2025 forward and increase this projection by 30 percent to account for the reduced administrative fee amount finalized in these rules to arrive at an annual estimate of 2,600,000 disputes. See the Supplemental Background on Federal Independent Dispute Resolution Public Use Files July 1, 2024–December 31, 2024 (May 28, 2025), available at: <https://www.cms.gov/files/document/Federal-idr-supplemental-background-2024-q3-2024-q4.xlsx>. See also the Supplemental Background on Federal Independent Dispute Resolution Public Use Files January 1, 2025–June 30, 2025 (January 21, 2026), available at: <https://www.cms.gov/files/document/federal-idr-supplemental-background-2025-q1-2025-q2.pdf>.

²⁶⁷ The Departments assume approximately 66 percent of disputes going through open negotiation will continue to the Federal IDR process. Because Federal IDR portal data from the second half of 2024 through the first half of 2025 suggests that

²⁶³ OMB Control Number: 0938–1401 (CMS–10780, Requirements Related to Surprise Billing: Qualifying Payment Amount, Notice and Consent, Disclosure on Patient Protections Against Balance Billing, and State Law Opt-in).

²⁶⁴ 88 FR 75744, 75835–75836 (November 3, 2023).

²⁶⁵ See CMS, “Independent Dispute Resolution Reports.” Available at <https://www.cms.gov/nosurprises/policies-and-resources/reports>.

At a cost of approximately \$77.97 (\$67.48 for 30 minutes by the compensation and benefits manager and \$10.49 for 15 minutes by the office clerk, or a combined hourly rate of approximately \$103.95) per party per dispute, this results in a total annual burden of 5,850,000 hours with an equivalent cost of approximately

\$608,127,000 for 3,900,000 disputes annually beginning in 2026.²⁶⁹ As the Departments and OPM share jurisdiction, HHS will account for 45 percent of the total burden, or approximately 2,632,500 burden hours, with an equivalent cost of approximately \$273,657,150. The Departments of Labor and the Treasury

will each account for 25 percent of the total burden, or approximately 1,462,500 burden hours, with an equivalent cost of approximately \$152,031,750. OPM will account for 5 percent of the total burden, or approximately 292,500 burden hours, with an equivalent cost of approximately \$30,406,350.

TABLE 10: Annual Burden and Cost for Open Negotiation Notice and Response Notice

Department	Estimated Number of Respondents	Estimated Number of Responses	Burden per Response (Hours)	Total Annual Burden (Hours)	Total Estimated Cost
HHS	3,510,000	3,510,000	0.75	2,632,500	\$273,657,150
Labor	1,950,000	1,950,000	0.75	1,462,500	\$152,031,750
Treasury	1,950,000	1,950,000	0.75	1,462,500	\$152,031,750
OPM	390,000	390,000	0.75	292,500	\$30,406,350

The Departments will revise the information collection currently approved under OMB control number 1210–0169 to account for this new burden.²⁷⁰

5. ICRs Regarding Initiating the Federal IDR Process and the Notice of IDR Initiation (26 CFR 54.9816–8(b)(2), 29 CFR 2590.716–8(b)(2), and 45 CFR 149.510(b)(2))

a. Notice of IDR Initiation and Notice of IDR Initiation Response

To initiate the Federal IDR process, the initiating party must submit a written notice of IDR initiation to the non-initiating party and to the Departments (using the standard form developed by the Departments) during the 4-business-day period beginning on the first business day after the close of the 30-business-day open negotiation period. The Departments are finalizing several new required elements in addition to the existing required information in the written notice of IDR initiation described at 26 CFR 54.9816–8(b)(2)(ii)(A), 29 CFR 2590.716–8(b)(2)(ii)(A), and 45 CFR 149.510(b)(2)(ii)(A).

These final rules also require that the non-initiating party submit a written response to the notice of IDR initiation

2,000,000 disputes are initiated annually in the Federal IDR process, and the Departments assume a 30 percent increase in dispute volume due to the reduced administrative fee amount finalized in these rules, the Departments assume 3,900,000 disputes will go through open negotiation (2,000,000*1.3/0.66 = approximately 3,900,000). See *supra*.

²⁶⁸ While either party to a dispute in the Federal IDR process may have been the party to initiate

to the initiating party and to the Departments during the 3-business-day period beginning on the day after the notice of IDR initiation is received by the Departments. The IDR initiation response notice must include the content described at 26 CFR 54.9816–8(b)(2)(iii)(A), 29 CFR 2590.716–8(b)(2)(iii)(A), and 45 CFR 149.510(b)(2)(iii)(A).

In the 2023 proposed rules, the Departments estimated that this policy would result in a total annual hour burden of 630,000 hours with an equivalent cost of approximately \$66,118,500 for 420,000 disputes annually beginning in 2025.²⁷¹ The Departments sought comment on these estimates and did not receive any comments. However, after analyzing more recent data available on dispute initiations since the publication of the 2023 proposed rules, the Departments estimate that 2,600,000 disputes will be initiated annually and are revising these burden estimates as discussed further in the subsequent paragraphs.

The Departments estimate that it would take a compensation and benefits manager 30 minutes (at an hourly rate of \$134.96) and an office clerk 15 minutes (at an hourly rate of \$41.94) on average to prepare and submit the

open negotiation, the Departments assume, for the purposes of this analysis, that the parties initiating the Federal IDR process are those that initiated open negotiation.

²⁶⁹ For precision, this is calculated using the unrounded hourly rate, which is approximately \$103.9533. 3,900,000 disputes × 2 parties per dispute × 0.75 hours per party per dispute = 5,850,000 annual burden hours. 5,850,000 annual

additional statements for the notice of IDR initiation for each initiating party, resulting in a cost of \$77.97 per party per notice of IDR initiation. Similarly, the Departments estimate that it would take a compensation and benefits manager 30 minutes (at an hourly rate of \$134.96) and an office clerk 15 minutes (at an hourly rate of \$41.94) on average to prepare and submit the notice of IDR initiation response for each non-initiating party, resulting in a cost of \$77.97 per party per notice of IDR initiation response. The Departments estimate that 2,600,000 disputes will be initiated annually, requiring work by 5,200,000 disputing parties. At a cost of \$77.97 (\$67.48 for 30 minutes by the compensation and benefits manager at \$134.96 per hour and \$10.49 for 15 minutes by the office clerk at \$41.94 per hour, or a combined hourly rate of \$103.95) per party, this results in a total estimated annual hour burden of 3,900,000 hours or an equivalent cost burden of \$405,418,000 for 2,600,000 disputes, which includes 1,950,000 estimated annual burden hours or an equivalent annual cost burden of \$202,709,000 each for initiating and non-initiating parties, respectively, beginning in 2026.²⁷²

burden hours × approximately \$103.9533 per dispute = \$608,127,000.

²⁷⁰ OMB Control Number: 1210–0169 (No Surprises Act: IDR Process).

²⁷¹ 88 FR 75744, 75836–75837 (November 3, 2023).

²⁷² For precision, the Departments use the unrounded hourly rate, which is approximately \$103.9533, to calculate the total annual costs.

As the Departments and OPM share jurisdiction, HHS will account for 45 percent of the total burden, or approximately 1,755,000 burden hours, with an equivalent cost of

approximately \$182,438,100. The Departments of Labor and the Treasury will each account for 25 percent of the total burden, or approximately 975,000 burden hours, with an equivalent cost of

approximately \$101,354,500. OPM will account for 5 percent of the total burden, or approximately 195,000 burden hours, with an equivalent cost of approximately \$20,270,900.

TABLE 11: Annual Burden for Notice of IDR Initiation and Notice of IDR Initiation Response

Department	Estimated Number of Respondents	Estimated Number of Responses	Burden per Response (Hours)	Total Annual Burden (Hours)	Total Estimated Cost
HHS	2,340,000	2,340,000	0.75	1,755,000	\$182,438,100
DOL	1,300,000	1,300,000	0.75	975,000	\$101,354,500
Treasury	1,300,000	1,300,000	0.75	975,000	\$101,354,500
OPM	260,000	260,000	0.75	195,000	\$20,270,900

However, the Departments previously estimated in the October 2021 interim final rules that it would take 2 hours for a legal professional to write the notice of IDR initiation and 15 minutes for a clerical worker to prepare and send the initiating notice.²⁷³ The burden associated with the notice of IDR initiation was estimated to be 2.25 hours per party, with an equivalent cost of approximately \$224, as well as approximately \$520 in mailing costs for an estimated 5 percent of disputes where the notices would need to be mailed. In comparison, the Departments now estimate in these final rules that it will take each party 1.5 hours less to prepare and submit the notice of IDR initiation or notice of IDR initiation response at a cost of \$146.03 less per party per notice. Of this 1.5 hours, the Departments estimate that a challenging-to-quantify portion can be attributed to efficiencies gained by improvements made to the Federal IDR portal and process improvements by disputing parties submitting the current notice of IDR initiation in their efforts to streamline their own operations and their increased familiarity with the Federal IDR process over time resulting in fewer errors and faster submissions, which are external to these final rules. The Departments estimate that the remaining portion can be attributed to the efficiencies created by these final rules. In particular, the Departments are finalizing the submission of the notice of IDR initiation and notice of IDR initiation response through the Federal IDR portal, eliminating the need for initiating parties to submit the notice of IDR initiation to non-initiating parties

outside of the Federal IDR portal, including all mailing costs associated with non-electronic submissions. Further, as outlined in section II.D.2.b. of this preamble, since many of the elements contained in the open negotiation notice and open negotiation response notice are duplicative of those that are required in the notice of IDR initiation and notice of IDR initiation response, the burden associated with the open negotiation notice and open negotiation response notice outlined in section V.F.4. of this preamble will largely eliminate the burden associated with preparing the same information for IDR initiation for both parties.

The Departments will revise the information collection currently approved under OMB control number 1210–0169 to account for the new burden.²⁷⁴

b. Preliminary Selection of the Certified IDR Entity

The Departments anticipate that the amendments to the process for the preliminary selection of the certified IDR entity will reduce the overall burden associated with collecting information through the notice of certified IDR entity selection. In these final rules, the Departments are finalizing that the non-initiating party must agree or object to the preferred certified IDR entity in the notice of IDR initiation response. Accordingly, the initiating party will only be required to submit the notice of certified IDR entity selection if the non-initiating party objects to the initiating party's preferred certified IDR entity and submits an alternative preferred certified IDR entity

in the notice of IDR initiation response, thus limiting the frequency with which the Departments expect the initiating party to submit this information. Similarly, the non-initiating party will only be required to use the notice of certified IDR entity selection if the non-initiating party objected to the initiating party's alternative preferred certified IDR entity included in the initiating party's notice of certified IDR selection form. The content submitted through the notice will also be streamlined to only reflect information confirming the party's agreement or objection, preferred alternative to other party's alternative preferred certified IDR entity, and if applicable, an explanation of the conflict of interest with the alternative preferred certified IDR entity.

Under the current rules and currently approved PRA package (OMB control number 1210–0169), the Departments assume that all disputes require the submission of the notice of certified IDR entity selection, and that each notice corresponds to approximately 1.25 burden hours, with an equivalent cost of approximately \$119.²⁷⁵ Across all disputes, the Departments assume an annual burden of approximately 21,794 hours at a cost of approximately \$2,071,583 for parties to submit the notice of certified IDR entity selection.²⁷⁶ In the 2023 proposed rules,

²⁷⁵ This is calculated as follows: (1 hour for a medical and health services professional to write the notice × \$105.01 hourly wage rate) + (15 minutes for a clerical worker to prepare and send the notice × \$55.23 hourly wage rate) = \$118.82.

²⁷⁶ This was calculated at the time based on an estimated 17,435 of disputes in the Federal IDR process with a notice of certified IDR entity selection. The 2023 proposed rules had an error in this calculation resulting in total annual costs of

Continued

²⁷³ 86 FR 55980, 56067 (October 8, 2021).

²⁷⁴ OMB Control Number: 1210–0169 (No Surprises Act: IDR Process).

the Departments anticipated that the frequency and content of this collection would change, and estimated the total annual burden associated with the proposed changes would be 65,100 hours with an equivalent cost of \$2,575,356.²⁷⁷ This would result in a cost associated with this policy of \$503,773 (\$2,575,356 – \$2,071,583).²⁷⁸

The Departments sought comment on this cost estimate and did not receive any comments. However, based on new data available at the time of these final rules, the Departments are updating estimated burden as follows.

Under these final rules, this information collection will be limited to those disputes in which either party does not agree to the other party's preferred alternative certified IDR entity. For this subset of disputes, the initiating party will be required to submit the notice of certified IDR entity selection to indicate agreement or objection to the non-initiating party's alternate preferred certified IDR entity selection as indicated in the notice of IDR initiation response, and both parties will have the ability to submit the notice back-and-forth during the 3-day period after the date of IDR initiation until an agreed upon entity is identified or the parties fail to jointly agree. The content of the collection will be revised to only require a party to indicate their agreement or objection and if applicable an explanation of the conflict of interest, and identification of an alternate preferred certified IDR entity. Thus, the Departments anticipate that it will take a respondent much less time to submit this information than previously estimated.

\$2,156,635. The correct calculation is as follows: 17,435 disputes × 1.25 hours = 21,794 annual hours and 17,435 disputes × \$118.82 per disputes cost = \$2,071,583 annual cost.

²⁷⁷ This was calculated based on an estimated 121,800 disputes in the Federal IDR process with a notice of certified IDR entity selection and with a per dispute cost of approximately \$21.14. See the 2023 proposed rules (88 FR 75744, 75838–75839) for more detail on this calculation.

²⁷⁸ As previously noted, the 2023 proposed rules had an error in the calculation of total annual costs, which resulted in an estimated cost associated with this policy of \$418,721 (\$2,575,356 – \$2,156,635).

Based on internal data, in approximately 29 percent of disputes, the non-initiating party objects to the certified IDR entity selected by the initiating party. Further, out of the 29 percent of disputes in which the non-initiating party objected to the certified IDR entity selected by the initiating party, in the majority of those disputes (93 percent, or 27 percent of all disputes) the initiating party agreed to the alternate preferred certified IDR entity selected by the non-initiating party. In a very small percentage (approximately 2 percent) of disputes, the non-initiating party and initiating party engage in a back-and-forth by objecting to each other's preferred certified IDR entities multiple times. Based on the number of disputes submitted from Federal IDR portal data from 2024 and 2025, and increasing by 30 percent to account for the impact of the reduced administrative fee amount finalized in these rules, the Departments estimate that approximately 702,000 disputes²⁷⁹ would require the initiating party to submit a notice of certified IDR entity selection form a single time. The Departments estimate that it will take an office clerk 30 minutes (at an hourly rate of \$41.94) on average to prepare and submit the notice indicating agreement or objection to the alternate preferred certified IDR entity and selecting an alternative entity, if applicable. This would result in a cost of \$20.97 per dispute. For the approximately 702,000 disputes that would require this collection, the total annual hourly burden would be 351,000 hours, with an equivalent annual cost of approximately \$14,720,940.²⁸⁰

In addition, the Departments expect that, for a very small proportion of disputes, the initiating party and the non-initiating party will exchange the

notice of certified IDR entity selection multiple times within the timeframe before reaching agreement and jointly selecting or defaulting to random selection. To reflect the additional burden associated with disputes requiring multiple notices, the Departments estimate that approximately 52,000 disputes will require the provision of two total rounds of notice exchange²⁸¹ by the initiating party and non-initiating party before either jointly selecting a certified IDR entity or defaulting to selection by the Departments.²⁸² As discussed in the previous paragraph, the Departments estimate that it will take an office clerk 30 minutes (at an hourly rate of \$41.94) on average to prepare and submit the notice indicating agreement or objection to the alternate preferred certified IDR entity and selecting an alternative entity, if applicable. Therefore, using an estimate of two total rounds of notice exchange, this will result in a cost of \$41.94 per dispute, and a total annual hourly burden of 52,000 hours with an equivalent cost of \$2,180,880.²⁸³

The Departments estimate that in total for disputes requiring this collection, including both the 702,000 disputes that the Departments anticipate will require a single submission of the notice of certified IDR entity selection form and the 52,000 disputes requiring multiple submissions of the form, the average

²⁸¹ Internal data show that the highest number of times a certified IDR entity was selected for a single dispute was five. Since these final rules amend the frequency of use of the notice of certified IDR entity selection by transferring one of the selection instances to the notice of IDR initiation, five unique selections would correspond to four exchanges of the notice of certified IDR entity selection. However, the Departments anticipate that four exchanges would be quite rare based on internal data, so the Departments are using two exchanges of the notice of certified IDR entity selection in these estimates. The Departments sought comment on these assumptions and did not receive any.

²⁸² This is calculated as follows: approximately 2,600,000 disputes initiated × 0.02 = 52,000 disputes requiring the provision of multiple notices.

²⁸³ This is calculated as follows: 52,000 disputes × 0.5 hours × 2 exchanges = 52,000 burden hours. 52,000 burden hours × \$41.94 hourly rate = \$2,180,880 total annual cost.

burden per response will be approximately 0.53 hours²⁸⁴ with an

equivalent cost of approximately \$22.42 per response.²⁸⁵

TABLE 12: Annual Burden for Notice of Certified Entity Selection Form

Department	Estimated Number of Respondents	Estimated Number of Responses	Burden per Response (Hours)	Total Annual Burden (Hours)	Total Estimated Cost
HHS	339,300	339,300	0.53	181,350	\$7,605,819
Labor	188,500	188,500	0.53	100,750	\$4,225,455
Treasury	188,500	188,500	0.53	100,750	\$4,225,455
OPM	37,700	37,700	0.53	20,150	\$845,091

However, as discussed earlier in this section, as the current information collection assumes a burden per respondent of 1.25 hours, the Departments estimate that the changes to the requirement to submit this notice will result in a decrease in burden per respondent of approximately 0.72 hours (1.25 hours – 0.53 hours). Therefore, the total annual burden savings as a result of the efficiencies gained in these final

rules will be 539,500 hours with an associated cost savings of \$22,626,630 annually beginning in 2026.²⁸⁶

As the Departments and OPM share jurisdiction, HHS will account for 45 percent of the total burden savings, or approximately 242,775 burden hours, with an equivalent cost savings of approximately \$10,181,984. The Departments of Labor and the Treasury will each account for 25 percent of the

total burden savings, or approximately 134,875 burden hours each, with an equivalent cost savings of approximately \$5,656,658 each. OPM will account for 5 percent of the total burden savings, or approximately 26,975 burden hours, with an equivalent cost savings of approximately \$1,131,332.

TABLE 13: Annual Burden and Cost Savings for Notice of Certified Entity Selection Form

Department	Estimated Number of Respondents	Estimated Number of Responses	Burden per Response (Hours)	Total Annual Burden (Hours)	Total Estimated Cost
HHS	339,300	339,300	-0.72	-242,775	-\$10,181,984
Labor	188,500	188,500	-0.72	-134,875	-\$5,656,658
Treasury	188,500	188,500	-0.72	-134,875	-\$5,656,658
OPM	37,700	37,700	-0.72	-26,975	-\$1,131,332

The Departments will revise the information collection currently approved under OMB control number 1210–0169 to account for this revised burden.

6. ICRs Regarding Federal IDR Eligibility Determinations (26 CFR 54.9816–8(c), 29 CFR 2590.716–8(c), and 45 CFR 149.510(c))

The Departments are not finalizing the proposed amendments to 26 CFR 54.9816–8(c)(2)(ii), 29 CFR 2590.716–8(c)(2)(ii), and 45 CFR 149.510(c)(2)(ii)

regarding Departmental eligibility determinations and therefore there is no burden associated with this policy.

7. ICRs Regarding Withdrawals (26 CFR 54.9816–8(c)(3)(ii), 29 CFR 2590.716–8(c)(3)(ii), and 45 CFR 149.510(c)(3)(ii))

The Departments are establishing at 26 CFR 54.9816–8(c)(3)(ii), 29 CFR 2590.716–8(c)(3)(ii), and 45 CFR 149.510(c)(3)(ii) a process for disputes to be withdrawn from the Federal IDR process. The withdrawal process will require the creation of a new collection

of information and increase burden on the initiating and non-initiating parties required to submit the notice. These final rules require the initiating party to submit a withdrawal request to the Departments and the non-initiating party through the Federal IDR portal. The non-initiating party must provide a response within 5 business days indicating agreement or objection to the request for withdrawal. Each dispute will therefore require a collection from both the initiating (requesting) and the non-initiating (responding) parties to

²⁸⁴ The precise unrounded number for the weighted average time per response is 0.53448 hours. This unrounded number is used to calculate the total annual burden across the disputes requiring the submission of a notice of certified IDR entity selection. The calculation is as follows:

0.53448 weighted average time per response × 754,000 disputes = 403,000 total annual burden hours.

²⁸⁵ This is calculated as follows: 0.53448 hours × \$41.94 hourly rate = \$22.42 cost per response.

²⁸⁶ This is calculated as follows: 1.25 hours – 0.53448 hours = 0.71552 hours saved per response. 0.71552 hours saved per response × 754,000 respondents = 539,500 total hours saved. 539,500 total hours saved × \$41.94 hourly rate = \$22,626,630 total cost savings.

withdraw. If the non-initiating party fails to respond, the non-initiating party will be considered to have agreed to the dispute's withdrawal. The Departments expect that dispute withdrawals will be relatively rare. Based on internal data, the Departments anticipate that approximately 4 percent of disputes (or 104,000 disputes) will be withdrawn annually.

In the 2023 proposed rules, the Departments estimated that this policy would result in a total estimated annual burden of 12,600 hours or an equivalent cost burden of \$910,392 across both the initiating and non-initiating parties.²⁸⁷ The Departments sought comment on these estimates and did not receive any comments. However, based on new data available since the time of the 2023 proposed rules, the Departments are updating these estimates as follows in the subsequent paragraphs.

The Departments estimate that it will take a compensation and benefits manager 15 minutes (at an hourly rate

of \$134.96) and an office clerk 15 minutes (at an hourly rate of \$41.94) for the initiating party to prepare and submit the notice of request for withdrawal to the non-initiating party and the Departments through the Federal IDR portal, resulting in a time of 30 minutes and cost of \$44.23 per dispute for the initiating party.²⁸⁸ For the anticipated 104,000 withdrawn disputes annually, initiating parties will incur a total of 52,000 burden hours with an equivalent cost burden of \$4,559,400 to submit withdrawal requests annually.²⁸⁹ Because the notice of withdrawal response will have fewer data elements and will require a lower amount of time and labor burden to submit, the Departments estimate that it will take an office clerk approximately 15 minutes (at an hourly rate of \$41.94) on average for the non-initiating party to submit the notice of withdrawal response to the initiating party and the Departments through the Federal IDR portal, resulting in a cost of \$10.49 per

response.²⁹⁰ For the anticipated 104,000 withdrawn disputes annually, the non-initiating party will incur a total of 26,000 burden hours or an equivalent cost burden of \$1,090,440 to submit withdrawal responses annually.²⁹¹ This results in a total estimated annual burden of 78,000 hours or an equivalent cost burden of \$5,689,840 across both the initiating and non-initiating parties.²⁹²

As the Departments and OPM share jurisdiction, HHS will account for 45 percent of the total burden, or approximately 35,100 burden hours, with an equivalent cost of approximately \$2,256,428. The Departments of Labor and the Treasury will each account for 25 percent of the total burden, or approximately 19,500 burden hours, with an equivalent cost of approximately \$1,422,460. OPM will account for 5 percent of the total burden, or approximately 3,900 burden hours, with an equivalent cost of approximately \$284,492.

TABLE 14: Annual Burden and Costs for Withdrawals

Department	Estimated Number of Respondents	Estimated Number of Responses	Burden per Response (Hours)	Total Annual Burden (Hours)	Total Estimated Cost
HHS	46,800	46,800	0.75	35,100	\$2,560,428
Labor	26,000	26,000	0.75	19,500	\$1,422,460
Treasury	26,000	2526000	0.75	19,500	\$1,422,460
OPM	5,200	5,200	0.75	3,900	\$284,492

The Departments will revise the information collection currently approved under OMB control number 1210–0169 to account for this burden.

8. ICRs Regarding Administrative and Certified IDR Entity Fee Collection (26 CFR 54.9816–8(d), 29 CFR 2590.716–8(d), and 45 CFR 149.510(d))

The Departments are not finalizing the proposal that the administrative fee due from each party for participating in the Federal IDR process be paid to the Departments and are maintaining current policy and operations. The burden currently associated with this policy is the time and effort for a

certified IDR entity to track payments made by disputing parties and submit the administrative fees to HHS upon invoice. This burden is already included in the No Surprises Act: IDR Process PRA package,²⁹³ and the Departments estimated that the burden association with this information collection would be removed if direct Departmental collection of the administrative fee was finalized as proposed. Because the Departments are not finalizing this provision as proposed, the Departments are no longer removing this burden.

The Departments did not receive comments on these assumptions, and therefore, the Departments are finalizing

these assumptions as discussed in this section.

9. ICRs Regarding Extension of Time Periods for Extenuating Circumstances (26 CFR 54.9816–8(g), 29 CFR 2590.716–8(g), and 45 CFR 149.510(g))

The Departments anticipate that codifying the ability of certified IDR entities to submit case-by-case extension requests in the same manner as parties will slightly increase the estimated burden associated with collecting requests for extensions. In general, the Departments maintain the expectation that requests for extensions due to extenuating circumstances will be

²⁸⁷ At the time of the 2023 proposed rules, the Departments assumed 16,800 disputes would be withdrawn annually. See 88 FR 75744, 75839–74840 (November 3, 2023).

²⁸⁸ This is calculated as follows: 0.25 hours per response × \$134.96 hourly rate for a compensation and benefits manager = \$33.74 per response. 0.25 hours per response × \$41.94 hourly rate for an office

clerk = \$10.49 per response. \$33.74 + \$10.49 = approximately \$44.23 total per response.

²⁸⁹ This is calculated using the unrounded amount per response of \$44.225. 104,000 disputes withdrawn × \$44.225 per dispute = \$4,599,400 total cost.

²⁹⁰ This is calculated as follows: 0.25 hours per response × \$41.94 hourly rate for an office clerk = approximately \$10.49 per response.

²⁹¹ This is calculated using the unrounded amount per response of \$10.485. 104,000 disputes × \$10.485 = \$1,090,440 total cost.

²⁹² This is calculated as follows: \$4,599,400 total initiating party cost + \$1,090,440 total non-initiating party cost = \$5,689,840 overall total cost.

²⁹³ OMB Control Number: 1210–0169 (No Surprises Act: IDR Process).

relatively limited, and do not expect that certified IDR entities will submit a high volume of requests for extensions, particularly since these final rules also codify the Departments' ability to grant case-by-case extensions of their own initiative without a prior request from certified IDR entities or parties. Based on internal data, the Departments anticipate that certified IDR entities will submit approximately 20 such requests for extensions annually.

In the 2023 proposed rules, the Departments estimated that this policy would result in a total annual burden of 5 hours with an equivalent cost of approximately \$197.80.²⁹⁴ The Departments sought comment on these estimates and did not receive any comments. However, the Departments are updating these estimates in

accordance with more recent BLS wage rates available at the time of these final rules as follows.

The Departments estimate that it will take an office clerk approximately 15 minutes (at an hourly rate of \$41.94) on average to prepare and submit the Request for Extension due to Extenuating Circumstances form. Based on internal data reflecting the number of extension requests submitted by certified IDR entities, the Departments estimate that approximately 20 extensions requests will be submitted by certified IDR entities annually. Accordingly, the Departments estimate that the burden associated with the submission of the extension request notice by certified IDR entities will be 5 hours with an equivalent cost of approximately \$210.²⁹⁵ across all

certified IDR entities in addition to the existing burden estimate for extension requests submitted by plans, issuers, FEHB carriers, and providers already approved under OMB control number 1210-0169. As the Departments and OPM share jurisdictions, HHS will account for 45 percent of the total burden, or approximately 2.25 burden hours, with an equivalent cost of approximately \$94.40. The Departments of Labor and the Treasury will each account for 25 percent of the total burden, or approximately 1.25 burden hours each, with an equivalent cost of approximately \$52.43 each. OPM will account for 5 percent of the total burden, or approximately 0.25 burden hours, with an equivalent cost of approximately \$10.49.

TABLE 15: Annual Burden and Costs for Extension Requests Submitted by Certified IDR Entities

Department	Estimated Number of Respondents	Estimated Number of Responses	Burden per Response (Hours)	Total Annual Burden (Hours)	Total Estimated Cost
HHS	9	9	0.25	2.25	\$94
Labor	5	5	0.25	1.25	\$52
Treasury	5	5	0.25	1.25	\$52
OPM	1	1	0.25	0.25	\$10

The Departments will revise the information collection currently approved under OMB control number 1210-0169 to account for this additional burden.

10. ICRs Regarding Registration of Group Health Plans and Health Insurance Issuers (26 CFR 54.9816-9, 29 CFR 2590.716-9, and 45 CFR 149.530)

These final rules require plans and issuers that are subject to the Federal IDR process to register and submit certain information to the Departments.

The Departments assume that TPAs will register on behalf of most self-insured plans. In the 2023 proposed rules, the Departments estimated that the total burden for initial registration and submission of information would be 20,460 hours, with an equivalent cost of approximately \$1,575,693,²⁹⁶ and the total burden for updating information in a timely way by all issuers and TPAs would be approximately 1,279 hours

with an equivalent cost of approximately \$94,252 beginning in 2025.²⁹⁷ The Departments sought comment on these estimates and received comments expressing concern about the administrative burden associated with the proposed registration. These included concerns that some required data elements were unnecessary to achieve the objective of improving communication between disputing parties, as well as concerns that, if the Departments intended to require fully-insured group health plans to register, this would significantly increase the burden of the proposed registration. The Departments addressed these concerns in section II.F of this preamble.

After consideration of comments, the Departments are finalizing the proposed registration requirement with modifications. To address concerns regarding the administrative burden of registering, and as discussed in further

detail in section II.F, the Departments are streamlining the requirements for registration, including modifying or removing some of the required data elements associated with registration, and are clarifying that issuers will not need to separately register fully-insured group health plans. These modifications will reduce the burden incurred by plans and issuers to comply with this provision. Therefore, and given the most recent number of issuers and TPAs and BLS wage rates, Departments have updated these estimates as follows.

The Departments estimate that a total of 1,585 issuers and TPAs will incur a burden to comply with this provision. The Departments estimate that for each issuer and TPA, an administrative assistant will spend 7.5 hours, rather than the 8 hours initially estimated (at an hourly rate of \$44.52), a compensation and benefits manager will spend 2 hours (at an hourly rate of \$134.96), and a lawyer will spend 2

²⁹⁴ 88 FR 75744, 75841-75842 (November 3, 2023).

²⁹⁵ This is calculated as follows: 20 annual requests × 0.25 hours = 5 annual burden hours. 5 annual burden hours × \$41.94 hourly rate = \$209.70 total annual cost.

²⁹⁶ This was calculated based on 1,705 issuers and TPAs each spending 12 hours at an average hourly rate of approximately \$77.01. See the 2023 proposed rules (88 FR 75744, 75842-75843) for additional details.

²⁹⁷ This was calculated based on 1,705 issuers and TPAs each spending 0.75 hours at an average hourly rate of approximately \$73.71. See the 2023 proposed rules (88 FR 75744, 75842-75843) for additional details.

hours (at an hourly rate of \$145.34), to communicate with plans, gather the necessary information, and prepare the registration, resulting in a combined hourly rate of approximately \$77.78. The estimated total burden for each issuer or TPA would be 11.5 hours with an equivalent cost of approximately \$894.50.²⁹⁸ The estimated total burden for initial registration and submission of information will be 18,228 hours, with an equivalent cost of approximately \$1,417,783.²⁹⁹ As the Departments and OPM share jurisdictions, HHS will account for 45 percent of the total burden, or approximately 8,202 burden hours, with an equivalent cost of approximately \$638,002. The Departments of Labor and the Treasury will each account for 25 percent of the total burden, or approximately 4,557 burden hours, with an equivalent cost of

approximately \$354,446. OPM will account for 5 percent of the total burden, or approximately 911 burden hours, with an equivalent cost of approximately \$70,889.

The regulation will also require that plans update the information associated with their registration no later than 30 days after such information changes or at least annually. The Departments estimate that for each issuer and TPA, an administrative assistant will spend 30 minutes (at an hourly rate of \$44.52) and a compensation and benefits manager will spend 15 minutes (at an hourly rate of \$134.96) to update information in a timely way when such information changes, resulting in a combined hourly rate of approximately \$74.67. The estimated total burden for each issuer or TPA will be 0.75 hours with an equivalent cost of

approximately \$56.00.³⁰⁰ The Departments estimate that updating information in a timely way will incur a total annual burden for all issuers and TPAs of approximately 1,189 hours with an equivalent cost of approximately \$88,760 beginning in 2027.³⁰¹ As the Departments and OPM share jurisdictions, HHS will account for 45 percent of the total burden, or approximately 535 burden hours, with an equivalent cost of approximately \$39,942. The Departments of Labor and the Treasury will each account for 25 percent of the total burden, or approximately 297 burden hours, with an equivalent cost of approximately \$22,190. OPM will account for 5 percent of the total burden, or approximately 59 burden hours, with an equivalent cost of approximately \$4,438.

TABLE 16: One-Time Burden and Cost for Plans and Issuers for Initial Registration and Submission of Certain Information to the Departments

Year	Department	Estimated Number of Respondents	Estimated Number of Responses	Burden per Response (Hours)	Total Annual Burden (Hours)	Total Estimated Cost
2026	HHS	713	713	11.5	8,202	\$638,002
	Labor	396	396	11.5	4,557	\$354,446
	Treasury	396	396	11.5	4,557	\$354,446
	OPM	79	79	11.5	911	\$70,887

TABLE 17: Annual Burden and Cost for Plans and Issuers to Update Registration and Submit Certain Information to the Departments

Department	Estimated Number of Respondents	Estimated Number of Responses	Burden per Response (Hours)	Total Annual Burden (Hours)	Total Estimated Cost
HHS	713	713	0.75	535	\$39,942
DOL	396	396	0.75	297	\$22,190
Treasury	396	396	0.75	297	\$22,190
OPM	79	79	0.75	59	\$4,438

The Departments will revise the information collection currently approved under OMB control number

1210–0169 to account for this new burden.³⁰²

The annual information collections in these final rules are summarized as follows:

²⁹⁸ For precision, this is calculated using the unrounded hourly rate, which is approximately \$77.783. 11.5 hours × \$77.783 hourly rate = \$894.50 per issuer/TPA.

²⁹⁹ This is calculated as follows: (1,380 issuers + 205 TPAs) × 11.5 hours = 18,228 annual hours. (1,380 issuers + 205 TPAs) × \$894.50 cost per

issuer/TPA = approximately \$1,417,783 annual cost.

³⁰⁰ For precision, this is calculated using the unrounded hourly rate, which is approximately \$74.667. 0.75 hours × \$74.667 hourly rate = \$56.00 per issuer/TPA.

³⁰¹ 1,585 issuers and TPAs × 0.75 hours annually = 1,189 annual burden hours. 1,189 annual burden

BILLING CODE 6325–63–P; 4831–GV–P; 4510–29–P; 4120–01–P; 4150–28–P

hours × \$74.67 hourly rate = approximately \$88,760 annual cost.

³⁰² OMB Control Number: 0938–1401 (CMS–10780, Requirements Related to Surprise Billing: Qualifying Payment Amount, Notice and Consent, Disclosure on Patient Protections Against Balance Billing, and State Law Opt-in).

TABLE 18: Annual Recordkeeping and Reporting Requirements

Regulation Section	OMB Control Number	Respondents	Responses	Burden per Response (hours)	Total Annual Burden (hours)	Hourly Labor Cost of Reporting	Total Labor Cost of Reporting
45 CFR 149.510(b)(1)	1210-0169	HHS: 3,510,000 Labor: 1,950,000 Treasury: 1,950,000 OPM: 390,000	HHS: 3,510,000 Labor: 1,950,000 Treasury: 1,950,000 OPM: 390,000	HHS: 0.75 Labor: 0.75 Treasury: 0.75 OPM: 0.75	HHS: 2,632,500 Labor: 1,462,500 Treasury: 1,462,500 OPM: 292,500	HHS: \$103.95 Labor: \$103.95 Treasury: \$103.95 OPM: \$103.95	HHS: \$273,657,150 Labor: \$152,031,750 Treasury: \$152,031,750 OPM: \$30,406,350
45 CFR 149.510(b)(2)	1210-0169	HHS: 2,340,000 Labor: 1,300,000 Treasury: 1,300,000 OPM: 260,000	HHS: 2,340,000 Labor: 1,300,000 Treasury: 1,300,000 OPM: 260,000	HHS: 0.75 Labor: 0.75 Treasury: 0.75 OPM: 0.75	HHS: 1,755,000 Labor: 975,000 Treasury: 975,000 OPM: 195,000	HHS: \$103.95 Labor: \$103.95 Treasury: \$103.95 OPM: \$103.95	HHS: \$182,438,100 Labor: \$101,354,500 Treasury: \$101,354,500 OPM: \$20,270,900
45 CFR 149.510(c)(1)	1210-0169	HHS: 339,300 Labor: 188,500 Treasury: 188,500 OPM: 37,700	HHS: 339,300 Labor: 188,500 Treasury: 188,500 OPM: 37,700	HHS: -0.72 Labor: -0.72 Treasury: -0.72 OPM: -0.72	HHS: -242,775 Labor: -134,875 Treasury: -134,875 OPM: -26,975	HHS: \$41.94 Labor: \$41.94 Treasury: \$41.94 OPM: \$41.94	HHS: -\$10,181,984 Labor: -\$5,656,658 Treasury: -\$5,656,658 OPM: -\$1,131,332
45 CFR 149.510(c)(3)	1210-0169	HHS: 46,800 Labor: 26,000 Treasury: 26,000 OPM: 5,200	HHS: 46,800 Labor: 26,000 Treasury: 26,000 OPM: 5,200	HHS: 0.75 Labor: 0.75 Treasury: 0.75 OPM: 0.75	HHS: 35,100 Labor: 19,500 Treasury: 19,500 OPM: 3,900	HHS: \$72.95 Labor: \$72.95 Treasury: \$72.95 OPM: \$72.95	HHS: \$2,560,428 Labor: \$1,422,460 Treasury: \$1,422,460 OPM: \$284,492
45 CFR 149.510(g)	1210-0169	HHS: 9 Labor: 5 Treasury: 5 OPM: 1	HHS: 9 Labor: 5 Treasury: 5 OPM: 1	HHS: 0.25 Labor: 0.25 Treasury: 0.25 OPM: 0.25	HHS: 2.25 Labor: 1.25 Treasury: 1.25 OPM: 0.25	HHS: \$41.94 Labor: \$41.94 Treasury: \$41.94 OPM: \$41.94	HHS: \$94 Labor: \$52 Treasury: \$52 OPM: \$10
45 CFR 149.530	1210-0169	HHS: 713 Labor: 396 Treasury: 396 OPM: 79	HHS: 713 Labor: 396 Treasury: 396 OPM: 79	HHS: 0.75 Labor: 0.75 Treasury: 0.75 OPM: 0.75	HHS: 535 Labor: 297 Treasury: 297 OPM: 59	HHS: \$74.67 Labor: \$74.67 Treasury: \$74.67 OPM: \$74.67	HHS: \$39,942 Labor: \$22,190 Treasury: \$22,190 OPM: \$4,438
Total	1210-0169	HHS: 3,896,822 Labor: 2,164,901 Treasury: 2,164,901	HHS: 6,236,822 Labor: 3,464,901 Treasury: 3,464,901	N/A	HHS: 4,180,362 Labor: 2,322,423 Treasury: 2,322,423	N/A	HHS: \$448,513,731 Labor: \$249,174,295 Treasury: \$249,174,295

Regulation Section	OMB Control Number	Respondents	Responses	Burden per Response (hours)	Total Annual Burden (hours)	Hourly Labor Cost of Reporting	Total Labor Cost of Reporting
		OPM: 432,980 Overall: 8,659,605 ³⁰³	OPM: 692,980 Overall: 13,859,605		OPM: 464,485 Overall: 9,289,694		OPM: \$49,834,859 Overall: \$996,697,180

BILLING CODE 6325-63-C; 4831-GV-C; 4510-29-C; 4120-01-C; 4150-28-C

HHS has submitted a copy of these final rules to OMB for its review of the rule's information collection and recordkeeping requirements. These requirements are not effective until they have been approved by OMB.

G. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601, *et seq.*) requires agencies to analyze options for regulatory relief of small entities, to prepare a final regulatory flexibility analysis, and to describe the impact of these final rules on small entities, unless the head of the agency can certify that the rule will not have a significant economic impact on a substantial number of small entities. The RFA generally defines a "small entity" as (1) a proprietary firm meeting the size standards of the Small Business Administration (SBA), (2) a not-for-profit organization that is not dominant in its field, or (3) a small government jurisdiction with a population of less than 50,000. States and individuals are not included in the definition of "small entity." The Departments use a change in revenues of more than 3 to 5 percent as its measure of significant economic impact on a substantial number, or 5 percent, of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdiction. The data and conclusions presented in this section amount to the Departments' final regulatory flexibility analysis under the RFA.

1. Need for Regulatory Action, Objectives, and Legal Basis

These final rules authorized by the No Surprises Act are intended to address specific issues that are critical to ensuring the timely rendering of payment determinations and to address feedback from interested parties and certified IDR entities to improve the

functioning of the Federal IDR process. These final rules are intended to address some of the common communication issues between disputing parties stemming from a lack of clarity as to whether items and services are qualified IDR items and services eligible for the Federal IDR process. These final rules impose requirements and create incentives for parties to engage with one another during the open negotiation period, which will help reduce the volume of ineligible disputes.

Specifically, these final rules make changes to the information that plans, issuers, and providers must share before initiating the Federal IDR process by including new requirements at 26 CFR 54.9816-6A, 29 CFR 2590.716-6A, and 45 CFR 149.100 to require plans and issuers to provide CARCs and RARCs when providing any remittance advice (including in paper or electronic form) in response to a claim for payment for health care items or services furnished by an entity with which it does not have a direct or indirect contractual relationship. Additionally, the Departments are making amendments at 26 CFR 54.9816-6, 29 CFR 2590.716-6, and 45 CFR 149.140 to the information that must be disclosed about the QPA. These final rules also establish new requirements at 26 CFR 54.9816-9, 29 CFR 2590.716-9, and 45 CFR 149.530, which require plans and issuers to register with the Federal IDR portal to better enable a provider to identify the appropriate plan or issuer with which it has a dispute and determine whether its coverage of an item or service is subject to a specified State law, an All-Payer Model Agreement, or the Federal IDR process for determining the out-of-network rate.

To further facilitate communication and improve open negotiation, these final rules amend the open negotiation process that precedes the Federal IDR process. Specifically, at 26 CFR 54.9816-8(b)(1), 29 CFR 2590.716-8(b)(1), and 45 CFR 149.510(b)(1), these final rules amend the content requirements of the standard open negotiation notice, establish requirements related to an open negotiation response notice, and clarify

the timing for when the open negotiation period begins. These final rules also amend the process for initiating the Federal IDR process. Specifically, at 26 CFR 54.9816-8(b)(2), 29 CFR 2590.716-8(b)(2), and 45 CFR 149.510(b)(2), these final rules amend the content of the notice of IDR initiation and establish new requirements for a notice of IDR initiation response from the non-initiating party. At 26 CFR 54.9816-8(b)(3), 29 CFR 2590.716-8(b)(3), and 45 CFR 149.510(b)(3), these final rules also establish a new manner for providing notices to the other party and the Departments.

These final rules also provide additional clarity regarding timeframes within the Federal IDR process. The No Surprises Act includes certain timeframes by which certain steps of the Federal IDR process must be conducted. For example, disputing parties must jointly select a certified IDR entity not later than the last day of the 3-business-day period following the date of the initiation of the Federal IDR process, and if the parties fail to jointly select a certified IDR entity, the Departments must select a certified IDR entity not later than 6 business days after the date of IDR initiation.³⁰⁴ While the No Surprises Act also provides detailed timeframes for certain other steps in the process, the steps that must be conducted before a payment determination can be issued are not as clearly defined, such as when a certified IDR entity must conduct a conflict-of-interest review and must determine whether an item or service is a qualified IDR item or service, as defined in 29 CFR 2590.716-8(a)(2)(xi) and 45 CFR 149.510(a)(2)(xi), and eligible for the Federal IDR process. Therefore, the provisions in these final rules adjust certain steps and establish associated timeframes. These include provisions related to establishing a process for preliminary selection of the certified IDR entity and final selection of the certified IDR entity as set out in 26 CFR 54.9816-8(c)(1), 29 CFR 2590.716-

³⁰³ 5,200,000 respondents are duplicated between the open negotiation and Federal IDR process initiation information collections because these respondents must compete open negotiation to be a party to an initiated dispute; therefore, the total number of respondents has been reduced to reflect an accurate total of respondents.

³⁰⁴ Section 9816(c)(4)(F) of the Code, section 716(c)(4)(F) of ERISA, and section 2799A-1(c)(4)(F) of the PHS Act.

8(c)(1), and 45 CFR 149.510(c)(1), to account for the time it takes certified IDR entities to confirm that they do not have a conflict of interest with either party.

To allow more time for certified IDR entities to conduct eligibility reviews, these final rules include amendments to the Federal IDR process eligibility review in 26 CFR 54.9816–8(c)(2), 29 CFR 2590.716–8(c)(2), and 45 CFR 149.510(c)(2). Further, to support eligibility determinations, conflict-of-interest reviews, and payment determinations, the Departments are finalizing requirements for the submission of additional information from the disputing parties at 26 CFR 54.9816–8(c)(2)(ii), 29 CFR 2590.716–8(c)(2)(ii), and 45 CFR 149.510(c)(2)(ii).

To clarify and establish a standard process for disputes to be withdrawn from the Federal IDR process, the Departments are finalizing four conditions in which a dispute may be withdrawn at 26 CFR 54.9816–8(c)(3)(ii), 29 CFR 2590.716–8(c)(3)(ii), and 45 CFR 149.510(c)(3)(ii). To further adjust timeframes and processes associated with the Federal IDR process, these final rules include amendments related to submission of offers and payment determination and notification at 26 CFR 54.9816–8(c)(5), 29 CFR 2590.716–8(c)(5), and 45 CFR 149.510(c)(5); the collection of the certified IDR entity fee at 26 CFR 54.9816–8(d)(1), 29 CFR 2590.716–8(d)(1), and 45 CFR 149.510(d)(1); and the amount of the administrative fee at 26 CFR 54.9816–8(d)(2), 29 CFR 2590.716–8(d)(2), and 45 CFR 149.510(d)(2). These final rules also include provisions to expand upon situations in which Federal IDR process timeframes may be waived due to extenuating circumstances at 29 CFR 2590.716–8(g), and 45 CFR 149.510(g).

Lastly, to address concerns regarding the vacated batching provision at 26 CFR 54.9816–8(c)(3)(i)(C), 29 CFR 2590.716–8(c)(3)(i)(C), and 45 CFR 149.510(c)(3)(i)(C) and to create more efficiencies in the process, these final rules at 26 CFR 54.9816–8(c)(4), 29 CFR 2590.716–8(c)(4), and 45 CFR 149.510(c)(4) include provisions that allow for more flexibility in batching multiple items or services in a single dispute.

It is the Departments' intention that the implementation of the provisions in these final rules will lead to a more efficient Federal IDR process and more timely payment determinations.

2. Small Entities Regulated

The provisions in these final rules affect plans (or their TPAs), health

insurance issuers offering group or individual health insurance coverage, certified IDR entities, and providers.

In the 2023 proposed rules, the Departments estimated that there were 1,500 issuers in the U.S. health insurance market³⁰⁵ and 205 TPAs in 2021.³⁰⁶ Health insurance issuers are generally classified under the North American Industry Classification System (NAICS) code 524114 (Direct Health and Medical Insurance Carriers). According to SBA size standards,³⁰⁷ entities with average annual receipts of \$47 million or less are considered small entities for this NAICS code. The Departments expect that few, if any, insurance companies underwriting health insurance policies fall below these size thresholds. Using data available at the time from MLR annual report submissions for the 2022 MLR reporting year,³⁰⁸ the Departments assumed 4.1 percent of health insurance issuers would be considered small entities and applied this same assumption to TPAs to estimate that 62 health insurance issuers and 8 TPAs, of the total of 1,500 health insurance issuers and 205 TPAs across the country, would be considered small entities.³⁰⁹ The Departments sought comment on this assumption and did not receive any such comments.

The Departments are updating these estimates with more recent available data as follows. The Departments estimate that there are 1,380 health insurance issuers³¹⁰ and 205 TPAs across the country.³¹¹ Based on data from MLR annual report submissions

³⁰⁵ Centers for Medicare and Medicaid Services. (2022). *Medical Loss Ratio Data and System Resources*, available at <https://www.cms.gov/CCIIO/Resources/Data-Resources/mlr>. There were 483 issuers of health insurance coverage nationwide and 1,500 issuer-State combinations in the data available at the time of the 2023 proposed rules.

³⁰⁶ Non-issuer TPAs based on data derived from the 2016 benefit year reinsurance program contributions.

³⁰⁷ United States Small Business Administration. (March 17, 2023). *Table of Size Standards*, available at <https://www.sba.gov/document/support-table-size-standards>.

³⁰⁸ Centers for Medicare and Medicaid Services. (2022). *Medical Loss Ratio Data and System Resources*, available at <https://www.cms.gov/CCIIO/Resources/Data-Resources/mlr>. There were 483 issuers of health insurance coverage nationwide and 1,500 issuer-State combinations in the data available at the time of the 2023 proposed rules.

³⁰⁹ See the 2023 proposed rules for more detail on this calculation.

³¹⁰ Based on data from MLR annual report for the 2023 MLR reporting year. See <https://www.cms.gov/CCIIO/Resources/Data-Resources/mlr>. Issuers are defined as health insurance company/State combination and refers to the legal entities or subsidiaries that are licensed and operate within a specific State.

³¹¹ Non-issuer TPAs based on data derived from the 2016 benefit year reinsurance program contributions.

from the 2023 MLR reporting year, approximately 84 out of 479 issuers of health insurance coverage nationwide had total premium revenue of \$47 million or less.³¹² However, the Departments also estimate, based on MLR data, that over 80 percent of these small companies belong to larger holding groups, and many, if not all, of these small companies, are likely to have non-health lines of business (e.g., life, property & casualty, and title insurance) that would result in their revenues exceeding \$47 million. The Departments have determined that the same assumptions also apply to TPAs that will be affected by these final rules.³¹³ To produce a conservative estimate, for the purposes of this analysis, the Departments are modifying their estimates to assume 3.5 percent, or 48 health insurance issuers and 7 TPAs, of the total of 1,380 health insurance issuers and 205 TPAs across the country, are considered small entities.³¹⁴

These final rules also affect health care providers and facilities due to the requirements for the initiating party to submit the open negotiation notice to the non-initiating party and the Departments, among other policies.³¹⁵ In the 2023 proposed rules, the Departments estimated that 140,270 physicians, on average, bill on an out-of-network basis.³¹⁶ The number of small physicians is estimated based on the SBA's size standards. The size standard applied for providers is NAICS 62111 (Offices of Physicians), for which a business with less than \$16 million in receipts is considered to be small. By this standard, the Departments estimated that 47.2 percent or 66,207 physician offices would be considered

³¹² Centers for Medicare and Medicaid Services. (2023). *Medical Loss Ratio Data and System Resources*, available at <https://www.cms.gov/CCIIO/Resources/Data-Resources/mlr.html>.

³¹³ The Departments have determined that most TPAs are or are affiliated with issuers.

³¹⁴ These numbers are calculated as follows: 80 percent of small companies belong to larger holding groups, so 20 percent do not and would be small entities. 84 issuers x 0.20 = approximately 17 issuers. 17/479 = 3.5 percent. Applying the 3.5 percent to 1,380 issuers and 205 TPAs total = 48 small issuers and 7 small TPAs.

³¹⁵ Historically, less than 1 percent of disputes for emergency and non-emergency services have been submitted by group health plans, health insurance issuers, or FEHB carriers. See U.S. Department of Labor, U.S. Department of the Treasury, and U.S. Department of Health and Human Services. (December 15, 2022) *Initial Report on the Federal Independent Dispute Resolution (IDR) Process*, April 15–September 30, 2022, available at <https://www.cms.gov/files/document/initial-report-idr-april-15-september-30-2022.pdf>.

³¹⁶ See 86 FR 56051 for more information on this estimate.

small under the SBA's size standards.³¹⁷ The Departments also noted that the final rules would affect non-physician providers and providers of air ambulance services but lacked data on the number of non-physician providers and on the air ambulance sub-sector. Therefore, the Departments used the estimate of 66,207 physicians as the number of small providers in the analysis in the 2023 proposed rules.³¹⁸ The Departments sought comment on this assumption and did not receive any such comments.

However, the Departments are updating these estimates with more recent available data. Using updated data from the Statistics of U.S. Businesses (SUSB), the Departments now estimate that 36.4 percent or 51,072 physicians are considered small under the SBA's size standards.³¹⁹ The Departments continue to lack data on the number of non-physician providers and providers of air ambulance services who will be impacted. Therefore, the Departments use 51,072 as the number of small providers in this analysis.

In addition, the Departments are adding an estimate of the number of small facilities to arrive at an overall estimate of the number of providers and facilities impacted by these final rules. The size standard for facilities is NAICS 62211 (General Medical and Surgical Hospitals), for which a business with less than \$47 million in receipts is considered to be small. By this standard, the Departments estimate that 44.4 percent of 2,573, or 1,142 facilities, are considered small under the SBA's size standards.³²⁰ The Departments add the estimate of 1,142 small facilities to 51,072 small providers to estimate that

52,214 small providers and facilities will be impacted by these final rules.

Based on the Departments' experience operating the Federal IDR process, significantly fewer than 52,214 small providers and facilities have accessed the process to date, but the Departments lack adequate data to better inform the number of small providers and facilities impacted by these final rules. The Departments are also aware that many providers are subject to a specified State law or All-Payer Model Agreement, rather than the Federal IDR process, and therefore would not have reason to access the Federal IDR process or need to review these final rules.³²¹ Therefore, although the Departments acknowledge that 52,214 small providers and facilities is likely a significant overestimate of the number of small providers and facilities impacted by these final rules, the Departments use this number of small providers and facilities in this analysis to be conservative.

Additionally, based on Federal IDR process data, the Departments assumed in the 2023 proposed rules that only 15 percent of all disputes involve small providers.³²² The Departments also assumed that 5 percent of all disputes that did not involve the top 10 non-initiating parties could have involved any of the 1,695 issuers and TPAs that were not the top 10 non-initiating parties (1,500 issuers and 205 TPAs total—10 top non-initiating parties = 1,695 remaining issuers and TPAs). The Departments also assumed that the same proportion of small issuers and TPAs to all issuers and TPAs would also apply to the number of disputes each issuer or TPA is involved in. The Departments sought comment on these assumptions and did not receive any such comments.

The Departments are updating these estimates based on more recent Federal IDR process data, which indicates that the top 10 initiating parties or their representatives initiated approximately 70 percent of disputes, and the top 10 non-initiating parties or their representatives were initiated against in approximately 90 percent of disputes in 2024.³²³ These top 10 parties are large provider groups or revenue cycle management groups and large insurance

companies or representatives of self-insured group health plans. Therefore, for purposes of this analysis in these final rules, the Departments assume that 30 percent of all disputes involve small providers. The 10 percent of all disputes that do not involve the top 10 non-initiating parties could involve any of the 1,575 issuers and TPAs that are not the top 10 non-initiating parties (1,380 issuers and 205 TPAs total—10 top non-initiating parties = 1,575 remaining issuers and TPAs). The Departments continue to assume that the same proportion of small issuers and TPAs to all issuers and TPAs applies to the number of disputes each issuer or TPA is involved in, as small issuers and TPAs cover fewer enrollees than large issuers and TPAs.

3. Compliance Requirements

The policies in these final rules that will result in an increased burden to small entities are described below.

These final rules require that plans and issuers use CARCs and RARCs to convey information related to the No Surprises Act, on any remittance advice (including in paper or electronic form). As outlined in section V.D.2.a of this preamble, the Departments estimate that each issuer or TPA will require a computer programmer 8 hours (at an hourly rate of \$94.88) to make one-time changes to their IT system to allow for the incorporation of newly developed No Surprises Act-related CARCs and RARCs (or already-developed RARCs that might become required) into their remittance advice and an operations manager 1 hour (at an hourly rate of \$99.00) to verify accuracy and accessibility. The one-time cost per issuer/TPA associated with this requirement is \$858.³²⁴

The Departments also are amending the information plans and issuers must provide related to the QPA with an initial payment or notice of denial of payment. As explained in section V.F.3 of this preamble, the Departments anticipate that issuers and TPAs will need to make one-time changes to their IT systems to incorporate the changes to the disclosures that accompany the QPA notification, and therefore this will result in an annual burden. The Departments estimate that for each plan and issuer, on average, it will take a computer programmer 3 hours (at an hourly rate of \$94.88) to incorporate the changes. The one-time cost per issuer/

³¹⁷ Based on 2017 data from the NAICS Association for NAICS code 62211, the Departments estimate the percent of businesses within the industry of Offices of Physicians with less than \$16 million in annual sales. See <https://www.census.gov/data/tables/2017/econ/susb/2017-susb-annual.html>.

³¹⁸ The Departments also noted in the 2023 proposed rules that 66,207 small providers would be a conservative estimate as significantly fewer than 66,207 small providers had accessed the process to date.

³¹⁹ Based on 2022 data from the NAICS Association for NAICS code 62211, the Departments estimate the percent of businesses within the industry of Offices of Physicians with less than \$16 million in annual sales. See <https://www.census.gov/data/tables/2022/econ/susb/2022-susb-annual.html>.

³²⁰ Based on data from the NAICS Association for NAICS code 62211, the Departments estimate the percent of businesses within the industry of General Medical and Surgical Hospitals with less than \$47 million in annual sales. United States Census Bureau (May 2021). *2022 SUSB Annual Data Tables by Establishment Industry*. See <https://www.census.gov/data/tables/2022/econ/susb/2022-susb-annual.html>.

³²¹ See *Chart for Determining the Applicability for the Federal Independent Dispute Resolution (IDR) Process* (n.d.). <https://www.cms.gov/files/document/caa-federal-idr-applicability-chart.pdf>.

³²² See 88 FR 75847 for more information on this estimate.

³²³ See the Supplemental Background on Federal Independent Dispute Resolution Public Use Files July 1, 2024—December 31, 2024 (May 28, 2025), available at <https://www.cms.gov/files/document/federal-idr-supplemental-background-2024-q3-2024-q4.xlsx>.

³²⁴ This is calculated as follows: (8 hours × \$94.88 hourly rate for a computer programmer) + (1 hour × \$99.00 for an operations manager) = \$858.04.

TPA associated with this change is \$285.³²⁵

Additionally, the Departments are finalizing amendments to require a party to provide an open negotiation notice and supporting documentation to the other party and the Departments to initiate the open negotiation period. Furthermore, the party in receipt of the open negotiation notice will be required to provide a response to the open negotiation notice that is provided to the other party and the Departments within the first 15 business days of the 30-business-day open negotiation period. As explained in section V.F.4 of this preamble, the Departments estimate it will cost \$77.97 for each initiating party to provide an open negotiation notice and supporting documentation and \$77.97 for each non-initiating party to provide the open negotiation response notice. The annual burden per small provider or facility associated with this policy is \$1,715,³²⁶ and the annual burden per small issuer/TPA associated with this policy is \$19,337.³²⁷

Furthermore, the Departments will continue requiring the initiating party to submit a written notice of IDR initiation to the non-initiating party and to the Departments. The Departments are also finalizing that the non-initiating party must submit a written response to the notice of IDR initiation to the initiating party and to the Departments. As explained in section V.F.5.a of this preamble, the Departments estimate each initiating party will incur a cost of \$77.97 for each notice of IDR initiation submitted for each dispute, and each non-initiating party will incur a cost of \$77.97 for each notice of IDR initiation response submitted for each dispute. The annual burden per small provider or facility associated with this policy is \$1,170,³²⁸ and the annual burden per

small issuer/TPA associated with this policy is \$12,865.³²⁹

Additionally, the Departments are finalizing amendments to revise the content in the notice of certified IDR entity selection form to reflect that this notice will only be used in situations in which the non-initiating party disagrees with the initiating party's preferred certified IDR entity identified in the notice of IDR initiation form. As explained in section V.F.5.b of this preamble, due to efficiencies gained as a result of these final rules, the Departments estimate that each initiating party and each non-initiating party will save \$30.01 for each dispute for which a notice of certified IDR entity selection is required. The annual burden saved per small provider or facility associated with this policy is \$120,³³⁰ and the annual burden saved per small issuer/TPA associated with this policy is \$1,440.³³¹

Moreover, the Departments are finalizing the establishment of a process for disputes to be withdrawn from the Federal IDR process, including the creation of new notice of withdrawal and notice of withdrawal response forms. As explained in section V.F.7 of this preamble, the Departments estimate it will cost \$44.23 for each initiating party to submit a notice of withdrawal and \$10.49 for each non-initiating party to submit a notice of withdrawal response. The annual burden per small provider or facility associated with this policy is \$44,³³² and the annual burden

per small issuer/TPA associated with this policy is \$73.³³³

Additionally, for disputes initiated on or after June 11, 2026, the Departments are finalizing the administrative fee amount of \$15 per party per dispute. This results in a reduction in administrative fees paid of \$100 per party per dispute, as discussed further in section V.D.3.a.1 of this preamble. The annual burden saved per small provider or facility associated with this policy is –\$1,500,³³⁴ and the annual burden saved per small issuer/TPA is –\$16,500.³³⁵ For more details, please refer to section V.D.3.a.1 of this preamble.

Finally, the Departments are finalizing amendments to require plans and issuers to submit information to the Departments to receive a registration number. The initial (one-time) burden per issuer/TPA associated with this policy is \$895,³³⁶ and the annual burden per issuer/TPA associated with this policy is \$56.³³⁷ For more details, please refer to section V.F.10 of this preamble.

The Departments estimate the one-time cost to review these final rules would be \$2,107 per entity. For more details, please refer to section V.D.5 of this preamble.

Thus, the per-entity estimated annual cost for each small issuer/TPA is \$14,391, and the per-entity estimated annual cost for each small provider or facility is \$1,309. The total annual cost

³²⁵ This is calculated as follows: (3 hours × \$94.88 hourly rate for a computer programmer) = \$284.64.

³²⁶ This is calculated as follows: 3,900,000 disputes in open negotiation—70 percent (2,730,000) disputes entered into open negotiation by the top 10 initiating parties = 1,170,000 disputes entered into open negotiation by other initiating parties. 1,170,000 disputes/52,214 small providers/facilities = approximately 22 disputes initiated per small provider annually. 22 disputes × \$77.97 per dispute = \$1,715 per small provider.

³²⁷ This is calculated as follows: 3,900,000 disputes in open negotiation—90 percent (3,510,000) disputes entered into open negotiation against the top 10 non-initiating parties = 390,000 disputes entered into open negotiation against other non-initiating parties. 390,000 disputes/1,575 issuers/TPAs = 248 disputes per issuer/TPA. 248 disputes × \$77.97 per dispute = \$19,337 per small issuer/TPA.

³²⁸ This is calculated as follows: 2,600,000 disputes initiated—70 percent (1,820,000) disputes initiated by the top 10 initiating parties = 780,000 disputes initiated by other initiating parties.

780,000 disputes/52,214 small providers/facilities = approximately 15 disputes initiated per small provider annually. 15 disputes × \$77.97 per dispute = \$1,170 per small provider.

³²⁹ This is calculated as follows: 2,600,000 disputes initiated—90 percent (2,340,000) disputes initiated against the top 10 non-initiating parties = 260,000 disputes initiated against other non-initiating parties. 260,000 disputes/1,575 issuers/TPAs = 165 disputes per issuer/TPA annually. 165 disputes × \$77.97 per dispute = \$12,865 per small issuer/TPA.

³³⁰ This is calculated as follows: 754,000 disputes for which a notice of certified IDR entity selection is required—70 percent (527,800) disputes initiated by the top 10 initiating parties = 226,200 disputes for other initiating parties. 226,200 disputes/52,214 small providers/facilities = 4 disputes per small provider annually. 4 disputes × –\$30.01 = –\$120 per small provider.

³³¹ This is calculated as follows: 754,000 disputes for which a notice of certified IDR entity selection is required—90 percent (678,600) disputes initiated against the top 10 non-initiating parties = 75,400 disputes for other non-initiating parties. 75,400 disputes/1,575 issuers/TPAs = 48 disputes per issuer/TPA annually. 48 disputes × –\$30.01 = –\$1,440 per small issuer/TPA.

³³² This is calculated as follows: 104,000 disputes withdrawn—70 percent (72,800) disputes withdrawn by the top 10 initiating parties = 31,200 disputes withdrawn by other initiating parties. 31,200 disputes/52,214 small providers/facilities = less than 1 dispute withdrawn per small provider annually. 1 dispute × \$44.23 per dispute = \$44 per small provider.

³³³ This is calculated as follows: 104,000 disputes withdrawn—90 percent (93,600) disputes withdrawn against the top 10 non-initiating parties = 10,400 disputes withdrawn against other non-initiating parties. 10,400 disputes/1,575 issuers/TPAs = 7 disputes withdrawn per issuer/TPA annually. 7 disputes × \$10.49 per dispute = \$73 per small issuer/TPA.

³³⁴ This is calculated as follows: 2,600,000 disputes initiated—70 percent (1,820,000) disputes initiated by the top 10 initiating parties = 780,000 disputes initiated by other initiating parties. 780,000 disputes/52,214 small providers/facilities = approximately 15 disputes initiated per small provider annually. 15 disputes × –\$100 per dispute = –\$1,500 per small provider.

³³⁵ This is calculated as follows: 2,600,000 disputes initiated—90 percent (2,340,000) disputes initiated against the top 10 non-initiating parties = 260,000 disputes initiated against other non-initiating parties. 250,000 disputes/1,575 issuers/TPAs = 165 disputes per small issuer/TPA annually. 165 disputes × –\$100 per dispute = –\$16,500 per small issuer/TPA.

³³⁶ As explained in section V.F.10 of this preamble, the Departments estimate it will take each issuer/TPA 11.5 hours at an hourly rate of approximately \$77.78 to complete the initial registration and submission of information. 11.5 hours × \$77.78 = approximately \$895.

³³⁷ As explained in section V.F.10 of this preamble, the Departments estimate it take each issuer/TPA 0.75 hours at an hourly rate of approximately \$74.67 to update information in a timely way when such information changes. 0.75 hours × \$74.67 = approximately \$56.

for small issuers and TPAs is \$791,505, and the total annual cost for small providers is \$68,348,126. The per-entity estimated one-time cost for each small

issuer/TPA is \$4,145, and the per-entity estimated one-time cost for each small provider is \$2,107. The total one-time cost for small issuers and TPAs is

\$227,975, and the total one-time cost for small providers is \$110,014,898. See Tables 20, 21, 22, and 23.

BILLING CODE 6325–63–P; 4831–GV–P; 4510–29–P; 4120–01–P; 4150–28–P

TABLE 19: Detailed Annual Costs for Small Entities

Description of Cost	Annual Cost per Small Issuer/TPA	Annual Cost per Small Provider or Facility
Open Negotiation	\$19,337	\$1,715
Initiation	\$12,865	\$1,170
Certified IDR Entity Selection	-\$1,440	-\$120
Withdrawal	\$73	\$44
Administrative Fees	-\$16,500	-\$1,500
Registration	\$56	N/A
Total	\$14,391	\$1,309

TABLE 20: Aggregate Annual Costs for Small Entities

Affected Entity	Affected Small Entities	Annual Cost per Entity	Aggregate Annual Cost for Small Entities
Issuer/TPA	55	\$14,391	\$791,505
Provider or Facility	52,214	\$1,309	\$68,348,126

TABLE 21: One-Time Costs for Small Entities

Description of Cost	One-Time Cost per Small Issuer/TPA	One-Time Cost per Small Provider or Facility
CARCs and RARCs	\$858	N/A
QPA Disclosures	\$285	N/A
Registration	\$895	N/A
Regulatory Review	\$2,107	\$2,107
Total	\$4,145	\$2,107

TABLE 22: Aggregate One-Time Costs for Small Entities

Affected Entity	Affected Small Entities	One-Time Cost per Entity	Aggregate One-Time Cost for Small Entities
Issuer/TPA	55	\$4,145	\$227,975
Provider or Facility	52,214	\$2,107	\$110,014,898

BILLING CODE 6325–63–C; 4831–GV–C; 4510–29–C; 4120–01–C; 4150–28–C

The annual cost per small provider or facility of \$1,309 is approximately 0.10 percent of the average annual receipts per small provider and approximately 0.01 percent of the average annual receipts per small facility. The Departments anticipate that small providers and facilities will be unlikely to initiate disputes unless they anticipate prevailing in the dispute and receiving payment from issuers or TPAs that exceeds the costs incurred to

initiate the dispute. Additionally, data from the public reports on the Federal IDR process released to date by the Departments show that providers and facilities prevail in approximately 85 percent of disputes.³³⁸ The Departments therefore have determined that the

³³⁸ See the Supplemental Background on Federal Independent Dispute Resolution Public Use Files July 1, 2024–December 31, 2024 (May 28, 2025), available at <https://www.cms.gov/files/document/federal-idr-supplemental-background-2024-q3-2024-q4.pdf>.

impact of these costs on small providers and facilities will likely be *de minimis*. The annual cost per small issuer/TPA of \$4,145 is approximately 0.63 percent of the average annual receipts per small issuer/TPA. The Departments anticipate that small issuers/TPAs could pass on these costs to consumers in the form of slightly higher premiums (or for TPAs, higher administration fees). Therefore, the Departments have determined that the actual increase in costs and subsequent impact on revenue will be *de minimis*. Additionally, the

Departments anticipate that by batching qualified IDR items and services, there may be a reduction in the per-service cost of the Federal IDR process, and potentially the aggregate administrative costs, because the Federal IDR process is likely to exhibit at least some economies of scale.³³⁹ The Departments sought comment on these assumptions and did not receive any such comments.

The Departments sought comment on the analysis in the 2023 proposed rules and sought information on the number of small issuers, TPAs, providers, or facilities that may be affected by the provisions in these final rules, as well as any additional costs or savings associated with these final rules that could have a significant economic impact on a substantial number of small entities. The Departments did not receive comments on these estimates and therefore are finalizing these estimates as discussed previously in this section. The Departments received comments on the overall impact of the provisions in the 2023 proposed rules on small providers and respond to those comments throughout sections II.D.2 through II.E.4 of this preamble.

4. Duplication, Overlap, and Conflict with Other Rules and Regulations

The Departments do not anticipate any duplication, overlap, or conflict with other rules and regulations³⁴⁰ associated with these final rules. These final rules revise current regulations and add new regulations to continue to implement the No Surprises Act and improve the Federal IDR process. The Departments sought comment on any duplication, overlap, or conflict with other rules and regulations identified by interested parties.

The Departments did not receive comments on these assumptions and therefore are finalizing them as proposed.

5. Significant Alternatives

The regulatory alternatives considered in developing these final rules and their impact on small entities are discussed in section V.E of this preamble. The regulatory alternatives considered in

developing these final rules and their impact on small entities are discussed in section V.E of this preamble. The Departments have determined that none of these alternatives would both achieve the policy objectives and goals of these final rules as previously stated and be less burdensome to small entities. For example, although the policies pertaining to the open negotiation notice and response and withdrawal form and response may impose costs on small entities, these policies are critical to ensuring the exchange of information between the parties in a standardized time and format, to reduce wasted effort for the parties at other stages of the Federal IDR process due to inappropriately or incorrectly initiated open negotiation or Federal IDR process disputes. Additionally, the policies pertaining to certified IDR entity selection will reduce costs to small entities due to efficiencies gained in these final rules compared to current policy and operations, as discussed in section V.F.5.b. of this preamble, as well as section V.G.3. of this RFA.

Although the Departments recognize that the less stringent timetables considered in certain regulatory alternatives described in section V.E of this preamble may account for the resources available to small entities, they would be contrary to the policy objectives of these final rules. Alternative timelines for small entities for any of the policies described in these rules were not considered. The Departments did not identify any alternatives to these policies that would be less burdensome to small entities while still achieving the objectives of these final rules. In addition, the policies pertaining to the administrative fee may impose costs on small entities, but the \$15 per party administrative fee amount in these final rules for disputes initiated on or after June 11, 2026 is \$100 less than the \$115 per party administrative fee amount for disputes initiated on or after January 22, 2024.³⁴¹

Therefore, although some of the regulatory alternatives considered may have led to a minor reduction in burden to small entities, the Departments have determined that they would ultimately undermine the policies to reduce the cost to initiate a Federal IDR process dispute for small entities in certain situations, which are anticipated to

confer a far greater benefit to small entities.

6. Small Rural Hospitals

In addition, section 1102(b) of the Social Security Act requires the Departments to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, the Departments define a small rural hospital as a hospital that is located outside of a metropolitan statistical area and has fewer than 100 beds. The Departments have determined that these final rules are not subject to section 1102(b) of the Act. Therefore, the Secretary certifies that these final rules will not have a significant economic impact on a substantial number of small rural hospitals.

H. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule or any final rule for which a general notice of proposed rulemaking was published that includes any Federal mandate that may result in expenditures in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. That threshold is approximately \$212 million in 2026. As discussed earlier in the RIA, plans, issuers, TPAs, certified IDR entities, and providers will incur costs to comply with the provisions of these final rules, as well as savings due to efficiencies gained through these final rules. The Departments estimate the combined impact on State, local, or tribal governments and the private sector will not be above the threshold.

I. Federalism

Executive Order 13132 outlines the fundamental principles of federalism. It requires adherence to specific criteria by Federal agencies in formulating and implementing policies that have “substantial direct effects” on the States, the relationship between the national government and States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies issuing regulations that have these

³³⁹ Fielder, M., Adler, L., Ippolito, B. (March 16, 2021). *Recommendations for Implementing the No Surprises Act*. U.S.C.-Brookings Schaeffer on Health Policy. <https://www.brookings.edu/blog/usc-brookings-schaeffer-on-health-policy/2021/03/16/recommendations-for-implementing-the-no-surprises-act/>.

³⁴⁰ See, for example, the proposed 2027 HHS notice of benefit and payment parameters (91 FR 6292).

³⁴¹ See *Federal Independent Dispute Resolution (IDR) Process Administrative Fee and Certified IDR Entity Fee Ranges* final rules. 88 FR 88494 (December 21, 2023).

federalism implications must consult with State and local officials and describe the extent of their consultation and the nature of the concerns of State and local officials in the preamble to these final rules.

The Departments do not anticipate that these final rules will have any federalism implications or limit the policy-making discretion of the States in compliance with the requirement of Executive Order 13132. The Departments recognize that at least one State (and possibly more) currently requires the use of RARCs to communicate information related to the applicability of State balance billing laws. In these instances, these final rules will not infringe upon States' ability to continue to specify requirements related to using CARCs and RARCs, unless such standards or requirements prevent the application of the Federal requirements.

State and local government health plans may be subject to the Federal IDR process where a specified State law or All-Payer Model Agreement does not apply. The No Surprises Act authorizes States to enforce the new requirements, including those related to balance billing, for plans, issuers, and providers, with HHS enforcing only in cases where the State has notified HHS that the State does not have the authority to enforce or is otherwise not enforcing, or HHS has made a determination that a State has failed to substantially enforce the requirements. However, in the Departments' view, the federalism implications of these final rules are substantially mitigated because some States have their own process for determining the total amount payable under a plan or coverage for out-of-network emergency services and for out-of-network providers related to patient visits to in-network facilities. Where a State has a specified State law, the State law, rather than the Federal IDR process, will apply to determine the total amount payable. The Departments anticipate that some States, with their own process, may want to change their laws or adopt new laws in response to these final rules. The Departments anticipate that these States would incur a small incremental cost when making changes to their laws.

In compliance with the requirement of Executive Order 13132 that agencies examine closely any policies that may have federalism implications or limit the policy making discretion of the States, the Departments have engaged in efforts to consult with and work cooperatively with affected States, including participating in conference calls with and attending conferences of

the National Association of Insurance Commissioners and consulting with State insurance officials on an individual basis.

While developing these rules, the Departments attempted to balance the States' interests in regulating health insurance issuers with the need to ensure market stability. By doing so, the Departments complied with the requirements of Executive Order 13132.

J. 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 will, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations." The Departments estimate that, beginning in 2026, these final rules will generate approximately \$0.8 billion in annualized costs at a 7 percent discount rate using a perpetual time horizon, in 2024 dollars. These final rules are, therefore, considered an Executive Order 14192 regulatory action.

This final regulation is subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) and has been transmitted to the Congress and the Comptroller General for review.

List of Subjects

5 CFR Part 890

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professions, Reporting and recordkeeping requirements.

26 CFR Part 54

Excise taxes, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 2590

Continuation coverage, Disclosure, Employee benefit plans, Group health plans, Health care, Health insurance, Medical child support, Reporting and recordkeeping requirements.

45 CFR Part 149

Balance billing, Health care, Health insurance, Reporting and recordkeeping requirements, State regulation of health

insurance, Surprise billing, Transparency in coverage.

Kurt D. Dykstra,

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Kenneth J. Kies,

Assistant Secretary for Tax Policy, Department of the Treasury.

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Assistant Secretary, Employee Benefits Security Administration, Department of Labor.

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Secretary, Department of Health and Human Services.

OFFICE OF PERSONNEL MANAGEMENT

For the reasons stated in the preamble, the Office of Personnel Management amends 5 CFR part 890 as set forth below:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

■ 1. The authority citation for part 890 continues to read as follows:

Authority: 5 U.S.C. 8913; Sec. 890.102 also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; Sec. 890.111 also issued under section 36 U.S.C. 5522; Sec. 890.112 also issued under 2 U.S.C. 2051; Sec. 890.113 also issued under section 1110 of Pub. L. 116–92, 133 Stat. 1198 (5 U.S.C. 8702 note); Sec. 890.301 also issued under section 26 U.S.C. 9801; Sec. 890.302(b) also issued 42 U.S.C. 300gg–14; Sec. 890.803 also issued under 50 U.S.C. 3516 (formerly 50 U.S.C. 403p) and 22 U.S.C. 4069c and 4069c–1; subpart L also issued under section 599C of Pub. L. 101–513, 104 Stat. 2064 (5 U.S.C. 5561 note); subpart M also issued under 10 U.S.C. 1108 and 25 U.S.C. 1647b; and subpart P issued under 5 U.S.C. 8903c.

■ 2. Section 890.114 is amended by revising paragraph (a) to read as follows:

§ 890.114 Surprise billing.

(a) A carrier must comply with requirements described in 26 CFR 54.9816–3, 54.9816–6A, 54.9816–6, 54.9816–8, 54.9816–9, 54.9817–2; 29 CFR 2590.716–3 through 2590.716–6, 2590.716–6A, 2590.716–8, 2590.717–1, 2590.717–2, 2590.722, 2590.725–1 through 2590.725–4; and 45 CFR 149.30, 149.100, 149.110 through 149.140, 149.310, 149.510 through 530, and 149.710 through 149.740 in the same manner as such provisions apply to a group health plan or health insurance issuer offering group or individual health insurance coverage, subject to 5 U.S.C. 8902(m)(1), and the provisions of the carrier's contract. For purposes of application of such sections, all carriers

are deemed to offer health benefits in the large group market.

* * * * *

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Accordingly, the Treasury Department and the IRS amend 26 CFR part 54 as follows:

PART 54—PENSION EXCISE TAXES

Par. 3. The authority citation for part 54 is amended by adding entries for §§ 54.9816–3, 54.9816–6A, and 54.9816–9 in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

* * * * *

Section 54.9816–3 also issued under 26 U.S.C. 9816.

Section 54.9816–6A also issued under 26 U.S.C. 9816.

* * * * *

Section 54.9816–9 also issued under 26 U.S.C. 9816.

* * * * *

Par. 4. Section 54.9816–3 is added to read as follows:

§ 54.9816–3 Definitions.

(a) The definitions in § 54.9801–2 apply to §§ 54.9816–4 through 54.9816–9, 54.9817–1, 54.9817–2, and 54.9822–1, unless otherwise specified. In addition, for purposes of §§ 54.9816–4 through 54.9816–9, 54.9817–1, 54.9817–2, and 54.9822–1, the following definition applies:

Bundled payment arrangement means an arrangement under which—

(1) A provider, facility, or provider of air ambulance services bills for multiple items or services furnished to a single patient under a single service code that represents multiple items or services (for example, a Diagnosis-Related Group (DRG) code); or

(2) A plan or issuer makes an initial payment or notice of denial of payment to a provider, facility, or provider of air ambulance services under a single service code that represents multiple items or services furnished to a single patient (for example, a DRG code).

(b) For further guidance, see 29 CFR 2590.716–3.

Par. 5. Section 54.9816–6A is added to read as follows:

§ 54.9816–6A Use of claim adjustment reason codes and remittance advice remark codes.

(a) *In general.* When providing any remittance advice (including in paper or electronic form) to an entity (other than a participant, beneficiary, or enrollee) that does not have a contractual relationship, directly or indirectly, with

a group health plan or a health insurance issuer offering group or individual health insurance coverage for the furnishing of an item or service under the plan or coverage, in response to a claim for payment for health care items and services furnished by that entity, the plan or issuer must use claim adjustment reason codes (CARCs) and remittance advice remark codes (RARCs) (as those terms are described in standards and operating rules adopted at 45 CFR part 162) in the manner and timeframe specified in guidance issued by the Secretaries of the Treasury, Labor, and Health and Human Services, or as required under any applicable adopted standards and operating rules under 45 CFR part 162, to communicate information related to whether the claim is or is not subject to the provisions of this part and 45 CFR 149 subparts E and F.

(b) *Severability.*—(1) Any provision of this section held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, will be construed so as to continue to give maximum effect to the provision permitted by law, unless such holding is one of utter invalidity or unenforceability, in which event the provision will be severable from this section and will not affect the remainder thereof or the application of the provision to persons not similarly situated or to dissimilar circumstances.

(2) The provisions in this section are intended to be severable from the provisions in §§ 54.9816–6, 54.9816–8, and 54.9816–9, from any grant of forbearance from removal resulting from this subpart, and from any provision referenced in §§ 54.9816–6, 54.9816–8, and 54.9816–9.

Par. 6. Section 54.9816–6 is amended by:

- a. Revising paragraphs (a) through (f); and
- b. Adding paragraph (h).

The revisions and addition reads as follows:

§ 54.9816–6 Methodology for calculating qualifying payment amount.

(a) *Definitions.* For further guidance, see 29 CFR 2590.716–6(a) introductory text through (a)(17).

* * * * *

(b) *Methodology for calculation of median contracted rate.* For further guidance, see 29 CFR 2590.716–6(b).

(c) *Methodology for calculation of the qualifying payment amount.* For further guidance, see 29 CFR 2590.716–6(c).

(d) *Information to be shared about the qualifying payment amount.* In cases in which the recognized amount, for an item or service furnished by a

nonparticipating provider or nonparticipating emergency facility, is the qualifying payment amount or the amount billed by the provider or facility, or if the amount on which cost sharing is based for air ambulance services furnished by a nonparticipating provider of air ambulance services is the qualifying payment amount or the amount billed by the provider of air ambulance services, the plan or issuer must provide to the provider, facility, or provider of air ambulance services, as applicable, in writing, in paper or electronic form—

(1) With an initial payment or notice of denial of payment under § 54.9816–4, § 9816–5, or § 54.9817:

(i) For further guidance, see 29 CFR 2590.716–6(d)(1)(i);

(ii) If the qualifying payment amount is based on a downcoded service code or modifier—

(A) A statement that the service code or modifier billed by the provider, facility, or provider of air ambulance services was downcoded;

(B) An explanation of why the claim was downcoded, which must include a description of which service codes were altered, if any, and a description of which modifiers were altered, added, or removed, if any; and

(C) The amount that would have been the qualifying payment amount had the service code or modifier not been downcoded;

(iii) For further guidance, see 29 CFR 2590.716–6(d)(1)(iii);

(iv) A statement that—

(A) If the provider, facility, or provider of air ambulance services, as applicable, wishes to initiate a 30-business-day open negotiation period for purposes of determining the out-of-network rate, the provider, facility, or provider of air ambulance services must:

(1) Contact the appropriate person or office to initiate open negotiation generally within 30 business days of receiving the initial payment or notice of denial of payment, and

(2) For disclosures required to be provided on or after the later of August 3, 2026 and the date that the open negotiation notice can be submitted through the Federal independent dispute resolution (IDR) portal, notify the Secretary of the Treasury (Secretary) as described under § 54.9816–8(b)(1)(i); and

(B) If the 30-business-day open negotiation period does not result in an agreement on the amount of payment, the provider, facility, or provider of air ambulance services may generally initiate the Federal IDR process within 4 business days after the end of the 30-business-day open negotiation period;

(v) For disclosures required to be provided on or after August 3, 2026, the legal business name (if any) of the self-insured group health plan, FEHB Program carrier, or issuer and, if applicable, the legal business name of the self-insured group health plan sponsor, and the registration number assigned to the plan or issuer, as required under § 54.9816–9.

(vi) For further guidance, see 29 CFR 2590.716–6(d)(1)(vi).

(2) In a timely manner upon the request of the provider, facility, or provider of air ambulance services:

(i) For further guidance, see 29 CFR 2590.716–6(d)(2)(i).

(ii) For further guidance, see 29 CFR 2590.716–6(d)(2)(ii).

(iii) For further guidance, see 29 CFR 2590.716–6(d)(2)(iii).

(iv) For further guidance, see 29 CFR 2590.716–6(d)(2)(iv).

(e) For further guidance, see 29 CFR 2590.716–6(e).

(f) For further guidance, see 29 CFR 2590.716–6(f).

* * * * *

(h) *Severability.* (1) Any provision of this section held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, will be construed so as to continue to give maximum effect to the provision permitted by law, unless such holding is one of utter invalidity or unenforceability, in which event the provision will be severable from this section and will not affect the remainder thereof or the application of the provision to persons not similarly situated or to dissimilar circumstances.

(2) The provisions in this section are intended to be severable from the provisions in §§ 54.9816–6A, 54.9816–8, and 54.9816–9, from any grant of forbearance from removal resulting from this subpart, and from any provision referenced in §§ 54.9816–6A, 54.9816–8, and 54.9816–9.

Par. 7. Section 54.9816–8 is revised to read as follows:

§ 54.9816–8 Independent dispute resolution process.

(a) *Scope and Definitions*—(1) *Scope.* For further guidance, see 29 CFR 2590.716–8(a)(1).

(2) *Definitions.* For further guidance, see 29 CFR 2590.7160–8(a)(2). Additionally, for purposes of this section, the following definitions apply:

(i) *Batched qualified IDR items and services* means multiple qualified Independent Dispute Resolution (IDR) items or services that are considered jointly as part of one payment determination by a certified IDR entity for purposes of the Federal IDR process

in accordance with paragraph (c)(4)(i) of this section.

(ii) For further guidance, see 29 CFR 2590.716–8(a)(2)(ii) through (xii).

(b) *Determination of payment amount through open negotiation and initiation of the Federal IDR process*—(1)

Determination of payment amount through open negotiation—(i) *In general.* For an item or service that meets the requirements of 29 CFR 2590.716–8(a)(2)(xi)(A), the provider, facility, or provider of air ambulance services or the group health plan or health insurance issuer offering group or individual health insurance coverage may, during the 30-business-day period beginning on the day the provider, facility, or provider of air ambulance services receives an initial payment or notice of denial of payment regarding the item or service, initiate a 30-business-day open negotiation period for purposes of determining the out-of-network rate for such item or service. To initiate the open negotiation period, a party must submit a written open negotiation notice with the content specified in paragraph (b)(1)(ii) of this section to the other party and to the Secretary in the manner specified in paragraph (b)(3) of this section. The 30-business-day open negotiation period begins on the day on which the party first submits the open negotiation notice, including the remittance advice documentation specified in paragraph (b)(1)(ii)(A)(12) of this section to the other party and the Secretary of the Treasury (Secretary). The party in receipt of the open negotiation notice must provide to the party that initiated open negotiation and to the Secretary in the manner specified in paragraph (b)(3) of this section, as soon as practicable, but no later than the 15th business day of the 30-business-day open negotiation period, a written notice and supporting documentation in response to the open negotiation notice, as specified in paragraph (b)(1)(iii)(A) of this section.

(ii) *Open negotiation notice*—(A) *Content.* The open negotiation notice must include, for the item or service that is the subject of the open negotiation notice, information about the item or service and the parties, including:

(1) Information sufficient to identify the provider, facility, or provider of air ambulance services, including the name and current contact information (including the legal business name, email address, phone number, and mailing address) as provided with the claim form submitted by the provider, facility, or provider of air ambulance services to the plan or issuer, and the

applicable National Provider Identifier (NPI);

(2) Information sufficient to identify the plan or issuer, including the plan's or issuer's registration number, as required under § 54.9816–9, or an attestation from the party submitting the open negotiation notice that the plan's or issuer's registration number was not provided on any remittance advice associated with the initial payment or notice of denial of payment for the item or service; the legal business name of the plan or issuer (or, in the case of a self-insured group health plan that does not have a legal business name, the legal business name of the plan sponsor), as well as the current contact information (name, email address, phone number, and mailing address) of the plan or issuer as provided with any remittance advice associated with the initial payment or notice of denial of payment for the item or service; and if the party submitting the open negotiation notice is a plan or issuer, the plan type (for example, self-insured or fully-insured);

(3) The name and contact information (including the legal business name, email address, phone number, and mailing address) for any third party representing the party submitting the open negotiation notice, and an attestation that the third party has the authority to act on behalf of the party it represents in the open negotiation;

(4) Information sufficient to identify the item or service, including: the date(s) the item or service was furnished and, if the party submitting the open negotiation notice is a provider, facility, or provider of air ambulance services, the date(s) that the provider, facility, or provider of air ambulance services received the initial payment or notice of denial of payment for the item or service from the plan or issuer; the type of item or service (specifically, whether the item or service is an emergency service as defined in § 2590.716–4(c)(2)(i) or (ii), a non-emergency service as described in § 2590.716–5(b), or an air ambulance service as defined in § 2590.716–3); whether the service is a professional service or facility-based service; the State where the item or service was furnished; the claim number; the service code; and information to identify the location where the item or service was furnished (such as, place of service code or bill type code);

(5) The initial payment amount (including \$0 if payment is denied);

(6) The qualifying payment amount, if provided in a remittance advice associated with the initial payment or notice of denial of payment, or if the

party submitting the open negotiation notice is a plan or issuer;

(7) An offer of an out-of-network rate for each item or service;

(8) If the party submitting the open negotiation notice is a plan or issuer, the amount of cost sharing imposed for the item or service, if any;

(9) If the party submitting the open negotiation notice is a provider or facility, a statement that the items and services do not qualify for the notice and consent exception described at 45 CFR 149.410(b) or 45 CFR 149.420(c) through (i);

(10) A statement that the provider, facility, or provider of air ambulance services was a nonparticipating provider, nonparticipating emergency facility, or nonparticipating provider of air ambulance services on the date the item or service was furnished;

(11) General information listed in the standard open negotiation notice developed by the Secretary pursuant to paragraph (b)(3) of this section describing the open negotiation period and the Federal IDR process (including a description of the purpose of the open negotiation period and Federal IDR process and key deadlines in the open negotiation period and Federal IDR process); and

(12) A copy of any remittance advice associated with the initial payment or notice of denial of payment for the item or service.

(B) [Reserved]

(iii) *Open negotiation response notice*—(A) *Content*. The response to the open negotiation notice must include, for the item or service that is the subject of the open negotiation response notice, information about the item or service and the parties, including:

(1) Information sufficient to identify the provider, facility, or provider of air ambulance services, including the name and current contact information (including the legal business name, email address, phone number, and mailing address) as provided with the claim form submitted by the provider, facility, or provider of air ambulance services to the plan or issuer, and the applicable NPI;

(2) Information sufficient to identify the plan or issuer, including the plan's or issuer's registration number, as required under § 54.9816–9, or an attestation from the party submitting the open negotiation response notice that the plan's or issuer's registration number was not provided on any remittance advice associated with the initial payment or notice of denial of payment for the item or service, as well as the legal business name of the plan

or issuer (or, in the case of a self-insured group health plan that does not have a legal business name, the legal business name of the plan sponsor), the current contact information (name, email address, phone number, and mailing address) of the plan or issuer as provided with any remittance advice associated with the initial payment or notice of denial of payment for the item or service; and if the party submitting the open negotiation response notice is a plan or issuer, the plan type (for example, self-insured or fully-insured);

(3) The name and contact information (including the legal business name, email address, phone number, and mailing address) for any third party representing the party submitting the open negotiation response notice, and an attestation that the third party has the authority to act on behalf of the party it represents in the open negotiation;

(4) Information sufficient to identify the item or service included in the open negotiation notice, including the date(s) the item or service was furnished, and if the party submitting the open negotiation response notice is a provider, facility, or provider of air ambulance services, the date(s) that the provider, facility, or provider of air ambulance services received the initial payment or notice of denial of payment for the item or service from the plan or issuer, and the claim number;

(5) If the party submitting the open negotiation response notice is a plan or issuer, a statement as to whether it agrees that the initial payment amount (including \$0 if payment is denied) and the qualifying payment amount reflected in the open negotiation notice accurately reflect the initial payment amount and qualifying payment amount disclosed with the initial payment for the item or service, and if not, or if the open negotiation notice indicates that the initial payment amount or qualifying payment amount was not communicated by the plan or issuer in a remittance advice associated with the initial payment or notice of denial of payment, the initial payment amount (including \$0 if payment is denied) and/or qualifying payment amount it believes to be correct, and documentation to support the statement (for example, the remittance advice confirming the qualifying payment amount);

(6) If the party submitting the open negotiation response notice is a plan or issuer, the amount of cost sharing imposed for the item or service, if any;

(7) If the party submitting the open negotiation response notice is a provider or facility, a statement that the items

and services do not qualify for the notice and consent exception described at 45 CFR 149.410(b) or 45 CFR 149.420(c) through (i);

(8) For each item or service, either a statement and supporting documentation that explains why the item or service is not subject to the Federal IDR process or a statement agreeing that the item or service is subject to the Federal IDR process;

(9) A statement as to whether any of the information provided in the open negotiation notice is inaccurate and the basis for the statement, as well as supporting documentation; and

(10) A statement confirming that the initial payment or notice of denial of payment or other remittance advice reflected in the open negotiation notice under paragraph (b)(1)(ii)(A)(12) of this section is accurate, or if inaccurate, a copy of the accurate remittance advice associated with the initial payment or notice of denial of payment for the item or service.

(B) [Reserved]

(2) *Initiating the Federal IDR process*—(i) *In general*. Either party may initiate the Federal IDR process for a qualified IDR item or service as defined in 29 CFR 2590.716–8(a)(2)(xi) for which the parties have not agreed on an out-of-network rate by the last day of the open negotiation period provided for under paragraph (b)(1) of this section. To initiate the Federal IDR process, a party (the initiating party) must submit a written notice of IDR initiation, consistent with paragraph (b)(2)(ii) of this section, to the other party to the dispute (the non-initiating party) and to the Secretary in the manner specified in paragraph (b)(3) of this section, during the 4-business-day period beginning on the first business day after the last day of the open negotiation period (unless it is otherwise required to be submitted in the timeframe specified in paragraph (c)(5)(vii)(C) of this section). The date of IDR initiation is the date the Secretary receives the notice of IDR initiation described in paragraph (b)(2)(ii) of this section.

(A) *Exception for items and services provided by certain nonparticipating providers and facilities*. A party may not initiate the Federal IDR process for an item or service if, for that item or service, the party knows (or reasonably should have known) that the provider or facility provided notice and received consent under 45 CFR 149.410(b) or 45 CFR 149.420(c) through (i).

(B) [Reserved]

(ii) *Notice of IDR initiation*—(A) *Content*. The notice of IDR initiation must include, for the item or service that is the subject of the notice,

information about the item or service and the parties including:

(1) Information sufficient to identify the provider, facility, or provider of air ambulance services, including the name and current contact information (including the legal business name, email address, phone number, and mailing address), and the NPI; and if the initiating party is a provider, facility, or provider of air ambulance services, the Taxpayer Identification Number (TIN);

(2) Information sufficient to identify the plan or issuer, including the plan's or issuer's registration number, as required under § 54.9816–9, or an attestation from the initiating party that the plan's or issuer's registration number was not provided on any remittance advice associated with the initial payment or notice of denial of payment for the item or service; the legal business name of the plan or issuer (or, in the case of a self-insured group health plan that does not have a legal business name, the legal business name of the plan sponsor), as well as the current contact information (name, email address, phone number, and mailing address) of the plan or issuer as provided with any remittance advice associated with the initial payment or notice of denial of payment for the item or service; and if the initiating party is a plan or issuer, the plan type (for example, self-insured or fully-insured) and TIN (or, in the case of a plan that does not have a TIN, the TIN of the plan sponsor);

(3) The name and contact information (including the legal business name, email address, phone number, TIN, and mailing address) for any third party representing the initiating party, and an attestation that the third party has the authority to act on behalf of the party it represents in the Federal IDR process;

(4) Information sufficient to identify whether the dispute being initiated includes batched or bundled qualified IDR items or services as described in paragraph (c)(4) of this section;

(5) Information sufficient to identify the qualified IDR item or service that is the subject of the notice of IDR initiation, including the date(s) the qualified IDR item or service was furnished; if the initiating party is a provider, facility, or provider of air ambulance services, the date(s) that the provider, facility, or provider of air ambulance services received the initial payment or notice of denial of payment for such item or service from the plan or issuer; the date the open negotiation period under paragraph (b)(1) of this section began; the type of item or service (specifically, whether the item or service that meets the requirements of

29 CFR 2590.716–8(a)(2)(xi)(A) is an emergency service as defined in 29 CFR 2590.716–4(c)(2)(i) or (ii), a non-emergency service as described in 29 CFR 2590.716–5(b), or an air ambulance service as defined in 29 CFR 2590.716–3); whether the service is a professional service or facility-based service; the State where the item or service was furnished; the claim number; the service code; and information to identify the location the item or service was furnished (including place of service code or bill type code);

(6) The initial payment amount (including \$0 if payment is denied);

(7) If the initiating party is a plan or issuer, the amount of cost sharing imposed for the item or service, if any;

(8) The qualifying payment amount, if provided with the initial payment or notice of denial of payment, or if the initiating party is a plan or issuer;

(9) If the initiating party is a provider or facility, a statement that the items and services do not qualify for the notice and consent exception described at 45 CFR 149.410(b) or 45 CFR 149.420(c) through (i);

(10) A statement that the provider, facility, or provider of air ambulance services was a nonparticipating provider, a nonparticipating emergency facility, or nonparticipating provider of air ambulance services on the date the item or service was furnished;

(11) Attestation that the item or service under dispute is a qualified IDR item or service as defined in 29 CFR 2590.716–8(a)(2)(xi) and is eligible for the Federal IDR process, and the basis for the attestation;

(12) General information listed in the standard notice of IDR initiation developed by the Secretary under paragraph (b)(3) of this section describing the Federal IDR process (including a description of the purpose of the Federal IDR process and key deadlines in the Federal IDR process);

(13) A copy of any remittance advice associated with the initial payment or notice of denial of payment for the item or service; and

(14) Preferred certified IDR entity.

(B) [Reserved]

(iii) *Notice of IDR initiation response.*

The non-initiating party must provide to the initiating party and the Secretary in the manner specified in paragraph (b)(3) of this section within 3 business days after the date of IDR initiation, a written notice and supporting documentation in response to the notice of IDR initiation, as specified in paragraph (b)(2)(iii)(A) of this section.

(A) *Content.* The notice of IDR initiation response must include, for the item or service that is the subject of the

notice, information about the item or service and the parties, including:

(1) Information sufficient to identify the provider, facility, or provider of air ambulance services, including the name and current contact information (including the legal business name, email address, phone number, and mailing address), and the NPI; and if the non-initiating party is a provider, facility, or provider of air ambulance services, the TIN;

(2) Information sufficient to identify the plan or issuer, including the plan's or issuer's registration number, as required under § 54.9816–9, or an attestation from the non-initiating party that the plan's or issuer's registration number was not provided on any remittance advice associated with the initial payment or notice of denial of payment for the item or service; the legal business name of the plan or issuer (or, in the case of a self-insured group health plan that does not have a legal business name, the legal business name of the plan sponsor), as well as the current contact information (name, email address, phone number, and mailing address) of the plan or issuer as provided with any remittance advice associated with the initial payment or notice of denial of payment; and if the non-initiating party is a plan or issuer, the plan type (for example, self-insured or fully-insured) and TIN (or, in the case of a plan that does not have a TIN, the TIN of the plan sponsor);

(3) The name and contact information (including the legal business name, email address, phone number, TIN, and mailing address) for any third party representing the non-initiating party, and an attestation that the third party has the authority to act on behalf of the party it represents in the Federal IDR process;

(4) Information sufficient to identify each item or service included in the notice of IDR initiation, including the date(s) the item or service was furnished and if the non-initiating party is a provider, facility, or provider of air ambulance services, the date(s) that the provider, facility, or provider of air ambulance services received the initial payment or notice of denial of payment for such item or service from the plan or issuer, and the claim number;

(5) If the non-initiating party is a plan or issuer, a statement as to whether the non-initiating party agrees that the initial payment (including \$0 if payment is denied) and the qualifying payment amount reflected in the notice of IDR initiation is accurate for the item or service that is the subject of the dispute, and if not, the initial payment amount (including \$0 if payment is

denied) and/or qualifying payment amount it believes to be correct, and documentation to support the statement (for example, the remittance advice confirming the qualifying payment amount);

(6) If the non-initiating party is a plan or issuer, the amount of cost sharing imposed for the item or service, if any;

(7) If the non-initiating party is a provider or facility, a statement that the items and services do not qualify for the notice and consent exception described at 45 CFR 149.410(b) or 45 CFR 149.420(c) through (i);

(8) For each item or service that is the subject of the dispute, either an attestation that the item or service is a qualified IDR item or service as defined in 29 CFR 2590.716–8(a)(2)(xi) of this section and is eligible for the Federal IDR process, or for each item or service that the non-initiating party asserts is not a qualified IDR item or service that is eligible for the Federal IDR process, an explanation and documentation to support the assertion;

(9) A statement confirming that the remittance advice associated with the initial payment or notice of denial of payment provided by the initiating party under paragraph (b)(2)(ii)(A)(13) of this section is accurate or, if inaccurate, a copy of the accurate remittance advice associated with the initial payment or notice of denial of payment for the item or service;

(10) A statement as to whether any of the information provided in the notice of IDR initiation is inaccurate and the basis for the statement, as well as any supporting documentation; and

(11) A statement as to whether the non-initiating party agrees or objects to the initiating party's preferred certified IDR entity. If the non-initiating party objects to the initiating party's preferred certified IDR entity, the notice of IDR initiation response must include the name of an alternative preferred certified IDR entity and, if applicable, an explanation of any conflict of interest with the initiating party's preferred certified IDR entity.

(B) [Reserved]

(3) *Manner.* A party furnishing notices as required under paragraphs (b)(1)(ii) and (iii) and (b)(2)(ii) and (iii) of this section must furnish the notices using the standard forms developed by the Secretary and must furnish the notices and supporting documentation to the other party and the Secretary through the Federal IDR portal.

(c) *Federal IDR process following initiation.*—(1) *Selection of certified IDR entity.*—(i) *Preliminary selection of the certified IDR entity.* Within 3 business days after the date of IDR initiation, the

non-initiating party must agree or object to the preferred certified IDR entity identified in the notice of IDR initiation by submitting the notice of IDR initiation response described in paragraph (b)(2)(iii) of this section, which contains the information described in subordinate paragraph (b)(2)(iii)(A)(11) thereof.

(A) If the non-initiating party agrees or fails to respond to the selection of the initiating party's preferred certified IDR entity in the manner and timeframe described in paragraph (c)(1)(i) of this section, the initiating party's preferred certified IDR entity will be considered jointly selected on the third business day after the date of IDR initiation.

(B) If the non-initiating party objects to the selection of the initiating party's preferred certified IDR entity by designating an alternative preferred certified IDR entity in the manner and timeframe described in paragraph (c)(1)(i) of this section, the initiating party may then agree or object to the non-initiating party's alternative preferred certified IDR entity by submitting the notice of certified IDR entity selection in the manner specified in paragraph (c)(1)(i)(D) of this section.

(1) If the initiating party agrees to the non-initiating party's alternative preferred certified IDR entity within 3 business days after the date of IDR initiation, the alternative preferred certified IDR entity will be considered jointly selected by the parties.

(2) If the non-initiating party submits the notice of IDR initiation response on the first or second business day after the date of IDR initiation, and the initiating party fails to respond within 3 business days after the date of IDR initiation, the alternative preferred certified IDR entity will be considered jointly selected by the parties.

(3) If the non-initiating party submits the notice of IDR initiation response on the third business day after the date of IDR initiation and the initiating party fails to respond on the same day, selection will proceed pursuant to paragraph (c)(1)(i)(C) of this section.

(C) If a certified IDR entity is not jointly selected under paragraph (c)(1)(i)(A) or (B) of this section, either party may select an alternative preferred certified IDR entity by submitting the notice of certified IDR entity selection in the manner specified in paragraph (c)(1)(i)(D) of this section, until the earlier of the date that the parties agree on the alternative preferred certified IDR entity or the deadline for joint selection, which is 3 business days after the date of IDR initiation. Once a party submits a notice of certified IDR entity selection, it may not submit another notice of

certified IDR entity selection until it receives a responding notice of certified IDR entity selection from the other party.

(1) If a party submits a notice of certified IDR entity selection to the other party on the first or second business day after the date of IDR initiation and the party in receipt of the notice agrees or fails to respond to the alternative preferred certified IDR entity by the third business day after the date of IDR initiation, the alternative preferred certified IDR entity will be considered jointly selected by the parties.

(2) If a party submits a notice of certified IDR entity selection to the other party on the third business day after the date of IDR initiation and the party last in receipt of the notice agrees to the alternative preferred certified IDR entity on the same day, the alternative preferred certified IDR entity will be considered jointly selected by the parties.

(3) If a party submits a notice of certified IDR entity selection to the other party on the third business day after the date of IDR initiation and the party last in receipt of the notice fails to respond to the alternative preferred certified IDR entity on the same day, the parties will have failed to jointly select a certified IDR entity.

(D) To notify the other party and the Secretary of an agreement or objection to an alternative preferred certified IDR entity as described in paragraph (c)(1)(i)(C) of this section, a party must furnish a notice of certified IDR entity selection, using the standard form developed by the Secretary, to the other party and the Secretary through the Federal IDR portal within 3 business days after the date of IDR initiation. The notice of certified IDR entity selection must include a statement indicating the party's agreement with or objection to the other party's alternative preferred certified IDR entity and, if applicable, an explanation of any conflict of interest with the alternative preferred certified IDR entity, and the name of another alternative preferred certified IDR entity. However, in the event the conditions for failure to jointly select a certified IDR entity apply, selection will proceed in accordance with paragraph (c)(1)(ii) of this section.

(ii) *Failure to jointly select a certified IDR entity.* If the parties fail to jointly select a certified IDR entity within 3 business days after the date of IDR initiation, the Secretary will select a certified IDR entity. The parties will have failed to jointly select a certified IDR entity if, by the end of the third business day after the date of IDR

initiation, the party last in receipt of the notice of IDR initiation response or the notice of certified IDR entity selection has received an objection to their preferred or alternative preferred certified IDR entity in the applicable notice. Alternatively, the parties will have failed to jointly select a certified IDR entity if the notice of IDR initiation response or the notice of certified IDR entity selection is submitted to the other party on the third business day after the date of IDR initiation and the party in receipt of the notice fails to respond to the alternative preferred certified IDR entity on the same day.

(A) In selecting the certified IDR entity, the Secretary will first confirm whether a party submitted the notice of IDR initiation response or the notice of certified IDR entity selection with an alternative preferred certified IDR entity on the third business day after the date of IDR initiation without the other party's agreement to the selection. If either notice was provided on the third business day after the date of IDR initiation without the other party's agreement to the alternative preferred certified IDR entity by the end of the third business day after the date of IDR initiation, the Secretary will provide the party last in receipt of the applicable notice, as of the end of the third business day after the date of IDR initiation, 2 additional business days to agree or object to the other party's alternative preferred certified IDR entity selection.

(1) If the party last in receipt of the applicable notice, as of the end of the third business day after the date of IDR initiation, agrees with the other party's alternative preferred certified IDR entity and notifies the Secretary of the agreement, or fails to respond in the Federal IDR portal by the fifth business day after the date of IDR initiation, the Secretary will select the final alternative preferred certified IDR entity selected in the applicable notice.

(2) If the party last in receipt of the applicable notice, as of the end of the third business day after the date of IDR initiation, notifies the Secretary of its objection to the alternative preferred certified IDR entity by the fifth business day after the date of IDR initiation, the Secretary will randomly select a certified IDR entity from among the certified IDR entities (other than the preferred certified IDR entity and any alternative preferred certified IDR entity previously selected in such dispute by a party, unless there is no other certified IDR entity available to select) that charge a fee within the allowed range of certified IDR entity fees, not later than the sixth business day after the date of

IDR initiation. If there are insufficient certified IDR entities that charge a fee within the allowed range of certified IDR entity fees available to arbitrate the dispute, the Secretary will select a certified IDR entity that has received approval, as described in paragraph (e)(2)(vii)(A) of this section, to charge a fee outside of the allowed range of certified IDR entity fees. In either case, the Secretary will notify the parties of the preliminary selection of the certified IDR entity not later than 6 business days after the date of IDR initiation.

(B) [Reserved]

(iii) *Date of preliminary selection of the certified IDR entity.* The date of preliminary selection of the certified IDR entity will be:

(A) Three business days after the date of IDR initiation if the parties jointly select a certified IDR entity, as specified in paragraph (c)(1)(i) of this section; or

(B) Six business days after the date of IDR initiation, if the parties fail to jointly select a certified IDR entity as specified in paragraph (c)(1)(ii) of this section.

(iv) *Final selection of the certified IDR entity—(A) Conflict-of-interest review.* The certified IDR entity preliminarily selected for a dispute must review the selection. The selection of the certified IDR entity will be finalized only if the certified IDR entity attests to the Secretary that it meets the following requirements:

(1) The certified IDR entity does not have a conflict of interest as defined in 29 CFR 2590.716–8(a)(2)(iv);

(2) The certified IDR entity will only assign personnel to a dispute and make decisions regarding hiring, compensation, termination, promotion, or other similar matters related to personnel assigned to the dispute in a manner that is not based upon the likelihood that the assigned personnel will support a particular party to the dispute; and

(3) The certified IDR entity will not assign any personnel to a dispute who would have any conflicts of interest, as defined in 29 CFR 2590.716–8(a)(2)(iv), regarding any party to the dispute or whose relationship with a party within the 1 year immediately preceding the assignment to the dispute would violate the restrictions on aiding or advising a former employer or principal in a manner similar to the restrictions set forth in 18 U.S.C. 207(b).

(B) *Failure to meet conflict-of-interest requirements.* If the certified IDR entity fails to attest to the Secretary within 3 business days of the date of preliminary selection of the certified IDR entity that it meets the requirements of paragraphs (c)(1)(iv)(A)(1) through (3) of this

section, the Secretary will randomly select another certified IDR entity consistent with paragraph (c)(1)(ii) of this section. The Secretary will notify the parties of the new randomly preliminarily selected certified IDR entity no later than 1 business day after the date of preliminary selection of the certified IDR entity, no later than 1 business day after the end of the 3-business-day period.

(C) *Date of final selection of the certified IDR entity.* If the certified IDR entity that has been preliminarily selected attests within 3 business days that it meets the requirements of paragraph (c)(1)(iv)(A) of this section, the Secretary will notify the parties of the final selection of the certified IDR entity no later than 1 business day after the certified IDR entity attests that it meets the conflict-of-interest requirements. The date of final selection of the certified IDR entity is the date that the Secretary provides this notice to the parties.

(2) *Federal IDR process eligibility review—(i) Federal IDR process eligibility determination by certified IDR entity.* The selected certified IDR entity must review the information in the notice of IDR initiation, notice of IDR initiation response, and any additional information described in paragraph (c)(2)(ii) of this section, and make a final determination as to whether the item or service is a qualified IDR item or service (and in the case of a batched dispute, whether the items or services are qualified IDR items or services), as defined in 29 CFR 2590.716–8(a)(2)(xi), that is eligible for the Federal IDR process. The certified IDR entity must make such a determination and notify the Secretary and both parties no later than 5 business days after the date of final selection of the certified IDR entity. If the certified IDR entity determines that the item or service is not a qualified IDR item or service that is eligible for the Federal IDR process, the dispute will be closed, and the selected certified IDR entity will not take any further action with respect to the dispute. In the case of a batched dispute, only those items and services determined to be qualified IDR items or services that are eligible for the Federal IDR process and that meet the requirements of paragraph (c)(4)(i) of this section will continue through the Federal IDR process, and the selected certified IDR entity will not take any further action with respect to the other items and services included in the batched dispute.

(ii) *Request for additional information.* The selected certified IDR entity may request additional

information from either party to a dispute at any time, including for the purpose of assessing whether a conflict of interest exists, conducting an eligibility determination, or making a payment determination.

(A) Upon request, a party must submit the additional information within 5 business days to the selected certified IDR entity through the Federal IDR portal. Following a request for additional information, the time period for the applicable stage of the Federal IDR process will be tolled until the earlier of the date either all of the requested information is provided or the 5-business-day period expires, and each subsequent timeframe in the Federal IDR process will be determined based on the date of completion of the stage of the Federal IDR process that was tolled for provision of the requested information.

(B) If a party fails to submit the additional information as required, the related determination, including the conflict-of-interest review, eligibility determination, or payment determination, will be made without the requested information unless a good-cause extension of the 5-business-day period, as specified in paragraph (g)(1)(i) of this section, has been provided, and the party subsequently submits the additional information requested within the extended period. If the related determination cannot be made because both parties failed to provide the additional information as required, the dispute will be considered withdrawn, as specified in paragraph (c)(3)(ii) of this section.

(3) *Authority to continue negotiations or withdraw.* (i) *Authority to continue to negotiate.* If the parties to the Federal IDR process agree on an out-of-network rate for a qualified IDR item or service after providing the notice of IDR initiation to the Secretary required under paragraph (b)(2)(ii) of this section, but before the certified IDR entity has made its payment determination, the amount agreed to by the parties for the qualified IDR item or service will be treated as the out-of-network rate for the qualified IDR item or service. To the extent the amount exceeds the initial payment amount and any cost sharing paid or owed by the participant, beneficiary, or enrollee, payment must be made directly by the plan or issuer to the nonparticipating provider, nonparticipating facility, or nonparticipating provider of air ambulance services not later than 30 calendar days after the date the agreement is reached. In no instance may either party seek additional payment from the participant,

beneficiary, or enrollee, calculated based on the agreed-upon amount, in instances in which the out-of-network rate exceeds the qualifying payment amount. The initiating party must send a notification for the parties' agreement to the Secretary and the certified IDR entity (if selected) through the Federal IDR portal as soon as possible, but no later than 3 business days after the date of the agreement. The notification must include the dispute number, a statement of the agreed-on out-of-network rate for the qualified IDR item or service, and signatures from authorized signatories for both parties.

(ii) *Withdrawal of disputes.* A dispute may be withdrawn from the Federal IDR process by the initiating party, the Secretary, or a certified IDR entity before a payment determination is made, if one of the following conditions is met:

(A) The initiating party provides notification through the Federal IDR portal to the Secretary and the certified IDR entity (if selected) that both parties to the dispute agree to withdraw the dispute from the Federal IDR process without agreement on an out-of-network rate. The notification must include the dispute number, a statement about both parties' agreement to withdraw, and signatures from authorized signatories for both parties;

(B) The initiating party provides a standard withdrawal request notice through the Federal IDR portal to the Secretary, the certified IDR entity (if selected), and the non-initiating party of its request to withdraw the dispute from the Federal IDR process, and the non-initiating party notifies the Secretary, certified IDR entity (if selected), and the initiating party through the Federal IDR portal of its agreement to withdraw from the Federal IDR process within 5 business days of the initiating party's request. Provision of the withdrawal request through the Federal IDR portal pauses the Federal IDR process for 5 business days or until the non-initiating party responds, whichever happens first. If the non-initiating party fails to respond within 5 business days of the initiating party's request, the non-initiating party will be considered to have agreed to the withdrawal, and the dispute will be withdrawn;

(C) The certified IDR entity cannot determine eligibility, for example, because both parties to the dispute are nonresponsive to any requests for additional information to determine eligibility as described in paragraph (c)(2)(ii) of this section; or

(D) The certified IDR entity cannot make a payment determination, for example, because both parties to the

dispute have failed to submit an offer as described in paragraph (c)(5)(i) of this section.

(4) *Treatment of batched qualified IDR items and services.*— (i) *In general.* For purposes of encouraging efficiencies (including minimizing costs) in the Federal IDR process, a certified IDR entity may consider up to 50 qualified IDR items and services jointly as part of a single payment determination that is subject to the certified IDR entity fee for batched disputes only if the qualified IDR items and services meet the requirements of this paragraph (c)(4)(i):

(A) For further guidance, see 29 CFR 2590.716–8(c)(4)(i)(A):

(B) Payment for the qualified IDR items and services is required to be made by the same group health plan or health insurance issuer. For group or individual health insurance coverage, this requirement is satisfied if the same issuer is required to make payment for the qualified IDR items and services, even if the qualified IDR items and services relate to claims from different group health plans or individual market policies. For self-insured group health plans, this requirement is satisfied if the same self-insured group health plan is required to make payment for the qualified IDR items and services, including when the plan makes payments through a third party administrator; the requirement is not satisfied if multiple self-insured group health plans are required to make payments for the qualified IDR items and services, even if those group health plans make payments through the same third party administrator;

(C) The qualified IDR items and services meet any of the following criteria under which multiple qualified IDR items and services relate to the treatment of a similar condition:

(1) The qualified IDR items or services were furnished to a single patient during a single patient encounter. For purposes of this section, a single patient encounter is defined as a patient encounter on one or more consecutive days during which the qualified IDR items or services were furnished to the same patient and billed on the same claim form; or

(2) The qualified IDR items and services were furnished to one or more patients and were billed under the same service code or a comparable code under a different procedural coding system, such as Current Procedural Terminology (CPT) codes with modifiers, if applicable, Healthcare Common Procedure Coding System (HCPCS) codes with modifiers, if applicable, or Diagnosis-Related Group

(DRG) codes with modifiers, if applicable; or

(3) For anesthesiology, radiology, pathology, and laboratory qualified IDR items and services, the qualified IDR items and services were furnished to one or more patients and were billed under service codes belonging to the same Category I CPT code range, as specified in guidance published by the Secretary; and

(D) All the qualified IDR items and services were furnished within the same 30-business-day period following the date on which the first item or service included in the batched dispute was furnished, and the qualified IDR items and services were the subjects of a 30-business-day open negotiation period that ended within 4 business days of IDR initiation, except as provided in paragraph (c)(5)(vii)(B) of this section.

(ii) *Treatment of bundled payment arrangements.* Qualified IDR items and services that meet the definition of a bundled payment arrangement under § 54.9816–3 may be submitted and considered as a single payment determination, and the certified IDR entity must make a single payment determination for the multiple qualified IDR items and services included in the bundled payment arrangement. Bundled payment arrangements as defined in § 54.9816–3 and submitted under this paragraph (c)(4)(ii) are subject to the certified IDR entity fee for single determinations.

(5) *Payment determination for a qualified IDR item or service—(i) Submission of offers.* Not later than 10 business days after the date of final selection of the certified IDR entity as described in paragraph (c)(1)(iv)(C) of this section (or not later than 10 business days after the qualified IDR items and services are determined eligible as described in paragraph (c)(2) of this section, when the Secretary determines that any of the extenuating circumstances described in paragraph (g)(1)(ii) of this section apply, the plan or issuer and the provider, facility, or provider of air ambulance services:

(A) For further guidance, see 29 CFR 2590.716–8(c)(5)(i)(A).

(B) For further guidance, see 29 CFR 2590.716–8(c)(5)(i)(B).

(ii) *Payment determination and notification.* Not later than 30 business days after the date of final selection of the certified IDR entity as described in paragraph (c)(1)(iv)(C) of this section (or not later than 30 business days after the qualified IDR items and services are determined eligible as described in paragraph (c)(2) of this section, when the Secretary determines that any of the extenuating circumstances described in

paragraph (g) of this section apply), the certified IDR entity must:

(A) Select as the out-of-network rate for the qualified IDR item or service one of the offers submitted under paragraph (c)(5)(i) of this section, weighing only the considerations specified in paragraph (c)(5)(iii) of this section (as applied to the information provided by the parties pursuant to 29 CFR 2590.716–8(c)(5)(i). The certified IDR entity must select the offer that the certified IDR entity determines best represents the value of the qualified IDR item or service as the out-of-network rate.

(1) *Prevailing party.* In the case of single determinations, the party whose offer is selected by the certified IDR entity is considered the prevailing party. In the case of batched determinations, the party with the most determinations in its favor is considered the prevailing party.

(2) *Non-prevailing party.* In the case of single determinations, the party whose offer is not selected by the certified IDR entity is considered the non-prevailing party. In the case of batched determinations, the party with the fewest determinations in its favor is considered the non-prevailing party.

(3) *Parties prevailing in equal numbers of determinations.* If each party prevails in an equal number of determinations, neither party will be considered the prevailing party or the non-prevailing party, and the certified IDR entity fee will be split evenly between the parties.

(B) For further guidance, see 29 CFR 2590.716–8(c)(5)(ii)(B).

(iii) *Considerations in determination.* In determining which offer to select:

(A) The certified IDR entity must consider the qualifying payment amount(s) for the applicable year for the same or similar item or service.

(B) The certified IDR entity must consider information submitted by a party that relates to the following circumstances:

(1) The level of training, experience, and quality and outcomes measurements of the provider or facility that furnished the qualified IDR item or service (such as those endorsed by the consensus-based entity authorized in section 1890 of the Social Security Act).

(2) The market share held by the provider or facility or that of the plan or issuer in the geographic region in which the qualified IDR item or service was provided.

(3) The acuity of the participant or beneficiary receiving the qualified IDR item or service, or the complexity of furnishing the qualified IDR item or service to the participant or beneficiary.

(4) The teaching status, case mix, and scope of services of the facility that furnished the qualified IDR item or service, if applicable.

(5) Demonstration of good faith efforts (or lack thereof) made by the provider or facility or the plan or issuer to enter into network agreements with each other, and, if applicable, contracted rates between the provider or facility, as applicable, and the plan or issuer, as applicable, during the previous 4 plan years.

(C) The certified IDR entity must also consider information provided by a party in response to a request by the certified IDR entity under 29 CFR 2590.716–8(c)(5)(i)(A)(2) that relates to the offer for the payment amount for the qualified IDR item or service that is the subject of the payment determination and that does not include information on factors described in 29 CFR 2590.716–8(c)(5)(v).

(D) The certified IDR entity must also consider additional information submitted by a party that relates to the offer for the payment amount for the qualified IDR item or service that is the subject of the payment determination and that does not include information on factors described in 29 CFR 2590.716–8(c)(5)(v).

(iv) [Reserved]

(v) *Prohibition on consideration of certain factors.* For further guidance, see 29 CFR 2590.716–8(c)(5)(v).

(vi) *Written decision.* (A) The certified IDR entity must explain its determination in a written decision submitted to the parties and the Secretary, in a form and manner specified by the Secretary;

(B) The certified IDR entity's written decision must include an explanation of their determination, including what information the certified IDR entity determined demonstrated that the offer selected as the out-of-network rate is the offer that best represents the value of the qualified IDR item or service, including the weight given to the qualifying payment amount and any additional credible information under paragraphs (c)(5)(iii)(B) through (D) of this section.

(vii) *Effects of determination.* (A) *Binding.* A determination made by a certified IDR entity under paragraph (c)(5)(ii) of this section:

(B) *Suspension of certain subsequent IDR requests.* In the case of a single determination made by a certified IDR entity under paragraph (c)(5)(ii) of this section, the party that submitted the initial notification under paragraph (b)(2) of this section may not submit a subsequent notification involving the same other party for a claim for the same item or service that was the

subject of the initial notification during the 90-calendar-day period following the determination. In the case of a batched determination made by a certified IDR entity under paragraph (c)(5)(ii) of this section, the party that submitted the initial notification under paragraph (b)(2) of this section may not submit a subsequent notification involving the same other party for a claim for the same items or services that were the subject of the initial notification during the 30-business-day period following the determination.

(C) *Subsequent submission of requests permitted.* In the case of a single determination made by a certified IDR entity under paragraph (c)(5)(ii) of this section, if the end of the open negotiation period specified in paragraph (b)(1) of this section occurs during the 90-calendar-day suspension period regarding claims for the same item or service that were the subject of the single determination, either party may initiate the Federal IDR process for those claims by submitting a notification as specified in paragraph (b)(2) of this section during the 30-business-day period beginning on the day after the last day of the 90-calendar-day suspension period. In the case of a batched determination made by a certified IDR entity under paragraph (c)(5)(ii) of this section, if the end of the open negotiation period specified in paragraph (b)(1) of this section is completed in the 30 business days prior to or during the 30-business-day suspension period regarding claims for the same items or services that were the subject of the batched determination, either party may initiate the Federal IDR process for those claims by submitting a notification as specified in paragraph (b)(2) of this section during the 4-business-day period beginning on the business day after the 30-business-day suspension period as described in paragraph (c)(5)(vii)(B) of this section.

(viii) For further guidance, see 29 CFR 2590.716–8(c)(5)(viii).

(ix) For further guidance, see 29 CFR 2590.716–8(c)(5)(ix).

(d) *Costs of IDR process*—(1) *Certified IDR entity fee*—(i) *Timing of payment of certified IDR entity fee.* Each party to a dispute for which there is a final selection of the certified IDR entity and a determination that the dispute is eligible for the Federal IDR process in accordance with paragraph (c)(2) of this section must pay to the certified IDR entity the predetermined certified IDR entity fee charged by the certified IDR entity. The certified IDR entity fee must be paid no later than the date a party submits its offer to the certified IDR

entity, in accordance with paragraph (c)(5)(i) of this section.

(ii) *Failure to timely pay certified IDR entity fee.* If a party fails to pay the certified IDR entity fee as specified in paragraph (d)(1)(i) of this section, that party's offer will not be considered received. Such party will continue to be responsible for payment of the certified IDR entity fee.

(iii) *Method of allocation of the certified IDR entity fee after a payment determination.* After making a payment determination, the certified IDR entity will retain the certified IDR entity fee described under paragraph (d)(1)(i) of this section paid by the non-prevailing party as defined in paragraph (c)(5)(ii)(A)(2) of this section. The certified IDR entity must return the fee paid by the prevailing party, as defined in paragraph (c)(5)(ii)(A)(1) of this section, within 30 business days following the date of the certified IDR entity's payment determination. In the event of a batched dispute in which each party prevails in an equal number of determinations, the certified IDR entity fee will be split evenly between the parties. In that case, the certified IDR entity must return half of the fee paid by each party within 30 business days following the date of the certified IDR entity's payment determination.

(iv) *Method of allocation of the certified IDR entity fee upon agreement or withdrawal after an eligibility determination.* For a dispute for which there is a final selection of the certified IDR entity and a determination that the dispute is eligible for the Federal IDR process in accordance with paragraph (c)(2) of this section, unless directed otherwise by both parties, the certified IDR entity is required to return half of each party's certified IDR entity fee within 30 business days of the date both parties notify the certified IDR entity that they have:

(A) Reached an agreement on an out-of-network rate for qualified IDR items or services before the certified IDR entity has made its payment determination, as described in paragraph (c)(3)(i) of this section; or

(B) Withdrawn the dispute before the certified IDR entity has made its payment determination, as described in paragraph (c)(3)(ii) of this section.

(v) *Method of allocation of the certified IDR entity fee upon agreement or withdrawal before an eligibility determination.* For a dispute for which there is a final selection of the certified IDR entity, but the dispute has been determined ineligible or no eligibility determination has been made for the dispute, in accordance with paragraph (c)(2) of this section (excluding

situations as provided in paragraph (c)(3)(ii)(C) of this section where a certified IDR entity cannot determine eligibility), the certified IDR entity is required to return the entirety of each party's certified IDR entity fee within 30 business days of the date both parties notify the certified IDR entity that they have:

(A) Reached an agreement on an out-of-network rate for qualified IDR items or services before the certified IDR entity has made its payment determination, as described in paragraph (c)(3)(i) of this section; or

(B) Withdrawn the dispute before the certified IDR entity has made its payment determination, as described in paragraph (c)(3)(ii) of this section.

(2) *Administrative fee.*—(i) *In general.* For further guidance, see 29 CFR 2590.716–8(d)(i).

(ii) *Administrative fee amount.* The administrative fee amount will be established through notice and comment rulemaking no more frequently than once per calendar year in a manner such that the total administrative fees paid for a year are estimated to be equal to the amount of expenditures estimated to be made by the Secretaries of the Treasury, Labor, and Health and Human Services for the year in carrying out the Federal IDR process. The administrative fee amount will remain in effect until changed by notice and comment rulemaking.

(A) For disputes initiated on January 22, 2024, through June 10, 2026, the administrative fee amount is \$115 per party per dispute.

(B) For disputes initiated on or after June 11, 2026, the administrative fee amount is \$15 per party per dispute.

(iii) *Failure to pay the administrative fee.* If a party fails to pay the administrative fee as specified in paragraph (d)(2) of this section, that party's offer will not be considered received. Such party will continue to be responsible for payment of the administrative fee.

(e) *Certification of IDR entity.*—(1) *In general.* For further guidance, see 29 CFR 2590.716–8(e)(1).

(2) *Requirements.* For further guidance, see 29 CFR 2590.716–8(e)(2)(i) through (vi);

(i) through (vi) [Reserved]

(vii) Provide, no more frequently than once per calendar year, a fixed fee for single determinations and a separate fixed fee for batched determinations, as well as additional fixed tiered fees for batched determinations, if applicable, within the upper and lower limits for each, as established by the Secretary in notice and comment rulemaking. The certified IDR entity fee ranges

established by the Secretary in rulemaking will remain in effect until changed by notice and comment rulemaking. The certified IDR entity may not charge a fee outside the limits set forth in rulemaking unless the certified IDR entity or IDR entity seeking certification receives advance written approval from the Secretary to charge a fixed fee beyond the upper or lower limits by following the process described in paragraph (e)(2)(vii)(A) of this section. A certified IDR entity may also seek advance written approval from the Secretary to update its fees one additional time per calendar year by meeting the requirements described in paragraph (e)(2)(vii)(A). The Secretary will approve a request to charge a fixed fee beyond the upper or lower limits for fees as set forth in rulemaking or to update the fixed fee during the calendar year if, in their discretion, they determine the information submitted by a certified IDR entity or IDR entity seeking certification demonstrates that the proposed change to the certified IDR entity fee would ensure the financial viability of the certified IDR entity or IDR entity seeking certification and would not impose on parties an undue barrier to accessing the Federal IDR process.

(A) In order for the certified IDR entity or IDR entity seeking certification to receive the Secretary's written approval to charge a fixed fee beyond the upper or lower limits for fees as set forth in rulemaking or to update the fixed fee during the calendar year, the certified IDR entity or IDR entity seeking certification must submit to the Secretary, in the form and manner specified by the Secretary:

(1) The fixed fee the certified IDR entity or IDR entity seeking certification believes is appropriate for the certified IDR entity or IDR entity seeking certification to charge;

(2) A description of the circumstances that require the alternative fixed fee, or that require a change to the fixed fee during the calendar year, as applicable; and

(3) A detailed description that reasonably explains how the alternative fixed fee or the change to the fixed fee during the calendar year, as applicable, will be used to mitigate the effects of those circumstances.

(B) [Reserved]

(viii) For disputes initiated on or after January 22, 2024, certified IDR entities are permitted to charge a fixed certified IDR entity fee for single determinations within the range of \$200 to \$840, and a fixed certified IDR entity fee for batched determinations within the range of \$268 to \$1,173, unless a fee outside

such ranges is approved by the Secretary, pursuant to paragraph (e)(2)(vii)(A) of this section. As part of the batched determination fee, certified IDR entities are permitted to charge an additional fixed tiered fee within the range of \$75 to \$250 for every additional 25 line items within a batched dispute, beginning with the 26th line item. The ranges for the certified IDR entity fees for single and batched determinations will remain in effect until changed by notice and comment rulemaking.

(ix) Have a procedure in place to retain the certified IDR entity fees described in paragraph (d)(1) of this section paid by both parties in a trust or escrow account and to return the certified IDR entity fee paid by the prevailing party or a portion of each party's certified IDR entity fee in the case of an agreement described in paragraph (c)(3)(i) of this section, a withdrawal described in paragraph (c)(3)(ii) of this section, or a circumstance in which each party prevails in an equal number of determinations, as described in paragraph (d)(1)(iii) of this section, within 30 business days following the date of the determination or the date the certified IDR entity is notified by both parties of an agreement or withdrawal, as applicable;

(x) For further guidance, see 29 CFR 2590.716–8(e)(2)(x).

(xi) For further guidance, see 29 CFR 2590.716–8(e)(2)(xi).

(xii) For further guidance, see 29 CFR 2590.716–8(e)(2)(xii).

(3) *Conflict of interest standards.* For further guidance, see 29 CFR 2590.716–8(e)(3).

(4) *Period of Certification.* For further guidance, see 29 CFR 2590.716–8(e)(4).

(5) *Petition for denial or revocation.* For further guidance, see 29 CFR 2590.716–8(e)(5).

(6) *Denial of IDR entity certification or revocation of certified IDR entity certification.* For further guidance, see 29 CFR 2590.716–8(e)(6).

(f) *Reporting of information relating to the Federal IDR process.* For further guidance, see 29 CFR 2590.716–8(f) introductory text through (f)(1)(iv).

(1) [Reserved]

(i) through (iv) [Reserved]

(v) For further guidance, see 29 CFR 2590.716–8(f)(1)(v) introductory text through (f)(1)(v)(E).

(A) through (E) [Reserved]

(F) The rationale for the certified IDR entity's decision, including the extent to which the decision relied on the criteria in paragraphs (c)(5)(iii)(B) through (D) of this section.

(G) For further guidance, see 29 CFR 2590.716–(f)(1)(v)(G).

(H) For further guidance, see 29 CFR 2590.716–8(f)(1)(v)(H).

(I) For further guidance, see 29 CFR 2590.716–8(f)(1)(v)(I).

(vi) For further guidance, see 29 CFR 2590.716–8(f)(1)(vi).

(2) [Reserved]

(g) *Extension of time periods for extenuating circumstances.* (1) *In general.* The time periods specified in this section (other than the time for payment, if applicable, under paragraph (c)(5)(ix) of this section) may be extended in extenuating circumstances at the Secretary's discretion. Extenuating circumstances include, but are not limited to, when:

(i) For a specific dispute, the Secretary determines that the parties or certified IDR entity cannot meet applicable timeframes due to matters beyond the control of one or both parties or the certified IDR entity, or for other good cause. The certified IDR entity or either party may also submit a request for an extension due to extenuating circumstances to the Secretary through the Federal IDR portal. The requesting certified IDR entity or party must attest that it will take prompt action to ensure that the certified IDR entity's payment determination under this section may be made as soon as administratively practicable under the circumstances; or

(ii) The Secretary determines that the parties or certified IDR entity cannot meet applicable timeframes due to systematic delays in processing disputes under the Federal IDR process, such as an unforeseen volume of disputes or Federal IDR portal system failures. Extensions provided due to extenuating circumstances caused by an unforeseen volume of disputes will be applied to the timeframe for eligibility determinations under paragraph (c)(2) of this section. Extensions provided due to extenuating circumstances caused by systems failures within the Federal IDR portal will be applied to the Federal IDR process timeframe(s) determined relevant by the Secretary. The Secretary will post a public notice regarding any extensions of time periods under this paragraph (g)(1)(ii).

(A) *Timeframe following an extension to eligibility determination.* When an extension to the eligibility determination timeframe under paragraph (g)(1)(ii) of this section is in effect, the start date of the subsequent timeframes in the Federal IDR process will be determined based on the date of completion of the eligibility determination by the certified IDR entity.

(1) *Submission of offers.* The parties must submit their offers and certified

IDR entity fees to the certified IDR entity not later than 10 business days after the qualified IDR items and services are determined eligible as described in paragraph (c)(2) of this section.

(2) *Payment determination.* The certified IDR entity must make the payment determination and provide notification of the payment determination to the parties not later than 30 business days after the qualified IDR items and services are determined eligible as described in paragraph (c)(2) of this section.

(B) *Timeframe following an extension to other timeframes in the Federal IDR process.* When an extension to any timeframe within the Federal IDR process, other than the eligibility timeframe, is in effect under paragraph (g)(1)(ii) of this section, the start date of each subsequent timeframe in the Federal IDR process will be determined based on the date of completion of the process for which the extension was granted.

(2) [Reserved]

(h) *Applicability date.* (1) Paragraph (a) of this section is applicable for plan years (or in the individual market, policy years) beginning on or after January 1, 2022, except that the provisions regarding IDR entity certification at paragraph (a) of this section are applicable beginning on October 7, 2021, and the revised definition for batched IDR items and services at paragraph (a)(2)(i) of this section is applicable to disputes with open negotiation periods beginning on November 1, 2026.

(2) Paragraph (b) of this section is applicable to disputes with open negotiation periods beginning 90 calendar days after the Departments issue guidance announcing that the functionality supporting these provisions has become available.

(3) Paragraph (c)(1) of this section, regarding the selection of a certified IDR entity, is applicable for plan years (or in the individual market, policy years) beginning on or after January 1, 2022, and the modifications at paragraph (c)(1) of this section are applicable to disputes with open negotiation periods beginning 90 calendar days after the Departments issue guidance announcing that the functionality supporting these provisions has become available.

(4) Paragraph (c)(2) of this section, regarding the Federal IDR process eligibility review, paragraph (c)(3) of this section, regarding the authority to continue negotiations or withdraw, and paragraph (c)(4) of this section, regarding the treatment of batched and bundled qualified IDR items and services, are applicable for plan years

(or in the individual market, policy years) beginning on or after January 1, 2022. The modifications at paragraphs (c)(3)(i) and (c)(3)(ii)(C) and (D) of this section are applicable beginning on November 1, 2026. The amendments at paragraphs (c)(2), (c)(3)(ii)(A) and (B), and (c)(4) of this section are applicable to disputes with open negotiation periods beginning 90 calendar days after the Departments issue guidance announcing that the functionality supporting these provisions has become available.

(5) Paragraphs (c)(5)(ii) and (iii) of this section regarding payment determination and notification and considerations in payment determinations, and paragraph (c)(5)(vi)(B) of this section regarding written decisions are applicable for items or services furnished on or after October 25, 2022, are applicable for plan years (or in the individual market policy years) beginning on or after January 1, 2022. Paragraphs (c)(5)(i), (c)(5)(v) through (vi)(A), and (c)(5)(vii) through (ix) of this section regarding submission of offers, prohibition on consideration of certain factors, written decision, effects of determination, recordkeeping requirements, and payment are applicable for plan years (or in the individual market, policy years) beginning on or after January 1, 2022. The modifications at paragraphs (c)(5)(i) and (ii), and (c)(5)(vii)(B) and (C) of this section regarding the deadlines for the submission of offers, payment determination and notification, suspension of certain subsequent IDR requests, and subsequent submission of requests permitted are applicable to disputes with open negotiation periods beginning 90 calendar days after the Departments issue guidance announcing that the functionality supporting these provisions has become available.

(6) Paragraph (d)(1) of this section regarding the certified IDR entity fee is applicable to disputes initiated on or after August 3, 2026. Paragraph (d)(2)(ii) of this section regarding the administrative fee is applicable to disputes initiated on or after June 11, 2026. Paragraph (d)(2)(iii) of this section regarding failure to pay the administrative fee is applicable on or after August 3, 2026.

(7) Paragraph (e) of this section is applicable for plan years (or in the individual market, policy years) beginning on or after January 1, 2022, except that the provisions regarding IDR entity certification at paragraphs (e)(1), (e)(2)(i) through (vi), (e)(2)(x) and (xi), and (e)(3) through (6) of this section are applicable beginning on October 7, 2021. Paragraph (e)(2)(ix) of this section

regarding procedures to retain the certified IDR entity fee is applicable beginning on August 3, 2026.

(8) Paragraph (f) of this section is applicable for plan years (or in the individual market, policy years) beginning on or after January 1, 2022, except that paragraph (f)(1)(v)(F) of this section regarding reporting of information relating to the Federal IDR process is applicable for items or services furnished on or after October 25, 2022, for plan years (or in the individual market policy years) beginning on or after January 1, 2022.

(9) Paragraph (g) of this section regarding the extension of time periods for extenuating circumstances is applicable for plan years (or in the individual market, policy years) beginning on or after January 1, 2022. The modifications at paragraph (g) of this section are applicable beginning on November 1, 2026.

(10) Until the relevant applicability date for the requirements of this section, plans, issuers, providers, facilities, providers of air ambulance services and certified IDR entities are required to continue to comply with the corresponding section of § 54.9816–8 in effect prior to June 4, 2026.

(i) *Severability.* (1) Any provision of this section held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, will be construed so as to continue to give maximum effect to the provision permitted by law, unless such holding is one of utter invalidity or unenforceability, in which event the provision will be severable from this section and will not affect the remainder thereof or the application of the provision to persons not similarly situated or to dissimilar circumstances.

(2) The provisions of paragraphs (b)(1), (c)(2)(ii), (c)(4), (d)(2), and (g)(1) of this section are intended to be severable from one another, from any grant of forbearance from removal resulting from this subpart, and from any provision referenced in those paragraphs. The provisions in this section are intended to be severable from the provisions in §§ 54.9816–6A, 54.9816–6 and 54.9816–9 from any grant of forbearance from removal resulting from this subpart, and from any provision referenced in §§ 54.9816–6A, 54.9816–6 and 54.9816–9.

Par. 8. Section 54.9816–9 is added to read as follows:

§ 54.9816–9 Federal independent dispute resolution registry of group health plans, health insurance issuers, and Federal Employees Health Benefits Program Carriers.

(a) *Establishment of Federal independent dispute resolution registry.* The Secretary of the Treasury (Secretary), jointly with the Secretary of the Health and Human Services and the Secretary of Labor, will establish a Federal independent dispute resolution (IDR) registry consisting of the information described in paragraph (b)(2) of this section, and will assign a registration number for each self-insured group health plan, self- or fully-insured non-Federal governmental plan, health insurance issuer offering group or individual health insurance coverage, and contract held by a Federal Employees Health Benefits (FEHB) Program carrier. The information contained in the registry will be made available to parties seeking to initiate an open negotiation or a dispute through the Federal IDR portal.

(b) *Federal IDR registration—(1) Registration requirement.* Each self-insured group health plan, each FEHB Program carrier, and each health insurance issuer offering group or individual health insurance coverage subject to the Federal IDR process must register with the Federal IDR registry as specified by the Departments in guidance. Initial registration must be completed by the later of the date that is 90 business days after the Departments issue guidance announcing that the functionality supporting the registry has become available, or the date the plan sponsor or health insurance issuer begins offering a group health plan or health insurance coverage or FEHB Program carrier begins offering an FEHB plan subject to the Federal IDR process.

(2) *Required data elements.* Self-insured group health plans, FEHB Program carriers, and health insurance issuers offering group or individual health insurance coverage subject to the registration requirement must include the following information with their registration:

(i) The legal business name (if any) of the self-insured group health plan, FEHB Program carrier, or issuer and, if applicable, the legal business name of the self-insured group health plan sponsor;

(ii) Whether the registrant is a self-insured group health plan subject to ERISA, an FEHB Program carrier, an issuer offering individual or group market insurance coverage, a self-insured non-Federal governmental plan, or a self-insured church plan;

(iii) For issuers offering individual or group market insurance coverage and for self-insured non-Federal governmental plans, the State(s) in which the plan is offered or the coverage is licensed;

(iv) For self-insured group health plans not otherwise subject to State law, including self-insured church plans and self-insured non-Federal governmental plans, any State(s) in which the group health plan has properly effectuated an election to opt in to a specified State law as defined in 29 CFR 2590.716–3, or an All-Payer Model Agreement under section 1115A of the Social Security Act, if the terms of that agreement allow a plan not otherwise subject to the agreement to opt in; and for FEHB Program plans that adopt a specified State law or All-Payer Model Agreement pursuant to their FEHB Program carrier's contract terms, any State(s) in which they have made such an adoption;

(v) Contact information, including a telephone number and email address, for the appropriate office or person to initiate open negotiation for purposes of determining an amount of payment (including cost sharing) for such item or service; and contact information, including a telephone number and email address, for the appropriate office or person to initiate the Federal IDR process;

(vi) The 5-digit Health Insurance Oversight System (HIOS) identifier, if available; and, for self-insured group health plans, the plan's or the plan sponsor's Employer Identification Number (EIN) and the plan's plan number (PN), if a PN is available, and for FEHB Program carriers, the applicable contract number(s) and plan code(s);

(vii) Additional information needed to identify the plan or issuer and the applicable Federal and State requirements for determining appropriate out-of-network payment rates for items or services to which the protections against balance billing in this part apply, as specified by the Secretary in guidance, or such additional information needed for FEHB Program carriers as specified by OPM in guidance; and

(viii) Additional information needed for purposes of administrative or certified IDR entity fee collection, as specified by the Secretary in guidance, or such additional information needed for FEHB Program carriers as specified by OPM in guidance.

(3) *Updating disclosures.* A plan or issuer must timely report to the Secretary changes to the information required under this section within 30

calendar days after the information changes. A plan or issuer must confirm the accuracy of its registration annually in the fourth quarter of each calendar year.

(4) *Third party authority.* The requirements of paragraphs (b)(1) through (3) of this section may be performed by a third party administrator or service provider with authority to act on behalf of the self-insured group health plan, health insurance issuer offering group or individual health insurance coverage, or FEHB carrier offering an FEHB plan subject to the Federal IDR process. If the registration requirements are performed by such third party administrator or service provider, the group health plan or health insurance issuer offering group or individual health insurance coverage must require that such third party administrator or service provider clearly delineate each group health plan or health insurance issuer offering group health insurance coverage for which it has authority to act. If such third party administrator or service provider fails to provide the information in compliance with the requirements of paragraphs (b)(1) through (3) of this section, the plan or issuer will be in violation of the requirements of this section.

(c) *Severability.* (1) Any provision of this section held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, will be construed so as to continue to give maximum effect to the provision permitted by law, unless such holding is one of utter invalidity or unenforceability, in which event the provision will be severable from this section and will not affect the remainder thereof or the application of the provision to persons not similarly situated or to dissimilar circumstances.

(2) The provisions in this section are intended to be severable from the provisions in §§ 54.9816–6A, 54.9816–6, and 54.9816–8, from any grant of forbearance from removal resulting from this subpart, and from any provision referenced in §§ 54.9816–6A, 54.0916–6, and 54.9816–8.

DEPARTMENT OF LABOR

Employee Benefits Security Administration

For the reasons stated in the preamble, the Department of Labor amends 29 CFR part 2590 as set forth below:

PART 2590—RULES AND REGULATIONS FOR GROUP HEALTH PLANS

■ 9. The authority citation for part 2590 continues to read as follows:

Authority: 29 U.S.C. 1027, 1059, 1135, 1161–1168, 1169, 1181–1183, 1181 note, 1185, 1185a–n, 1191, 1191a, 1191b, and 1191c; sec. 101(g), Pub. L. 104–191, 110 Stat. 1936; sec. 401(b), Pub. L. 105–200, 112 Stat. 645 (42 U.S.C. 651 note); sec. 512(d), Pub. L. 110–343, 122 Stat. 3881; sec. 1001, 1201, and 1562(e), Pub. L. 111–148, 124 Stat. 119, as amended by Pub. L. 111–152, 124 Stat. 1029; Division M, Pub. L. 113–235, 128 Stat. 2130; Pub. L. 116–260, 134 Stat. 1182; Secretary of Labor’s Order 1–2011, 77 FR 1088 (Jan. 9, 2012).

■ 10. Section 2590.716–3 is amended by adding the definition of “Bundled payment arrangement” in alphabetical order to read as follows:

§ 2590.716–3 Definitions.

* * * * *

Bundled payment arrangement means an arrangement under which—

(1) A provider, facility, or provider of air ambulance services bills for multiple items or services furnished to a single patient under a single service code that represents multiple items or services (for example, a Diagnosis-Related Group (DRG) code); or

(2) A plan or issuer makes an initial payment or notice of denial of payment to a provider, facility, or provider of air ambulance services under a single service code that represents multiple items or services furnished to a single patient (for example, a DRG code).

* * * * *

■ 11. Section 2590.716–6 is amended by:

■ a. Revising paragraphs (d) introductory text and (d)(1)(iv);

■ b. Redesignating paragraph (d)(1)(v) as paragraph (d)(1)(vi);

■ c. Adding a new paragraph (d)(1)(v);

■ d. Revising paragraph (d)(2) introductory text; and

■ e. Adding paragraph (g).

The revisions and additions read as follows:

§ 2590.716–6 Methodology for calculating qualifying payment amount.

* * * * *

(d) *Information to be shared about the qualifying payment amount.* In cases in which the recognized amount, for an item or service furnished by a nonparticipating provider or nonparticipating emergency facility, is the qualifying payment amount or the amount billed by the provider or facility, or if the amount on which cost sharing is based for air ambulance

services furnished by a nonparticipating provider of air ambulance services is the qualifying payment amount or the amount billed by the provider of air ambulance services, the plan or issuer must provide to the provider, facility, or provider of air ambulance services, as applicable, in writing, in paper or electronic form—

(1) * * *

(iv) A statement that—

(A) If the provider, facility, or provider of air ambulance services, as applicable, wishes to initiate a 30-business-day open negotiation period for purposes of determining the out-of-network rate, the provider, facility, or provider of air ambulance services must:

(1) Contact the appropriate person or office to initiate open negotiation generally within 30 business days of receiving the initial payment or notice of denial of payment; and

(2) For disclosures required to be provided on or after the later of August 3, 2026 and the date that the open negotiation notice can be submitted through the Federal independent dispute resolution (IDR) portal, notify the Secretary as described under § 2590.716–8(b)(1)(i); and

(B) If the 30-business-day open negotiation period does not result in an agreement on the amount of payment, the provider, facility, or provider of air ambulance services may generally initiate the Federal IDR process within 4 business days after the end of the 30-business-day open negotiation period;

(v) For disclosures required to be provided on or after August 3, 2026, the legal business name (if any) of the self-insured group health plan or issuer and, if applicable, the legal business name of the self-insured group health plan sponsor, and the registration number assigned to the plan or issuer, as required under § 2590.716–9.

* * * * *

(2) In a timely manner upon the request of the provider, facility, or provider of air ambulance services:

* * * * *

(g) *Severability*—(1) Any provision of this section held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, will be construed so as to continue to give maximum effect to the provision permitted by law, unless such holding is one of utter invalidity or unenforceability, in which event the provision will be severable from this section and will not affect the remainder thereof or the application of the provision to persons not similarly situated or to dissimilar circumstances.

(2) The provisions in this section are intended to be severable from the

provisions in §§ 2590.716–6A, 2590.716–8, and 2590.716–9, from any grant of forbearance from removal resulting from this subpart, and from any provision referenced in §§ 2590.716–6A, 2590.716–8, and 2590.716–9.

■ 12. Section 2590.716–6A is added to subpart D to read as follows:

§ 2590.716–6A Use of claim adjustment reason codes and remittance advice remark codes.

(a) *In general.* When providing any remittance advice (including in paper or electronic form) to an entity (other than a participant or beneficiary) that does not have a contractual relationship, directly or indirectly, with a group health plan or a health insurance issuer offering group or individual health insurance coverage for the furnishing of an item or service under the plan or coverage, in response to a claim for payment for health care items and services furnished by that entity, the plan or issuer must use claim adjustment reason codes (CARCs) and remittance advice remark codes (RARCs) (as those terms are described in standards and operating rules adopted in 45 CFR part 162) in the manner and timeframe specified in guidance issued by the Secretaries of the Treasury, Labor, and Health and Human Services, or as required under any applicable adopted standards and operating rules under 45 CFR part 162, to communicate information related to whether the claim is or is not subject to the provisions of this subpart and 45 CFR part 149, subparts E and F.

(b) *Severability*—(1) Any provision of this section held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, will be construed so as to continue to give maximum effect to the provision permitted by law, unless such holding is one of utter invalidity or unenforceability, in which event the provision will be severable from this section and will not affect the remainder thereof or the application of the provision to persons not similarly situated or to dissimilar circumstances.

(2) The provisions in this section are intended to be severable from the provisions in §§ 2590.716–6, 2590.716–8, and 2590.716–9, from any grant of forbearance from removal resulting from this subpart, and from any provision referenced in §§ 2590.716–6, 2590.716–8, and 2590.716–9.

■ 13. Section 2590.716–8 is amended by:

■ a. Revising paragraphs (a)(2)(i), (b)(1)(i), and (b)(1)(ii)(A);

- b. Removing and reserving paragraph (b)(1)(ii)(B);
- c. Adding a new paragraph (b)(1)(iii);
- d. Revising paragraph (b)(2)(i);
- e. Redesignating paragraph (b)(2)(ii) as paragraph (b)(2)(i)(A);
- f. Adding and reserving paragraph (b)(2)(i)(B);
- g. Redesignating paragraph (b)(2)(iii) as paragraph (b)(2)(ii) and revising newly redesignated paragraph (b)(2)(ii);
- h. Adding new paragraphs (b)(2)(iii) and (b)(3);
- i. Revising paragraph (c)(1);
- j. Redesignating paragraphs (c)(2) through (4) as paragraphs (c)(3) through (5), respectively;
- k. Adding a new paragraph (c)(2);
- l. Revising newly redesignated paragraphs (c)(3), (c)(4)(i) introductory text, (c)(4)(i)(B) through (D), (c)(4)(ii), (c)(5)(i) introductory text, and (c)(5)(ii);
- m. Removing and reserving newly redesignated paragraph (c)(5)(iv);
- n. Revising newly redesignated paragraphs (c)(5)(vi) and (vii);
- o. Revising paragraphs (d)(1) and (d)(2)(ii);
- p. Adding new paragraph (d)(2)(iii);
- q. Removing paragraph (d)(3);
- r. Revising paragraphs (e)(2)(ix), (g), and (h); and
- s. Adding paragraph (i).

The revisions and additions read as follows:

§ 2590.716–8 Independent dispute resolution process.

- (a) * * *
- (2) * * *

(i) *Batched qualified IDR items and services* means multiple qualified IDR items or services that are considered jointly as part of one payment determination by a certified IDR entity for purposes of the Federal IDR process in accordance with paragraph (c)(4)(i) of this section.

* * * * *

(b) *Determination of payment amount through open negotiation and initiation of the Federal IDR process—(1) Determination of payment amount through open negotiation—(i) In general.* For an item or service that meets the requirements of paragraph (a)(2)(xi)(A) of this section, the provider, facility, or provider of air ambulance services or the group health plan or health insurance issuer offering group or individual health insurance coverage may, during the 30-business-day period beginning on the day the provider, facility, or provider of air ambulance services receives an initial payment or notice of denial of payment regarding the item or service, initiate a 30-business-day open negotiation period for purposes of determining the out-of-

network rate for such item or service. To initiate the open negotiation period, a party must submit a written open negotiation notice with the content specified in paragraph (b)(1)(ii) of this section to the other party and to the Secretary in the manner specified in paragraph (b)(3) of this section. The 30-business-day open negotiation period begins on the day on which the party first submits the open negotiation notice, including the remittance advice documentation specified in paragraph (b)(1)(ii)(A)(12) of this section to the other party and the Secretary. The party in receipt of the open negotiation notice must provide to the party that initiated open negotiation and to the Secretary in the manner specified in paragraph (b)(3) of this section, as soon as practicable, but no later than the 15th business day of the 30-business-day open negotiation period, a written notice and supporting documentation in response to the open negotiation notice, as specified in paragraph (b)(1)(iii)(A) of this section.

(ii) *Open negotiation notice—*

(A) *Content.* The open negotiation notice must include, for the item or service that is the subject of the open negotiation notice, information about the item or service and the parties, including:

(1) Information sufficient to identify the provider, facility, or provider of air ambulance services, including the name and current contact information (including the legal business name, email address, phone number, and mailing address) as provided with the claim form submitted by the provider, facility, or provider of air ambulance services to the plan or issuer, and the applicable National Provider Identifier (NPI);

(2) Information sufficient to identify the plan or issuer, including the plan's or issuer's registration number, as required under § 2590.716–9, or an attestation from the party submitting the open negotiation notice that the plan's or issuer's registration number was not provided on any remittance advice associated with the initial payment or notice of denial of payment for the item or service; the legal business name of the plan or issuer (or, in the case of a self-insured group health plan that does not have a legal business name, the legal business name of the plan sponsor), as well as the current contact information (name, email address, phone number, and mailing address) of the plan or issuer as provided with any remittance advice associated with the initial payment or notice of denial of payment for the item or service; and if the party submitting the open negotiation notice

is a plan or issuer, the plan type (for example, self-insured or fully-insured);

(3) The name and contact information (including the legal business name, email address, phone number, and mailing address) for any third party representing the party submitting the open negotiation notice, and an attestation that the third party has the authority to act on behalf of the party it represents in the open negotiation;

(4) Information sufficient to identify the item or service, including: the date(s) the item or service was furnished and, if the party submitting the open negotiation notice is a provider, facility, or provider of air ambulance services, the date(s) that the provider, facility, or provider of air ambulance services received the initial payment or notice of denial of payment for the item or service from the plan or issuer; the type of item or service (specifically, whether the item or service is an emergency service as defined in § 2590.716–4(c)(2)(i) or (ii), a non-emergency service as described in § 2590.716–5(b), or an air ambulance service as defined in § 2590.716–3); whether the service is a professional service or facility-based service; the State where the item or service was furnished; the claim number; the service code; and information to identify the location where the item or service was furnished (such as, place of service code or bill type code);

(5) The initial payment amount (including \$0 if payment is denied);

(6) The qualifying payment amount, if provided in a remittance advice associated with the initial payment or notice of denial of payment, or if the party submitting the open negotiation notice is a plan or issuer;

(7) An offer of an out-of-network rate for each item or service;

(8) If the party submitting the open negotiation notice is a plan or issuer, the amount of cost sharing imposed for the item or service, if any;

(9) If the party submitting the open negotiation notice is a provider or facility, a statement that the items and services do not qualify for the notice and consent exception described at 45 CFR 149.410(b) or 149.420(c) through (i);

(10) A statement that the provider, facility, or provider of air ambulance services was a nonparticipating provider, nonparticipating emergency facility, or nonparticipating provider of air ambulance services on the date the item or service was furnished;

(11) General information listed in the standard open negotiation notice developed by the Secretary pursuant to paragraph (b)(3) of this section

describing the open negotiation period and the Federal IDR process (including a description of the purpose of the open negotiation period and Federal IDR process and key deadlines in the open negotiation period and Federal IDR process); and

(12) A copy of any remittance advice associated with the initial payment or notice of denial of payment for the item or service.

(B) [Reserved]

(iii) *Open negotiation response notice*—(A) *Content*. The response to the open negotiation notice must include, for the item or service that is the subject of the open negotiation response notice, information about the item or service and the parties, including:

(1) Information sufficient to identify the provider, facility, or provider of air ambulance services, including the name and current contact information (including the legal business name, email address, phone number, and mailing address) as provided with the claim form submitted by the provider, facility, or provider of air ambulance services to the plan or issuer, and the applicable NPI;

(2) Information sufficient to identify the plan or issuer, including the plan's or issuer's registration number, as required under § 2590.716–9, or an attestation from the party submitting the open negotiation response notice that the plan's or issuer's registration number was not provided on any remittance advice associated with the initial payment or notice of denial of payment for the item or service, as well as the legal business name of the plan or issuer (or, in the case of a self-insured group health plan that does not have a legal business name, the legal business name of the plan sponsor), the current contact information (name, email address, phone number, and mailing address) of the plan or issuer as provided with any remittance advice associated with the initial payment or notice of denial of payment for the item or service; and if the party submitting the open negotiation response notice is a plan or issuer, the plan type (for example, self-insured or fully-insured);

(3) The name and contact information (including the legal business name, email address, phone number, and mailing address) for any third party representing the party submitting the open negotiation response notice, and an attestation that the third party has the authority to act on behalf of the party it represents in the open negotiation;

(4) Information sufficient to identify the item or service included in the open

negotiation notice, including the date(s) the item or service was furnished, and if the party submitting the open negotiation response notice is a provider, facility, or provider of air ambulance services, the date(s) that the provider, facility, or provider of air ambulance services received the initial payment or notice of denial of payment for the item or service from the plan or issuer, and the claim number;

(5) If the party submitting the open negotiation response notice is a plan or issuer, a statement as to whether it agrees that the initial payment amount (including \$0 if payment is denied) and the qualifying payment amount reflected in the open negotiation notice accurately reflect the initial payment amount and qualifying payment amount disclosed with the initial payment for the item or service, and if not, or if the open negotiation notice indicates that the initial payment amount or qualifying payment amount was not communicated by the plan or issuer in a remittance advice associated with the initial payment or notice of denial of payment, the initial payment amount (including \$0 if payment is denied) and/or qualifying payment amount it believes to be correct, and documentation to support the statement (for example, the remittance advice confirming the qualifying payment amount);

(6) If the party submitting the open negotiation response notice is a plan or issuer, the amount of cost sharing imposed for the item or service, if any;

(7) If the party submitting the open negotiation response notice is a provider or facility, a statement that the items and services do not qualify for the notice and consent exception described at 45 CFR 149.410(b) or 149.420(c) through (i);

(8) For each item or service, either a statement and supporting documentation that explains why the item or service is not subject to the Federal IDR process or a statement agreeing that the item or service is subject to the Federal IDR process;

(9) A statement as to whether any of the information provided in the open negotiation notice is inaccurate and the basis for the statement, as well as supporting documentation; and

(10) A statement confirming that the initial payment or notice of denial of payment or other remittance advice reflected in the open negotiation notice under paragraph (b)(1)(ii)(A)(12) of this section is accurate, or, if inaccurate, a copy of the accurate remittance advice associated with the initial payment or notice of denial of payment for the item or service.

(B) [Reserved]

(2) *Initiating the Federal IDR process*—

(i) *In general*. Either party may initiate the Federal IDR process for a qualified IDR item or service as defined in paragraph (a)(2)(xi) of this section for which the parties have not agreed on an out-of-network rate by the last day of the open negotiation period provided for under paragraph (b)(1) of this section. To initiate the Federal IDR process, a party (the initiating party) must submit a written notice of IDR initiation, consistent with paragraph (b)(2)(ii) of this section, to the other party to the dispute (the non-initiating party) and to the Secretary in the manner specified in paragraph (b)(3) of this section, during the 4-business-day period beginning on the first business day after the last day of the open negotiation period (unless it is otherwise required to be submitted in the timeframe specified in paragraph (c)(5)(vii)(C) of this section). The date of IDR initiation is the date the Secretary receives the notice of IDR initiation described in paragraph (b)(2)(ii) of this section.

(A) *Exception for items and services provided by certain nonparticipating providers and facilities*. A party may not initiate the Federal IDR process for an item or service if, for that item or service, the party knows (or reasonably should have known) that the provider or facility provided notice and received consent under 45 CFR 149.410(b) or 45 CFR 149.420(c) through (i).

(B) [Reserved]

(ii) *Notice of IDR initiation*—

(A) *Content*. The notice of IDR initiation must include, for the item or service that is the subject of the notice, information about the item or service and the parties, including:

(1) Information sufficient to identify the provider, facility, or provider of air ambulance services, including the name and current contact information (including the legal business name, email address, phone number, and mailing address), and the NPI; and if the initiating party is a provider, facility, or provider of air ambulance services, the Taxpayer Identification Number (TIN);

(2) Information sufficient to identify the plan or issuer, including the plan's or issuer's registration number, as required under § 2590.716–9, or an attestation from the initiating party that the plan's or issuer's registration number was not provided on any remittance advice associated with the initial payment or notice of denial of payment for the item or service; the legal business name of the plan or issuer (or, in the case of a self-insured group health plan that does not have a legal

business name, the legal business name of the plan sponsor), as well as the current contact information (name, email address, phone number, and mailing address) of the plan or issuer as provided with any remittance advice associated with the initial payment or notice of denial of payment for the item or service; and if the initiating party is a plan or issuer, the plan type (for example, self-insured or fully-insured) and TIN (or, in the case of a plan that does not have a TIN, the TIN of the plan sponsor);

(3) The name and contact information (including the legal business name, email address, phone number, TIN, and mailing address) for any third party representing the initiating party, and an attestation that the third party has the authority to act on behalf of the party it represents in the Federal IDR process;

(4) Information sufficient to identify whether the dispute being initiated includes batched or bundled qualified IDR items or services as described in paragraph (c)(4) of this section;

(5) Information sufficient to identify the qualified IDR item or service that is the subject of the notice of IDR initiation, including the date(s) the qualified IDR item or service was furnished; if the initiating party is a provider, facility, or provider of air ambulance services, the date(s) that the provider, facility, or provider of air ambulance services received the initial payment or notice of denial of payment for such item or service from the plan or issuer; the date the open negotiation period under paragraph (b)(1) of this section began; the type of item or service (specifically, whether the item or service that meets the requirements of paragraph (a)(2)(xi)(A) of this section is an emergency service as defined in § 2590.716–4(c)(2)(i) or (ii), a non-emergency service as described in § 2590.716–5(b), or an air ambulance service as defined in § 2590.716–3); whether the service is a professional service or facility-based service; the State where the item or service was furnished; the claim number; the service code; and information to identify the location the item or service was furnished (including place of service code or bill type code);

(6) The initial payment amount (including \$0 if payment is denied);

(7) If the initiating party is a plan or issuer, the amount of cost sharing imposed for the item or service, if any;

(8) The qualifying payment amount, if provided with the initial payment or notice of denial of payment, or if the initiating party is a plan or issuer;

(9) If the initiating party is a provider or facility, a statement that the items

and services do not qualify for the notice and consent exception described at 45 CFR 149.410(b) or 149.420(c) through (i);

(10) A statement that the provider, facility, or provider of air ambulance services was a nonparticipating provider, a nonparticipating emergency facility, or a nonparticipating provider of air ambulance services on the date the item or service was furnished;

(11) Attestation that the item or service under dispute is a qualified IDR item or service as defined in paragraph (a)(2)(xi) of this section and is eligible for the Federal IDR process, and the basis for the attestation;

(12) General information listed in the standard notice of IDR initiation developed by the Secretary under paragraph (b)(3) of this section describing the Federal IDR process (including a description of the purpose of the Federal IDR process and key deadlines in the Federal IDR process);

(13) A copy of any remittance advice associated with the initial payment or notice of denial of payment for the item or service; and

(14) Preferred certified IDR entity.

(B) [Reserved]

(iii) *Notice of IDR initiation response.*

The non-initiating party must provide to the initiating party and the Secretary in the manner specified in paragraph (b)(3) of this section within 3 business days after the date of IDR initiation, a written notice and supporting documentation in response to the notice of IDR initiation, as specified in paragraph (b)(2)(iii)(A) of this section.

(A) *Content.* The notice of IDR initiation response must include, for the item or service that is the subject of the notice, information about the item or service and the parties, including:

(1) Information sufficient to identify the provider, facility, or provider of air ambulance services, including the name and current contact information (including the legal business name, email address, phone number, and mailing address), and the NPI; and if the non-initiating party is a provider, facility, or provider of air ambulance services, the TIN;

(2) Information sufficient to identify the plan or issuer, including the plan's or issuer's registration number, as required under § 2590.716–9, or an attestation from the non-initiating party that the plan's or issuer's registration number was not provided on any remittance advice associated with the initial payment or notice of denial of payment for the item or service; the legal business name of the plan or issuer (or, in the case of a self-insured group health plan that does not have a legal

business name, the legal business name of the plan sponsor), as well as the current contact information (name, email address, phone number, and mailing address) of the plan or issuer as provided with any remittance advice associated with the initial payment or notice of denial of payment; and if the non-initiating party is a plan or issuer, the plan type (for example, self-insured or fully-insured) and TIN (or, in the case of a plan that does not have a TIN, the TIN of the plan sponsor);

(3) The name and contact information (including the legal business name, email address, phone number, TIN, and mailing address) for any third party representing the non-initiating party, and an attestation that the third party has the authority to act on behalf of the party it represents in the Federal IDR process;

(4) Information sufficient to identify each item or service included in the notice of IDR initiation, including the date(s) the item or service was furnished and if the non-initiating party is a provider, facility, or provider of air ambulance services, the date(s) that the provider, facility, or provider of air ambulance services received the initial payment or notice of denial of payment for such item or service from the plan or issuer, and the claim number;

(5) If the non-initiating party is a plan or issuer, a statement as to whether the non-initiating party agrees that the initial payment (including \$0 if payment is denied) and the qualifying payment amount reflected in the notice of IDR initiation is accurate for the item or service that is the subject of the dispute, and if not, the initial payment amount (including \$0 if payment is denied) and/or qualifying payment amount it believes to be correct, and documentation to support the statement (for example, the remittance advice confirming the qualifying payment amount);

(6) If the non-initiating party is a plan or issuer, the amount of cost sharing imposed for the item or service, if any;

(7) If the non-initiating party is a provider or facility, a statement that the items and services do not qualify for the notice and consent exception described at 45 CFR 149.410(b) or 149.420(c) through (i);

(8) For each item or service that is the subject of the dispute, either an attestation that the item or service is a qualified IDR item or service as defined in paragraph (a)(2)(xi) of this section and is eligible for the Federal IDR process, or for each item or service that the non-initiating party asserts is not a qualified IDR item or service that is eligible for the Federal IDR process, an

explanation and documentation to support the assertion;

(9) A statement confirming that the remittance advice associated with the initial payment or notice of denial of payment provided by the initiating party under paragraph (b)(2)(ii)(A)(13) of this section is accurate, or if inaccurate, a copy of the accurate remittance advice associated with the initial payment or notice of denial of payment for the item or service;

(10) A statement as to whether any of the information provided in the notice of IDR initiation is inaccurate and the basis for the statement, as well as any supporting documentation; and

(11) A statement as to whether the non-initiating party agrees or objects to the initiating party's preferred certified IDR entity. If the non-initiating party objects to the initiating party's preferred certified IDR entity, the notice of IDR initiation response must include the name of an alternative preferred certified IDR entity and, if applicable, an explanation of any conflict of interest with the initiating party's preferred certified IDR entity.

(B) [Reserved]

(3) *Manner.* A party furnishing notices as required under paragraphs (b)(1)(ii) and (iii) and (b)(2)(ii) and (iii) of this section must furnish the notices using the standard forms developed by the Secretary and must furnish the notices and supporting documentation to the other party and the Secretary through the Federal IDR portal.

(c) *Federal IDR process following initiation—*

(1) *Selection of certified IDR entity—*
(i) *Preliminary selection of the certified IDR entity.* Within 3 business days after the date of IDR initiation, the non-initiating party must agree or object to the preferred certified IDR entity identified in the notice of IDR initiation by submitting the notice of IDR initiation response described in paragraph (b)(2)(iii) of this section, which contains the information described in subordinate paragraph (b)(2)(iii)(A)(11) thereof.

(A) If the non-initiating party agrees or fails to respond to the selection of the initiating party's preferred certified IDR entity in the manner and timeframe described in paragraph (c)(1)(i) of this section, the initiating party's preferred certified IDR entity will be considered jointly selected on the third business day after the date of IDR initiation.

(B) If the non-initiating party objects to the selection of the initiating party's preferred certified IDR entity by designating an alternative preferred certified IDR entity in the manner and timeframe described in paragraph

(c)(1)(i) of this section, the initiating party may then agree or object to the non-initiating party's alternative preferred certified IDR entity by submitting the notice of certified IDR entity selection in the manner specified in paragraph (c)(1)(i)(D) of this section.

(1) If the initiating party agrees to the non-initiating party's alternative preferred certified IDR entity within 3 business days after the date of IDR initiation, the alternative preferred certified IDR entity will be considered jointly selected by the parties.

(2) If the non-initiating party submits the notice of IDR initiation response on the first or second business day after the date of IDR initiation, and the initiating party fails to respond within 3 business days after the date of IDR initiation, the alternative preferred certified IDR entity will be considered jointly selected by the parties.

(3) If the non-initiating party submits the notice of IDR initiation response on the third business day after the date of IDR initiation and the initiating party fails to respond on the same day, selection will proceed pursuant to paragraph (c)(1)(i)(C) of this section.

(C) If a certified IDR entity is not jointly selected under paragraph (c)(1)(i)(A) or (B) of this section, either party may select an alternative preferred certified IDR entity by submitting the notice of certified IDR entity selection in the manner specified in paragraph (c)(1)(i)(D) of this section, until the earlier of the date that the parties agree on the alternative preferred certified IDR entity or the deadline for joint selection, which is 3 business days after the date of IDR initiation. Once a party submits a notice of certified IDR entity selection, it may not submit another notice of certified IDR entity selection until it receives a responding notice of certified IDR entity selection from the other party.

(1) If a party submits a notice of certified IDR entity selection to the other party on the first or second business day after the date of IDR initiation and the party in receipt of the notice agrees or fails to respond to the alternative preferred certified IDR entity by the third business day after the date of IDR initiation, the alternative preferred certified IDR entity will be considered jointly selected by the parties.

(2) If a party submits a notice of certified IDR entity selection to the other party on the third business day after the date of IDR initiation and the party last in receipt of the notice agrees to the alternative preferred certified IDR entity on the same day, the alternative preferred certified IDR entity will be

considered jointly selected by the parties.

(3) If a party submits a notice of certified IDR entity selection to the other party on the third business day after the date of IDR initiation and the party last in receipt of the notice fails to respond to the alternative preferred certified IDR entity on the same day, the parties will have failed to jointly select a certified IDR entity.

(D) To notify the other party and the Secretary of an agreement or objection to an alternative preferred certified IDR entity as described in paragraph (c)(1)(i)(C) of this section, a party must furnish a notice of certified IDR entity selection, using the standard form developed by the Secretary, to the other party and the Secretary through the Federal IDR portal within 3 business days after the date of IDR initiation. The notice of certified IDR entity selection must include a statement indicating the party's agreement with or objection to the other party's alternative preferred certified IDR entity and, if applicable, an explanation of any conflict of interest with the alternative preferred certified IDR entity, and the name of another alternative preferred certified IDR entity. However, in the event the conditions for failure to jointly select a certified IDR entity apply, selection will proceed in accordance with paragraph (c)(1)(ii) of this section.

(ii) *Failure to jointly select a certified IDR entity.* If the parties fail to jointly select a certified IDR entity within 3 business days after the date of IDR initiation, the Secretary will select a certified IDR entity. The parties will have failed to jointly select a certified IDR entity if, by the end of the third business day after the date of IDR initiation, the party last in receipt of the notice of IDR initiation response or the notice of certified IDR entity selection has received an objection to their preferred or alternative preferred certified IDR entity in the applicable notice. Alternatively, the parties will have failed to jointly select a certified IDR entity if the notice of IDR initiation response or the notice of certified IDR entity selection is submitted to the other party on the third business day after the date of IDR initiation and the party in receipt of the notice fails to respond to the alternative preferred certified IDR entity on the same day.

(A) In selecting the certified IDR entity, the Secretary will first confirm whether a party submitted the notice of IDR initiation response or the notice of certified IDR entity selection with an alternative preferred certified IDR entity on the third business day after the date of IDR initiation without the other

party's agreement to the selection. If either notice was provided on the third business day after the date of IDR initiation without the other party's agreement to the alternative preferred certified IDR entity by the end of the third business day after the date of IDR initiation, the Secretary will provide the party last in receipt of the applicable notice, as of the end of the third business day after the date of IDR initiation, 2 additional business days to agree or object to the other party's alternative preferred certified IDR entity selection.

(1) If the party last in receipt of the applicable notice, as of the end of the third business day after the date of IDR initiation, agrees with the other party's alternative preferred certified IDR entity and notifies the Secretary of the agreement, or fails to respond in the Federal IDR portal by the fifth business day after the date of IDR initiation, the Secretary will select the final alternative preferred certified IDR entity selected in the applicable notice.

(2) If the party last in receipt of the applicable notice, as of the end of the third business day after the date of IDR initiation, notifies the Secretary of its objection to the alternative preferred certified IDR entity by the fifth business day after the date of IDR initiation, the Secretary will randomly select a certified IDR entity from among the certified IDR entities (other than the preferred certified IDR entity and any alternative preferred certified IDR entity previously selected in such dispute by a party, unless there is no other certified IDR entity available to select) that charge a fee within the allowed range of certified IDR entity fees, not later than the sixth business day after the date of IDR initiation. If there are insufficient certified IDR entities that charge a fee within the allowed range of certified IDR entity fees available to arbitrate the dispute, the Secretary will select a certified IDR entity that has received approval, as described in paragraph (e)(2)(vii)(A) of this section, to charge a fee outside of the allowed range of certified IDR entity fees. In either case, the Secretary will notify the parties of the preliminary selection of the certified IDR entity not later than 6 business days after the date of IDR initiation.

(B) [Reserved]

(iii) *Date of preliminary selection of the certified IDR entity.* The date of preliminary selection of the certified IDR entity will be:

(A) Three business days after the date of IDR initiation if the parties jointly select a certified IDR entity, as specified in paragraph (c)(1)(i) of this section; or

(B) Six business days after the date of IDR initiation, if the parties fail to jointly select a certified IDR entity as specified in paragraph (c)(1)(ii) of this section.

(iv) *Final selection of the certified IDR entity—*

(A) *Conflict-of-interest review.* The certified IDR entity preliminarily selected for a dispute must review the selection. The selection of the certified IDR entity will be finalized only if the certified IDR entity attests to the Secretary that it meets the following requirements:

(1) The certified IDR entity does not have a conflict of interest as defined in paragraph (a)(2)(iv) of this section;

(2) The certified IDR entity will only assign personnel to a dispute and make decisions regarding hiring, compensation, termination, promotion, or other similar matters related to personnel assigned to the dispute in a manner that is not based upon the likelihood that the assigned personnel will support a particular party to the dispute; and

(3) The certified IDR entity will not assign any personnel to a dispute who would have any conflicts of interest, as defined in paragraph (a)(2)(iv) of this section, regarding any party to the dispute or whose relationship with a party within the 1 year immediately preceding the assignment to the dispute would violate the restrictions on aiding or advising a former employer or principal in a manner similar to the restrictions set forth in 18 U.S.C. 207(b).

(B) *Failure to meet conflict-of-interest requirements.* If the certified IDR entity fails to attest to the Secretary within 3 business days of the date of preliminary selection of the certified IDR entity that it meets the requirements of paragraphs (c)(1)(iv)(A)(1) through (3) of this section, the Secretary will randomly select another certified IDR entity consistent with paragraph (c)(1)(ii) of this section. The Secretary will notify the parties of the new randomly preliminarily selected certified IDR entity no later than 1 business day after the date of preliminary selection of the certified IDR entity, no later than 1 business day after the end of the 3-business-day period.

(C) *Date of final selection of the certified IDR entity.* If the certified IDR entity that has been preliminarily selected attests within 3 business days that it meets the requirements of paragraph (c)(1)(iv)(A) of this section, the Secretary will notify the parties of the final selection of the certified IDR entity no later than 1 business day after the certified IDR entity attests that it meets the conflict-of-interest

requirements. The date of final selection of the certified IDR entity is the date that the Secretary provides this notice to the parties.

(2) *Federal IDR process eligibility review—(i) Federal IDR process eligibility determination by certified IDR entity.* The selected certified IDR entity must review the information in the notice of IDR initiation, notice of IDR initiation response, and any additional information described in paragraph (c)(2)(ii) of this section, and make a final determination as to whether the item or service is a qualified IDR item or service (and in the case of a batched dispute, whether the items or services are qualified IDR items or services), as defined in paragraph (a)(2)(xi) of this section, that is eligible for the Federal IDR process. The certified IDR entity must make such a determination and notify the Secretary and both parties no later than 5 business days after the date of final selection of the certified IDR entity. If the certified IDR entity determines that the item or service is not a qualified IDR item or service that is eligible for the Federal IDR process, the dispute will be closed, and the selected certified IDR entity will not take any further action with respect to the dispute. In the case of a batched dispute, only those items and services determined to be qualified IDR items or services that are eligible for the Federal IDR process and that meet the requirements of paragraph (c)(4)(i) of this section will continue through the Federal IDR process, and the selected certified IDR entity will not take any further action with respect to the other items and services included in the batched dispute.

(ii) *Request for additional information.* The selected certified IDR entity may request additional information from either party to a dispute at any time, including for the purpose of assessing whether a conflict of interest exists, conducting an eligibility determination, or making a payment determination.

(A) Upon request, a party must submit the additional information within 5 business days to the selected certified IDR entity through the Federal IDR portal. Following a request for additional information, the time period for the applicable stage of the Federal IDR process will be tolled until the earlier of the date either all of the requested information is provided or the 5-business-day period expires, and each subsequent timeframe in the Federal IDR process will be determined based on the date of completion of the stage of the Federal IDR process that was

tolled for provision of the requested information.

(B) If a party fails to submit the additional information as required, the related determination, including the conflict-of-interest review, eligibility determination, or payment determination, will be made without the requested information unless a good-cause extension of the 5-business-day period, as specified in paragraph (g)(1)(i) of this section, has been provided, and the party subsequently submits the additional information requested within the extended period. If the related determination cannot be made because both parties failed to provide the additional information as required, the dispute will be considered withdrawn, as specified in paragraph (c)(3)(ii) of this section.

(3) *Authority to continue negotiations or withdraw.* (i) *Authority to continue to negotiate.* If the parties to the Federal IDR process agree on an out-of-network rate for a qualified IDR item or service after providing the notice of IDR initiation to the Secretary required under paragraph (b)(2)(ii) of this section, but before the certified IDR entity has made its payment determination, the amount agreed to by the parties for the qualified IDR item or service will be treated as the out-of-network rate for the qualified IDR item or service. To the extent the amount exceeds the initial payment amount and any cost sharing paid or owed by the participant or beneficiary, payment must be made directly by the plan or issuer to the nonparticipating provider, nonparticipating facility, or nonparticipating provider of air ambulance services not later than 30 calendar days after the date the agreement is reached. In no instance may either party seek additional payment from the participant or beneficiary, calculated based on the agreed-upon amount, in instances in which the out-of-network rate exceeds the qualifying payment amount. The initiating party must send a notification for the parties' agreement to the Secretary and the certified IDR entity (if selected) through the Federal IDR portal as soon as possible, but no later than 3 business days after the date of the agreement. The notification must include the dispute number, a statement of the agreed-on out-of-network rate for the qualified IDR item or service, and signatures from authorized signatories for both parties.

(ii) *Withdrawal of disputes.* A dispute may be withdrawn from the Federal IDR process by the initiating party, the Secretary, or a certified IDR entity before a payment determination is

made, if one of the following conditions is met:

(A) The initiating party provides notification through the Federal IDR portal to the Secretary and the certified IDR entity (if selected) that both parties to the dispute agree to withdraw the dispute from the Federal IDR process without agreement on an out-of-network rate. The notification must include the dispute number, a statement about both parties' agreement to withdraw, and signatures from authorized signatories for both parties;

(B) The initiating party provides a standard withdrawal request notice through the Federal IDR portal to the Secretary, the certified IDR entity (if selected), and the non-initiating party of its request to withdraw the dispute from the Federal IDR process, and the non-initiating party notifies the Secretary, certified IDR entity (if selected), and the initiating party through the Federal IDR portal of its agreement to withdraw from the Federal IDR process within 5 business days of the initiating party's request. Provision of the withdrawal request through the Federal IDR portal pauses the Federal IDR process for 5 business days or until the non-initiating party responds, whichever happens first. If the non-initiating party fails to respond within 5 business days of the initiating party's request, the non-initiating party will be considered to have agreed to the withdrawal, and the dispute will be withdrawn;

(C) The certified IDR entity cannot determine eligibility, for example, because both parties to the dispute are nonresponsive to any requests for additional information to determine eligibility as described in paragraph (c)(2)(ii) of this section; or

(D) The certified IDR entity cannot make a payment determination, for example, because both parties to the dispute have failed to submit an offer as described in paragraph (c)(5)(i) of this section.

(4) *Treatment of batched qualified IDR items and services—*(i) *In general.* For purposes of encouraging efficiencies (including minimizing costs) in the Federal IDR process, a certified IDR entity may consider up to 50 qualified IDR items and services jointly as part of a single payment determination that is subject to the certified IDR entity fee for batched disputes only if the qualified IDR items and services meet the requirements of this paragraph (c)(4)(i) of this section:

* * * * *

(B) Payment for the qualified IDR items and services is required to be made by the same group health plan or

health insurance issuer. For group or individual health insurance coverage, this requirement is satisfied if the same issuer is required to make payment for the qualified IDR items and services, even if the qualified IDR items and services relate to claims from different group health plans or individual market policies. For self-insured group health plans, this requirement is satisfied if the same self-insured group health plan is required to make payment for the qualified IDR items and services, including when the plan makes payments through a third party administrator; the requirement is not satisfied if multiple self-insured group health plans are required to make payments for the qualified IDR items and services, even if those group health plans make payments through the same third-party administrator;

(C) The qualified IDR items and services meet any of the following criteria under which multiple qualified IDR items and services relate to the treatment of a similar condition:

(1) The qualified IDR items or services were furnished to a single patient during a single patient encounter. For purposes of this section, a single patient encounter is defined as a patient encounter on one or more consecutive days during which the qualified IDR items or services were furnished to the same patient and billed on the same claim form; or

(2) The qualified IDR items and services were furnished to one or more patients and were billed under the same service code or a comparable code under a different procedural coding system, such as Current Procedural Terminology (CPT) codes with modifiers, if applicable, Healthcare Common Procedure Coding System (HCPCS) codes with modifiers, if applicable, or Diagnosis-Related Group (DRG) codes with modifiers, if applicable; or

(3) For anesthesiology, radiology, pathology, and laboratory qualified IDR items and services, the qualified IDR items and services were furnished to one or more patients and were billed under service codes belonging to the same Category I CPT code range, as specified in guidance published by the Secretary; and

(D) All the qualified IDR items and services were furnished within the same 30-business-day period following the date on which the first item or service included in the batched dispute was furnished, and the qualified IDR items and services were the subjects of a 30-business-day open negotiation period that ended within 4 business days of

IDR initiation, except as provided in paragraph (c)(5)(vii)(B) of this section.

(ii) *Treatment of bundled payment arrangements.* Qualified IDR items and services that meet the definition of a bundled payment arrangement under § 2590.716–3 may be submitted and considered as a single payment determination, and the certified IDR entity must make a single payment determination for the multiple qualified IDR items and services included in the bundled payment arrangement. Bundled payment arrangements as defined in § 2590.716–3 and submitted under this paragraph (c)(4)(ii) are subject to the certified IDR entity fee for single determinations.

(5) *Payment determination for a qualified IDR item or service—*

(i) *Submission of offers.* Not later than 10 business days after the date of final selection of the certified IDR entity as described in paragraph (c)(1)(iv)(C) of this section (or not later than 10 business days after the qualified IDR items and services are determined eligible as described in paragraph (c)(2) of this section, when the Secretary determines that any of the extenuating circumstances described in paragraph (g)(1)(ii) of this section apply), the plan or issuer and the provider, facility, or provider of air ambulance services:

* * * * *

(ii) *Payment determination and notification.* Not later than 30 business days after the date of final selection of the certified IDR entity as described in paragraph (c)(1)(iv)(C) of this section (or not later than 30 business days after the qualified IDR items and services are determined eligible as described in paragraph (c)(2) of this section, when the Secretary determines that any of the extenuating circumstances described in paragraph (g) of this section apply), the certified IDR entity must:

(A) Select as the out-of-network rate for the qualified IDR item or service one of the offers submitted under paragraph (c)(5)(i) of this section, weighing only the considerations specified in paragraph (c)(5)(iii) of this section (as applied to the information provided by the parties pursuant to 29 CFR 2590.716–8(c)(5)(i). The certified IDR entity must select the offer that the certified IDR entity determines best represents the value of the qualified IDR item or service as the out-of-network rate.

(1) *Prevailing party.* In the case of single determinations, the party whose offer is selected by the certified IDR entity is considered the prevailing party. In the case of batched determinations, the party with the most determinations

in its favor is considered the prevailing party.

(2) *Non-prevailing party.* In the case of single determinations, the party whose offer is not selected by the certified IDR entity is considered the non-prevailing party. In the case of batched determinations, the party with the fewest determinations in its favor is considered the non-prevailing party.

(3) *Parties prevailing in equal numbers of determinations.* If each party prevails in an equal number of determinations, neither party will be considered the prevailing party or the non-prevailing party, and the certified IDR entity fee will be split evenly between the parties.

(B) Notify the plan or issuer and the provider or facility, as applicable, of the selection of the offer under paragraph (c)(5)(ii)(A) of this section, and provide the written decision required under (c)(5)(vi) of this section.

(iii) *Considerations in determination.* In determining which offer to select:

(A) The certified IDR entity must consider the qualifying payment amount(s) for the applicable year for the same or similar item or service.

(B) The certified IDR entity must consider information submitted by a party that relates to the following circumstances:

(1) The level of training, experience, and quality and outcomes measurements of the provider or facility that furnished the qualified IDR item or service (such as those endorsed by the consensus-based entity authorized in section 1890 of the Social Security Act).

(2) The market share held by the provider or facility or that of the plan or issuer in the geographic region in which the qualified IDR item or service was provided.

(3) The acuity of the participant, beneficiary, or enrollee receiving the qualified IDR item or service, or the complexity of furnishing the qualified IDR item or service to the participant, beneficiary, or enrollee.

(4) The teaching status, case mix, and scope of services of the facility that furnished the qualified IDR item or service, if applicable.

(5) Demonstration of good faith efforts (or lack thereof) made by the provider or facility or the plan or issuer to enter into network agreements with each other, and, if applicable, contracted rates between the provider or facility, as applicable, and the plan or issuer, as applicable, during the previous 4 plan years.

(C) The certified IDR entity must also consider information provided by a party in response to a request by the certified IDR entity under paragraph

(c)(5)(i)(A)(2) of this section that relates to the offer for the payment amount for the qualified IDR item or service that is the subject of the payment determination and that does not include information on factors described in paragraph (c)(5)(v) of this section.

(D) The certified IDR entity must also consider additional information submitted by a party that relates to the offer for the payment amount for the qualified IDR item or service that is the subject of the payment determination and that does not include information on factors described in paragraph (c)(4)(v) of this section.

* * * * *

(vi) *Written decision.* (A) The certified IDR entity must explain its determination in a written decision submitted to the parties and the Secretary, in a form and manner specified by the Secretary;

(B) The certified IDR entity's written decision must include an explanation of their determination, including what information the certified IDR entity determined demonstrated that the offer selected as the out-of-network rate is the offer that best represents the value of the qualified IDR item or service, including the weight given to the qualifying payment amount and any additional credible information under paragraphs (c)(5)(iii)(B) through (D) of this section.

(vii) *Effects of determination.* (A) *Binding.* A determination made by a certified IDR entity under paragraph (c)(5)(ii) of this section:

(B) *Suspension of certain subsequent IDR requests.* In the case of a single determination made by a certified IDR entity under paragraph (c)(5)(ii) of this section, the party that submitted the initial notification under paragraph (b)(2) of this section may not submit a subsequent notification involving the same other party for a claim for the same item or service that was the subject of the initial notification during the 90-calendar-day period following the determination. In the case of a batched determination made by a certified IDR entity under paragraph (c)(5)(ii) of this section, the party that submitted the initial notification under paragraph (b)(2) of this section may not submit a subsequent notification involving the same other party for a claim for the same items or services that were the subject of the initial notification during the 30-business-day period following the determination.

(C) *Subsequent submission of requests permitted.* In the case of a single determination made by a certified IDR entity under paragraph (c)(5)(ii) of this section, if the end of the open

negotiation period specified in paragraph (b)(1) of this section occurs during the 90-calendar-day suspension period regarding claims for the same item or service that were the subject of the single determination, either party may initiate the Federal IDR process for those claims by submitting a notification as specified in paragraph (b)(2) of this section during the 30-business-day period beginning on the day after the last day of the 90-calendar-day suspension period. In the case of a batched determination made by a certified IDR entity under paragraph (c)(5)(ii) of this section, if the end of the open negotiation period specified in paragraph (b)(1) of this section is completed in the 30 business days prior to or during the 30-business-day suspension period regarding claims for the same items or services that were the subject of the batched determination, either party may initiate the Federal IDR process for those claims by submitting a notification as specified in paragraph (b)(2) of this section during the 4-business-day period beginning on the business day after the 30-business-day suspension period as described in paragraph (c)(5)(vii)(B) of this section.

* * * * *

(d) *Costs of IDR process*—(1) *Certified IDR entity fee*.—(i) *Timing of payment of certified IDR entity fee*. Each party to a dispute for which there is a final selection of the certified IDR entity and a determination that the dispute is eligible for the Federal IDR process in accordance with paragraph (c)(2) of this section must pay to the certified IDR entity the predetermined certified IDR entity fee charged by the certified IDR entity. The certified IDR entity fee must be paid no later than the date a party submits its offer to the certified IDR entity, in accordance with paragraph (c)(5)(i) of this section.

(ii) *Failure to timely pay certified IDR entity fee*. If a party fails to pay the certified IDR entity fee as specified in paragraph (d)(1)(i) of this section, that party's offer will not be considered received. Such party will continue to be responsible for payment of the certified IDR entity fee.

(iii) *Method of allocation of the certified IDR entity fee after a payment determination*. After making a payment determination, the certified IDR entity will retain the certified IDR entity fee described under paragraph (d)(1)(i) of this section paid by the non-prevailing party as defined in paragraph (c)(5)(ii)(A)(2) of this section. The certified IDR entity must return the fee paid by the prevailing party, as defined in paragraph (c)(5)(ii)(A)(1) of this

section, within 30 business days following the date of the certified IDR entity's payment determination. In the event of a batched dispute in which each party prevails in an equal number of determinations, the certified IDR entity fee will be split evenly between the parties. In that case, the certified IDR entity must return half of the fee paid by each party within 30 business days following the date of the certified IDR entity's payment determination.

(iv) *Method of allocation of the certified IDR entity fee upon agreement or withdrawal after an eligibility determination*. For a dispute for which there is a final selection of the certified IDR entity and a determination that the dispute is eligible for the Federal IDR process in accordance with paragraph (c)(2) of this section, unless directed otherwise by both parties, the certified IDR entity is required to return half of each party's certified IDR entity fee within 30 business days of the date both parties notify the certified IDR entity that they have:

(A) Reached an agreement on an out-of-network rate for qualified IDR items or services before the certified IDR entity has made its payment determination, as described in paragraph (c)(3)(i) of this section; or

(B) Withdrawn the dispute before the certified IDR entity has made its payment determination, as described in paragraph (c)(3)(ii) of this section.

(v) *Method of allocation of the certified IDR entity fee upon agreement or withdrawal before an eligibility determination*. For a dispute for which there is a final selection of the certified IDR entity, but the dispute has been determined ineligible or no eligibility determination has been made for the dispute, in accordance with paragraph (c)(2) of this section (excluding situations as provided in paragraph (c)(3)(ii)(C) of this section where a certified IDR entity cannot determine eligibility), the certified IDR entity is required to return the entirety of each party's certified IDR entity fee within 30 business days of the date both parties notify the certified IDR entity that they have:

(A) Reached an agreement on an out-of-network rate for qualified IDR items or services before the certified IDR entity has made its payment determination, as described in paragraph (c)(3)(i) of this section; or

(B) Withdrawn the dispute before the certified IDR entity has made its payment determination, as described in paragraph (c)(3)(ii) of this section.

(2) * * *

(ii) *Administrative fee amount*. The administrative fee amount will be

established through notice-and-comment rulemaking no more frequently than once per calendar year in a manner such that the total administrative fees paid for a year are estimated to be equal to the amount of expenditures estimated to be made by the Secretaries of the Treasury, Labor, and Health and Human Services for the year in carrying out the Federal IDR process. The administrative fee amount will remain in effect until changed by notice-and-comment rulemaking.

(A) For disputes initiated on January 22, 2024, through June 10, 2026, the administrative fee amount is \$115 per party per dispute.

(B) For disputes initiated on or after June 11, 2026, the administrative fee amount is \$15 per party per dispute.

(iii) *Failure to pay the administrative fee*. If a party fails to pay the administrative fee as specified in paragraph (d)(2) of this section, that party's offer will not be considered received. Such party will continue to be responsible for payment of the administrative fee.

(e) * * *

(2) * * *

(ix) Have a procedure in place to retain the certified IDR entity fees described in paragraph (d)(1) of this section paid by both parties in a trust or escrow account and to return the certified IDR entity fee paid by the prevailing party or a portion of each party's certified IDR entity fee in the case of an agreement described in paragraph (c)(3)(i) of this section, a withdrawal described in paragraph (c)(3)(ii) of this section, or a circumstance in which each party prevails in an equal number of determinations, as described in paragraph (d)(1)(iii) of this section, within 30 business days following the date of the determination or the date the certified IDR entity is notified by both parties of an agreement or withdrawal, as applicable;

* * * * *

(g) *Extension of time periods for extenuating circumstances*—(1) *In general*. The time periods specified in this section (other than the time for payment, if applicable, under paragraph (c)(5)(ix) of this section) may be extended in extenuating circumstances at the Secretary's discretion. Extenuating circumstances include, but are not limited to, when:

(i) For a specific dispute, the Secretary determines that the parties or certified IDR entity cannot meet applicable timeframes due to matters beyond the control of one or both parties or the certified IDR entity, or for

other good cause. The certified IDR entity or either party may also submit a request for an extension due to extenuating circumstances to the Secretary through the Federal IDR portal. The requesting certified IDR entity or party must attest that it will take prompt action to ensure that the certified IDR entity's payment determination under this section may be made as soon as administratively practicable under the circumstances; or

(ii) The Secretary determines that the parties or certified IDR entity cannot meet applicable timeframes due to systematic delays in processing disputes under the Federal IDR process, such as an unforeseen volume of disputes or Federal IDR portal system failures. Extensions provided due to extenuating circumstances caused by an unforeseen volume of disputes will be applied to the timeframe for eligibility determinations under paragraph (c)(2) of this section. Extensions provided due to extenuating circumstances caused by systems failures within the Federal IDR portal will be applied to the Federal IDR process timeframe(s) determined relevant by the Secretary. The Secretary will post a public notice regarding any extensions of time periods under this paragraph (g)(1)(ii).

(A) *Timeframe following an extension to eligibility determination.* When an extension to the eligibility determination timeframe under paragraph (g)(1)(ii) of this section is in effect, the start date of the subsequent timeframes in the Federal IDR process will be determined based on the date of completion of the eligibility determination by the certified IDR entity.

(1) *Submission of offers.* The parties must submit their offers and certified IDR entity fees to the certified IDR entity not later than 10 business days after the qualified IDR items and services are determined eligible as described in paragraph (c)(2) of this section.

(2) *Payment determination.* The certified IDR entity must make the payment determination and provide notification of the payment determination to the parties not later than 30 business days after the qualified IDR items and services are determined eligible as described in paragraph (c)(2) of this section.

(B) *Timeframe following an extension to other timeframes in the Federal IDR process.* When an extension to any timeframe within the Federal IDR process, other than the eligibility timeframe, is in effect under paragraph (g)(1)(ii) of this section, the start date of each subsequent timeframe in the Federal IDR process will be determined

based on the date of completion of the process for which the extension was granted.

(2) [Reserved]

(h) *Applicability date.* (1) Paragraph (a) of this section is applicable for plan years beginning on or after January 1, 2022, except that the provisions regarding IDR entity certification at paragraph (a) of this section are applicable beginning on October 7, 2021, and the revised definition for batched IDR items and services at paragraph (a)(2)(i) of this section is applicable to disputes with open negotiation periods beginning on November 1, 2026.

(2) Paragraph (b) of this section is applicable to disputes with open negotiation periods beginning 90 calendar days after the Departments issue guidance announcing that the functionality supporting these provisions has become available.

(3) Paragraph (c)(1) of this section, regarding the selection of a certified IDR entity, is applicable for plan years beginning on or after January 1, 2022, and the modifications at paragraph (c)(1) of this section are applicable to disputes with open negotiation periods beginning 90 calendar days after the Departments issue guidance announcing that the functionality supporting these provisions has become available.

(4) Paragraph (c)(2) of this section, regarding the Federal IDR process eligibility review, paragraph (c)(3) of this section, regarding the authority to continue negotiations or withdraw, and paragraph (c)(4) of this section, regarding the treatment of batched and bundled qualified IDR items and services, are applicable for plan years beginning on or after January 1, 2022. The modifications at paragraphs (c)(3)(i) and (c)(3)(ii)(C) and (D) of this section are applicable beginning on November 1, 2026. The amendments at paragraphs (c)(2), (c)(3)(ii)(A) and (B), and (c)(4) of this section are applicable to disputes with open negotiation periods beginning 90 calendar days after the Departments issue guidance announcing that the functionality supporting these provisions has become available.

(5) Paragraphs (c)(5)(ii) and (iii) of this section regarding payment determination and notification and considerations in payment determinations and paragraph (c)(5)(vi)(B) of this section regarding written decisions are applicable for items or services furnished on or after October 25, 2022, are applicable for plan years beginning on or after January 1, 2022. Paragraphs (c)(5)(i), (c)(5)(v) through (c)(5)(vi)(A), and (c)(5)(vii) through (ix) of this section regarding

submission of offers, prohibition on consideration of certain factors, written decision, effects of determination, recordkeeping requirements, and payment are applicable for plan years beginning on or after January 1, 2022. The modifications at paragraphs (c)(5)(i) and (ii) and (c)(5)(vi)(B) and (C) of this section regarding the deadlines for the submission of offers, payment determination and notification, suspension of certain subsequent IDR requests, and subsequent submission of requests permitted are applicable to disputes with open negotiation periods beginning 90 calendar days after the Departments issue guidance announcing that the functionality supporting these provisions has become available.

(6) Paragraph (d)(1) of this section regarding the certified IDR entity fee is applicable to disputes initiated on or after August 3, 2026. Paragraph (d)(2)(ii) of this section regarding the administrative fee is applicable to disputes initiated on or after June 11, 2026. Paragraph (d)(2)(iii) of this section regarding failure to pay the administrative fee is applicable beginning on August 3, 2026.

(7) Paragraph (e) of this section is applicable for plan years beginning on or after January 1, 2022, except that the provisions regarding IDR entity certification at paragraphs (e)(1), (e)(2)(i) through (vi), (e)(2)(x) and (xi), and (e)(3) through (6) of this section are applicable beginning on October 7, 2021. Paragraph (e)(2)(ix) of this section regarding procedures to retain the certified IDR entity fee is applicable beginning on August 3, 2026.

(8) Paragraph (f) of this section is applicable for plan years beginning on or after January 1, 2022, except that paragraph (f)(1)(v)(F) of this section regarding reporting of information relating to the Federal IDR process is applicable for items or services furnished on or after October 25, 2022, for plan years beginning on or after January 1, 2022.

(9) Paragraph (g) of this section regarding the extension of time periods for extenuating circumstances is applicable for plan years beginning on or after January 1, 2022. The modifications at paragraph (g) of this section are applicable beginning on November 1, 2026.

(10) Until the relevant applicability date for the requirements of this section, plans, issuers, providers, facilities, providers of air ambulance services, and certified IDR entities are required to continue to comply with the corresponding section of § 2590.716–8 in effect prior to June 4, 2026.

(i) *Severability.* (1) Any provision of this section held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, will be construed so as to continue to give maximum effect to the provision permitted by law, unless such holding is one of utter invalidity or unenforceability, in which event the provision will be severable from this section and will not affect the remainder thereof or the application of the provision to persons not similarly situated or to dissimilar circumstances.

(2) The provisions of paragraphs (b)(1), (c)(2)(ii), (c)(4), (d)(2), and (g)(1) of this section are intended to be severable from one another, from any grant of forbearance from removal resulting from this subpart, and from any provision referenced in those paragraphs. The provisions in this section are intended to be severable from the provisions in §§ 2590.716–6, 2590.716–6A, and 2590.716–9, from any grant of forbearance from removal resulting from this subpart, and from any provision referenced in §§ 2590.716–6, 2590.716–6A, and 2590.716–9.

■ 14. Section 2590.716–9 is added to subpart F to read as follows:

§ 2590.716–9 Federal independent dispute resolution registry of group health plans, health insurance issuers, and Federal Employees Health Benefits Program Carriers.

(a) *Establishment of Federal independent dispute resolution registry.* The Secretary, jointly with the Secretary of the Treasury and the Secretary of Labor, will establish a Federal independent dispute resolution (IDR) registry consisting of the information described in paragraph (b)(2) of this section, and will assign a registration number for each self-insured group health plan, and health insurance issuer offering group health insurance coverage. The information contained in the registry will be made available to parties seeking to initiate an open negotiation or a dispute through the Federal IDR portal.

(b) *Federal IDR registration—*

(1) *Registration requirement.* Each self-insured group health plan, and each health insurance issuer offering group health insurance coverage subject to the Federal IDR process must register with the Federal IDR registry as specified by the Departments in guidance. Initial registration must be completed by the later of the date that is 90 business days after the Departments issue guidance announcing that the functionality supporting the registry has become available, or the date the plan sponsor

or health insurance issuer begins offering a group health plan or health insurance coverage subject to the Federal IDR process.

(2) *Required data elements.* Self-insured group health plans and health insurance issuers offering group or individual health insurance coverage subject to the registration requirement must include the following information with their registration:

(i) The legal business name (if any) of the self-insured group health plan or issuer and, if applicable, the legal business name of the self-insured group health plan sponsor;

(ii) Whether the registrant is a self-insured group health plan subject to ERISA or an issuer offering group market insurance coverage;

(iii) For issuers offering group market insurance coverage, the State(s) in which the plan is offered or the coverage is licensed;

(iv) For self-insured group health plans not otherwise subject to State law, any State(s) in which the group health plan has properly effectuated an election to opt in to a specified State law as defined in § 2590.716–3, or an All-Payer Model Agreement under section 1115A of the Social Security Act, if the terms of that agreement allow a plan not otherwise subject to the agreement to opt in;

(v) Contact information, including a telephone number and email address, for the appropriate office or person to initiate open negotiation for purposes of determining an amount of payment (including cost sharing) for such item or service; and contact information, including a telephone number and email address, for the appropriate office or person to initiate the Federal IDR process;

(vi) The 5-digit Health Insurance Oversight System (HIOS) identifier, if available; and for self-insured group health plans, the plan's or the plan sponsor's Employer Identification Number (EIN) and the plan's plan number (PN), if a PN is available;

(vii) Additional information needed to identify the plan or issuer and the applicable Federal and State requirements for determining appropriate out-of-network payment rates for items or services to which the protections against balance billing in this part apply, as specified by the Secretary in guidance; and

(viii) Additional information needed for purposes of administrative or certified IDR entity fee collection, as specified by the Secretary in guidance.

(3) *Updating disclosures.* A plan or issuer must timely report to the Secretary changes to the information

required under this section within 30 calendar days after the information changes. A plan or issuer must confirm the accuracy of its registration annually in the fourth quarter of each calendar year.

(4) *Third-party authority.* The requirements of paragraphs (b)(1) through (3) of this section may be performed by a third-party administrator or service provider with authority to act on behalf of the self-insured group health plan or health insurance issuer offering group health insurance coverage subject to the Federal IDR process. If the registration requirements are performed by such third-party administrator or service provider, the group health plan or health insurance issuer offering group health insurance coverage must require that such third-party administrator or service provider clearly delineate each group health plan or health insurance issuer offering group health insurance coverage for which it has authority to act. If such third-party administrator or service provider fails to provide the information in compliance with the requirements of paragraphs (b)(1) through (3) of this section, the plan or issuer will be in violation of the requirements of this section.

(c) *Severability.* (1) Any provision of this section held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, will be construed so as to continue to give maximum effect to the provision permitted by law, unless such holding is one of utter invalidity or unenforceability, in which event the provision will be severable from this section and will not affect the remainder thereof or the application of the provision to persons not similarly situated or to dissimilar circumstances.

(2) The provisions in this section are intended to be severable from the provisions in §§ 2590.716–6, 2590.716A–6, and 2590.716–8, from any grant of forbearance from removal resulting from this subpart, and from any provision referenced in §§ 2590.716–6, 2590.716–6A, and 2590.716–8.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

For the reasons stated in the preamble, the Department of Health and Human Services amends 45 CFR part 149 as set forth below:

PART 149—SURPRISE BILLING AND TRANSPARENCY REQUIREMENTS

■ 15. The authority citation for part 149 continues to read as follows:

Authority: 42 U.S.C. 300gg–92 and 300gg–111 through 300gg–139, as amended.

■ 16. Section 149.30 is amended by adding the definition of “Bundled payment arrangement” in alphabetical order to read as follows:

§ 149.30 Definitions.

* * * * *

Bundled payment arrangement means an arrangement under which—

(1) A provider, facility, or provider of air ambulance services bills for multiple items or services furnished to a single patient under a single service code that represents multiple items or services (for example, a Diagnosis-Related Group (DRG) code); or

(2) A plan or issuer makes an initial payment or notice of denial of payment to a provider, facility, or provider of air ambulance services under a single service code that represents multiple items or services furnished to a single patient (for example, a DRG code).

* * * * *

■ 17. Section 149.100 is added to subpart B to read as follows:

§ 149.100 Use of claim adjustment reason codes and remittance advice remark codes.

(a) *In general.* When providing any remittance advice (including in paper or electronic form) to an entity (other than a participant, beneficiary, or enrollee) that does not have a contractual relationship, directly or indirectly, with a group health plan or a health insurance issuer offering group or individual health insurance coverage for the furnishing of an item or service under the plan or coverage, in response to a claim for payment for health care items and services furnished by that entity, the plan or issuer must use claim adjustment reason codes (CARCs) and remittance advice remark codes (RARCs) (as those terms are described in standards and operating rules adopted in part 162 of this subtitle), in the manner and timeframe specified in guidance issued by the Secretaries of the Treasury, Labor, and Health and Human Services, or as required under any applicable adopted standards and operating rules under part 162 of this subtitle, to communicate information related to whether the claim is or is not subject to the provisions of this subpart and subparts E and F of this part.

(b) *Severability*—(1) Any provision of this section held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, will be construed so as to continue to give maximum effect to the provision permitted by law, unless such holding is one of utter invalidity or unenforceability, in which event the

provision will be severable from this section and will not affect the remainder thereof or the application of the provision to persons not similarly situated or to dissimilar circumstances.

(2) The provisions in this section are intended to be severable from the provisions in §§ 149.140, 149.510, and 149.530, from any grant of forbearance from removal resulting from this subpart, and from any provision referenced in §§ 149.140, 149.510, and 149.530.

■ 18. Section 149.140 is amended by:

- a. Revising paragraphs (d) introductory text and (d)(1)(iv);
- b. Redesignating paragraph (d)(1)(v) as paragraph (d)(1)(vi);
- c. Adding a new paragraph (d)(1)(v);
- d. Revising paragraph (d)(2) introductory text; and
- e. Adding paragraph (h).

The revisions and additions read as follows:

§ 149.140 Methodology for calculating qualifying payment amount.

* * * * *

(d) *Information to be shared about the qualifying payment amount.* In cases in which the recognized amount, for an item or service furnished by a nonparticipating provider or nonparticipating emergency facility, is the qualifying payment amount or the amount billed by the provider or facility, or if the amount on which cost sharing is based for air ambulance services furnished by a nonparticipating provider of air ambulance services is the qualifying payment amount or the amount billed by the provider of air ambulance services, the plan or issuer must provide to the provider, facility, or provider of air ambulance services, as applicable, in writing, in paper or electronic form—

(1) * * *

(iv) A statement that—

(A) If the provider, facility, or provider of air ambulance services, as applicable, wishes to initiate a 30-business-day open negotiation period for purposes of determining the out-of-network rate, the provider, facility, or provider of air ambulance services must:

(1) Contact the appropriate person or office to initiate open negotiation generally within 30 business days of receiving the initial payment or notice of denial of payment, and

(2) For disclosures required to be provided on or after the later of August 3, 2026 and the date that the open negotiation notice can be submitted through the Federal independent dispute resolution (IDR) portal, notify the Secretary as described under § 149.510(b)(1)(i); and

(B) If the 30-business-day open negotiation period does not result in an agreement on the amount of payment, the provider, facility, or provider of air ambulance services may generally initiate the Federal IDR process within 4 business days after the end of the 30-business-day open negotiation period;

(v) For disclosures required to be provided on or after August 3, 2026, the legal business name (if any) of the self-insured group health plan, FEHB Program carrier, or issuer and, if applicable, the legal business name of the self-insured group health plan sponsor, and the registration number assigned to the plan or issuer, as required under § 149.530.

* * * * *

(2) In a timely manner upon the request of the provider, facility, or provider of air ambulance services:

* * * * *

(h) *Severability*—(1) Any provision of this section held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, will be construed so as to continue to give maximum effect to the provision permitted by law, unless such holding is one of utter invalidity or unenforceability, in which event the provision will be severable from this section and will not affect the remainder thereof or the application of the provision to persons not similarly situated or to dissimilar circumstances.

(2) The provisions in this section are intended to be severable from the provisions in §§ 149.100, 149.510, and 149.530, from any grant of forbearance from removal resulting from this subpart, and from any provision referenced in §§ 149.100, 149.510, and 149.530.

■ 19. Section 149.510 is amended by—

- a. Revising paragraphs (a)(2)(i), (b), (c), (d)(1), and (d)(2)(ii);
- b. Adding new paragraph (d)(2)(iii);
- c. Removing paragraph (d)(3);
- d. Revising paragraphs (e)(2)(ix), (g), and (h); and
- f. Adding paragraph (i).

The revisions and additions read as follows:

§ 149.510 Independent dispute resolution process.

(a) * * *

(2) * * *

(i) *Batched qualified IDR items and services* means multiple qualified IDR items or services that are considered jointly as part of one payment determination by a certified IDR entity for purposes of the Federal IDR process in accordance with paragraph (c)(4)(i) of this section.

* * * * *

(b) *Determination of payment amount through open negotiation and initiation of the Federal IDR process.*

(1) *Determination of payment amount through open negotiation.* (i) *In general.*

For an item or service that meets the requirements of paragraph (a)(2)(xi)(A) of this section, the provider, facility, or provider of air ambulance services or the group health plan or health insurance issuer offering group or individual health insurance coverage may, during the 30-business-day period beginning on the day the provider, facility, or provider of air ambulance services receives an initial payment or notice of denial of payment regarding the item or service, initiate a 30-business-day open negotiation period for purposes of determining the out-of-network rate for such item or service. To initiate the open negotiation period, a party must submit a written open negotiation notice with the content specified in paragraph (b)(1)(ii) of this section to the other party and to the Secretary in the manner specified in paragraph (b)(3) of this section. The 30-business-day open negotiation period begins on the day on which the party first submits the open negotiation notice, including the remittance advice documentation specified in paragraph (b)(1)(ii)(A)(12) of this section, to the other party and the Secretary. The party in receipt of the open negotiation notice must provide to the party that initiated open negotiation and to the Secretary in the manner specified in paragraph (b)(3) of this section, as soon as practicable, but no later than the 15th business day of the 30-business-day open negotiation period, a written notice and supporting documentation in response to the open negotiation notice, as specified in paragraph (b)(1)(iii)(A) of this section.

(ii) *Open negotiation notice.* (A) *Content.* The open negotiation notice must include, for the item or service that is the subject of the open negotiation notice, information about the item or service and the parties, including:

(1) Information sufficient to identify the provider, facility, or provider of air ambulance services, including the name and current contact information (including the legal business name, email address, phone number, and mailing address) as provided with the claim form submitted by the provider, facility, or provider of air ambulance services to the plan or issuer, and the applicable National Provider Identifier (NPI);

(2) Information sufficient to identify the plan or issuer, including the plan's or issuer's registration number, as required under § 149.530, or an

attestation from the party submitting the open negotiation notice that the plan's or issuer's registration number was not provided on any remittance advice associated with the initial payment or notice of denial of payment for the item or service; the legal business name of the plan or issuer (or, in the case of a self-insured group health plan that does not have a legal business name, the legal business name of the plan sponsor), as well as the current contact information (name, email address, phone number, and mailing address) of the plan or issuer as provided with any remittance advice associated with the initial payment or notice of denial of payment for the item or service; and if the party submitting the open negotiation notice is a plan or issuer, the plan type (for example, self-insured or fully-insured);

(3) The name and contact information (including the legal business name, email address, phone number, and mailing address) for any third party representing the party submitting the open negotiation notice, and an attestation that the third party has the authority to act on behalf of the party it represents in the open negotiation;

(4) Information sufficient to identify the item or service, including: the date(s) the item or service was furnished and, if the party submitting the open negotiation notice is a provider, facility, or provider of air ambulance services, the date(s) that the provider, facility, or provider of air ambulance services received the initial payment or notice of denial of payment for the item or service from the plan or issuer; the type of item or service (specifically, whether the item or service is an emergency service as defined in § 149.110(c)(2)(i) or (ii), a non-emergency service as described in § 149.120(b), or an air ambulance service as defined in § 149.30); whether the service is a professional service or facility-based service; the State where the item or service was furnished; the claim number; the service code; and information to identify the location where the item or service was furnished (such as, place of service code or bill type code);

(5) The initial payment amount (including \$0 if payment is denied);

(6) The qualifying payment amount, if provided in a remittance advice associated with the initial payment or notice of denial of payment, or if the party submitting the open negotiation notice is a plan or issuer;

(7) An offer of an out-of-network rate for each item or service;

(8) If the party submitting the open negotiation notice is a plan or issuer, the amount of cost sharing imposed for the item or service, if any;

(9) If the party submitting the open negotiation notice is a provider or facility, a statement that the items and services do not qualify for the notice and consent exception described at 45 § 149.410(b) or § 149.420(c) through (i);

(10) A statement that the provider, facility, or provider of air ambulance services was a nonparticipating provider, nonparticipating emergency facility, or nonparticipating provider of air ambulance services on the date the item or service was furnished;

(11) General information listed in the standard open negotiation notice developed by the Secretary pursuant to paragraph (b)(3) of this section describing the open negotiation period and the Federal IDR process (including a description of the purpose of the open negotiation period and Federal IDR process and key deadlines in the open negotiation period and Federal IDR process); and

(12) A copy of any remittance advice associated with the initial payment or notice of denial of payment for the item or service.

(B) [Reserved]

(iii) *Open negotiation response notice.*

(A) *Content.* The response to the open negotiation notice must include, for the item or service that is the subject of the open negotiation response notice, information about the item or service and the parties, including:

(1) Information sufficient to identify the provider, facility, or provider of air ambulance services, including the name and current contact information (including the legal business name, email address, phone number, and mailing address) as provided with the claim form submitted by the provider, facility, or provider of air ambulance services to the plan or issuer, and the applicable NPI;

(2) Information sufficient to identify the plan or issuer, including the plan's or issuer's registration number, as required under § 149.530, or an attestation from the party submitting the open negotiation response notice that the plan's or issuer's registration number was not provided on any remittance advice associated with the initial payment or notice of denial of payment for the item or service, as well as the legal business name of the plan or issuer (or, in the case of a self-insured group health plan that does not have a legal business name, the legal business name of the plan sponsor), the current contact information (name, email address, phone number, and mailing address) of the plan or issuer as provided with any remittance advice associated with the initial payment or notice of denial of payment for the item

or service; and if the party submitting the open negotiation response notice is a plan or issuer, the plan type (for example, self-insured or fully-insured);

(3) The name and contact information (including the legal business name, email address, phone number, and mailing address) for any third party representing the party submitting the open negotiation response notice, and an attestation that the third party has the authority to act on behalf of the party it represents in the open negotiation;

(4) Information sufficient to identify the item or service included in the open negotiation notice, including the date(s) the item or service was furnished, and if the party submitting the open negotiation response notice is a provider, facility, or provider of air ambulance services, the date(s) that the provider, facility, or provider of air ambulance services received the initial payment or notice of denial of payment for the item or service from the plan or issuer, and the claim number;

(5) If the party submitting the open negotiation response notice is a plan or issuer, a statement as to whether it agrees that the initial payment amount (including \$0 if payment is denied) and the qualifying payment amount reflected in the open negotiation notice accurately reflect the initial payment amount and qualifying payment amount disclosed with the initial payment for the item or service, and if not, or if the open negotiation notice indicates that the initial payment amount or qualifying payment amount was not communicated by the plan or issuer in a remittance advice associated with the initial payment or notice of denial of payment, the initial payment amount (including \$0 if payment is denied) and/or qualifying payment amount it believes to be correct, and documentation to support the statement (for example, the remittance advice confirming the qualifying payment amount);

(6) If the party submitting the open negotiation response notice is a plan or issuer, the amount of cost sharing imposed for the item or service, if any;

(7) If the party submitting the open negotiation response notice is a provider or facility, a statement that the items and services do not qualify for the notice and consent exception described at § 149.410(b) or § 149.420(c) through (i);

(8) For each item or service, either a statement and supporting documentation that explains why the item or service is not subject to the Federal IDR process or a statement

agreeing that the item or service is subject to the Federal IDR process;

(9) A statement as to whether any of the information provided in the open negotiation notice is inaccurate and the basis for the statement, as well as supporting documentation; and

(10) A statement confirming that the initial payment or notice of denial of payment or other remittance advice reflected in the open negotiation notice under paragraph (b)(1)(ii)(A)(12) of this section is accurate, or, if inaccurate, a copy of the accurate remittance advice associated with the initial payment or notice of denial of payment for the item or service.

(B) [Reserved]

(2) *Initiating the Federal IDR process.*

(i) *In general.* Either party may initiate the Federal IDR process for a qualified IDR item or service as defined in paragraph (a)(2)(xi) of this section for which the parties have not agreed on an out-of-network rate by the last day of the open negotiation period provided for under paragraph (b)(1) of this section. To initiate the Federal IDR process, a party (the initiating party) must submit a written notice of IDR initiation, consistent with paragraph (b)(2)(ii) of this section, to the other party to the dispute (the non-initiating party) and to the Secretary in the manner specified in paragraph (b)(3) of this section, during the 4-business-day period beginning on the first business day after the last day of the open negotiation period (unless it is otherwise required to be submitted in the timeframe specified in paragraph (c)(5)(vii)(C) of this section). The date of IDR initiation is the date the Secretary receives the notice of IDR initiation described in paragraph (b)(2)(ii) of this section.

(A) *Exception for items and services provided by certain nonparticipating providers and facilities.* A party may not initiate the Federal IDR process for an item or service if, for that item or service, the party knows (or reasonably should have known) that the provider or facility provided notice and received consent under § 149.410(b) or § 149.420(c) through (i).

(B) [Reserved]

(ii) *Notice of IDR initiation.* (A)

Content. The notice of IDR initiation must include, for the item or service that is the subject of the notice, information about the item or service and the parties including:

(1) Information sufficient to identify the provider, facility, or provider of air ambulance services, including the name and current contact information (including the legal business name, email address, phone number, and mailing address), and the NPI; and if the

initiating party is a provider, facility, or provider of air ambulance services, the Taxpayer Identification Number (TIN);

(2) Information sufficient to identify the plan or issuer, including the plan's or issuer's registration number, as required under § 149.530, or an attestation from the initiating party that the plan's or issuer's registration number was not provided on any remittance advice associated with the initial payment or notice of denial of payment for the item or service; the legal business name of the plan or issuer (or, in the case of a self-insured group health plan that does not have a legal business name, the legal business name of the plan sponsor), as well as the current contact information (name, email address, phone number, and mailing address) of the plan or issuer as provided with any remittance advice associated with the initial payment or notice of denial of payment for the item or service; and if the initiating party is a plan or issuer, the plan type (for example, self-insured or fully-insured) and TIN (or, in the case of a plan that does not have a TIN, the TIN of the plan sponsor);

(3) The name and contact information (including the legal business name, email address, phone number, TIN, and mailing address) for any third party representing the initiating party, and an attestation that the third party has the authority to act on behalf of the party it represents in the Federal IDR process;

(4) Information sufficient to identify whether the dispute being initiated includes batched or bundled qualified IDR items or services as described in paragraph (c)(4) of this section;

(5) Information sufficient to identify the qualified IDR item or service that is the subject of the notice of IDR initiation, including the date(s) the qualified IDR item or service was furnished; if the initiating party is a provider, facility, or provider of air ambulance services, the date(s) that the provider, facility, or provider of air ambulance services received the initial payment or notice of denial of payment for such item or service from the plan or issuer; the date the open negotiation period under paragraph (b)(1) of this section began; the type of item or service (specifically, whether the item or service that meets the requirements of paragraph (a)(2)(xi)(A) of this section is an emergency service as defined in § 149.110(c)(2)(i) or (ii), a non-emergency service as described in § 149.120(b), or an air ambulance service as defined in § 149.30); whether the service is a professional service or facility-based service; the State where the item or service was furnished; the

claim number; the service code; and information to identify the location the item or service was furnished (including place of service code or bill type code);

(6) The initial payment amount (including \$0 if payment is denied);

(7) If the initiating party is a plan or issuer, the amount of cost sharing imposed for the item or service, if any;

(8) The qualifying payment amount, if provided with the initial payment or notice of denial of payment, or if the initiating party is a plan or issuer;

(9) If the initiating party is a provider or facility, a statement that the items and services do not qualify for the notice and consent exception described at § 149.410(b) or § 149.420(c) through (i);

(10) A statement that the provider, facility, or provider of air ambulance services was a nonparticipating provider, a nonparticipating emergency facility, or nonparticipating provider of air ambulance services on the date the item or service was furnished;

(11) Attestation that the item or service under dispute is a qualified IDR item or service as defined in paragraph (a)(2)(xi) of this section and is eligible for the Federal IDR process, and the basis for the attestation;

(12) General information listed in the standard notice of IDR initiation developed by the Secretary under paragraph (b)(3) of this section describing the Federal IDR process (including a description of the purpose of the Federal IDR process and key deadlines in the Federal IDR process);

(13) A copy of any remittance advice associated with the initial payment or notice of denial of payment for the item or service; and

(14) Preferred certified IDR entity.

(B) [Reserved]

(iii) *Notice of IDR initiation response.* The non-initiating party must provide to the initiating party and the Secretary in the manner specified in paragraph (b)(3) of this section within 3 business days after the date of IDR initiation, a written notice and supporting documentation in response to the notice of IDR initiation, as specified in paragraph (b)(2)(iii)(A) of this section.

(A) *Content.* The notice of IDR initiation response must include, for the item or service that is the subject of the notice, information about the item or service and the parties, including:

(1) Information sufficient to identify the provider, facility, or provider of air ambulance services, including the name and current contact information (including the legal business name, email address, phone number, and mailing address), and the NPI; and if the non-initiating party is a provider,

facility, or provider of air ambulance services, the TIN;

(2) Information sufficient to identify the plan or issuer, including the plan's or issuer's registration number, as required under § 149.530, or an attestation from the non-initiating party that the plan's or issuer's registration number was not provided on any remittance advice associated with the initial payment or notice of denial of payment for the item or service; the legal business name of the plan or issuer (or, in the case of a self-insured group health plan that does not have a legal business name, the legal business name of the plan sponsor), as well as the current contact information (name, email address, phone number, and mailing address) of the plan or issuer as provided with any remittance advice associated with the initial payment or notice of denial of payment; and if the non-initiating party is a plan or issuer, the plan type (for example, self-insured or fully-insured) and TIN (or, in the case of a plan that does not have a TIN, the TIN of the plan sponsor);

(3) The name and contact information (including the legal business name, email address, phone number, TIN, and mailing address) for any third party representing the non-initiating party, and an attestation that the third party has the authority to act on behalf of the party it represents in the Federal IDR process;

(4) Information sufficient to identify each item or service included in the notice of IDR initiation, including the date(s) the item or service was furnished and if the non-initiating party is a provider, facility, or provider of air ambulance services, the date(s) that the provider, facility, or provider of air ambulance services received the initial payment or notice of denial of payment for such item or service from the plan or issuer, and the claim number;

(5) If the non-initiating party is a plan or issuer, a statement as to whether the non-initiating party agrees that the initial payment (including \$0 if payment is denied) and the qualifying payment amount reflected in the notice of IDR initiation is accurate for the item or service that is the subject of the dispute, and if not, the initial payment amount (including \$0 if payment is denied) and/or qualifying payment amount it believes to be correct, and documentation to support the statement (for example, the remittance advice confirming the qualifying payment amount);

(6) If the non-initiating party is a plan or issuer, the amount of cost sharing imposed for the item or service, if any;

(7) If the non-initiating party is a provider or facility, a statement that the items and services do not qualify for the notice and consent exception described at § 149.410(b) or § 149.420(c) through (i);

(8) For each item or service that is the subject of the dispute, either an attestation that the item or service is a qualified IDR item or service as defined in paragraph (a)(2)(xi) of this section and is eligible for the Federal IDR process, or for each item or service that the non-initiating party asserts is not a qualified IDR item or service that is eligible for the Federal IDR process, an explanation and documentation to support the assertion;

(9) A statement confirming that the remittance advice associated with the initial payment or notice of denial of payment provided by the initiating party under paragraph (b)(2)(ii)(A)(13) of this section is accurate, or, if inaccurate, a copy of the accurate remittance advice associated with the initial payment or notice of denial of payment for the item or service;

(10) A statement as to whether any of the information provided in the notice of IDR initiation is inaccurate and the basis for the statement, as well as any supporting documentation; and

(11) A statement as to whether the non-initiating party agrees or objects to the initiating party's preferred certified IDR entity. If the non-initiating party objects to the initiating party's preferred certified IDR entity, the notice of IDR initiation response must include the name of an alternative preferred certified IDR entity and, if applicable, an explanation of any conflict of interest with the initiating party's preferred certified IDR entity.

(B) [Reserved]

(3) *Manner.* A party furnishing notices as required under paragraphs (b)(1)(ii) and (iii) and (b)(2)(ii) and (iii) of this section must furnish the notices using the standard forms developed by the Secretary and must furnish the notices and supporting documentation to the other party and the Secretary through the Federal IDR portal.

(c) *Federal IDR process following initiation—*

(1) *Selection of certified IDR entity.* (i) *Preliminary selection of the certified IDR entity.* Within 3 business days after the date of IDR initiation, the non-initiating party must agree or object to the preferred certified IDR entity identified in the notice of IDR initiation by submitting the notice of IDR initiation response described in paragraph (b)(2)(iii) of this section, which contains the information

described in subordinate paragraph (b)(2)(iii)(A)(11) thereof.

(A) If the non-initiating party agrees or fails to respond to the selection of the initiating party's preferred certified IDR entity in the manner and timeframe described in paragraph (c)(1)(i) of this section, the initiating party's preferred certified IDR entity will be considered jointly selected on the third business day after the date of IDR initiation.

(B) If the non-initiating party objects to the selection of the initiating party's preferred certified IDR entity by designating an alternative preferred certified IDR entity in the manner and timeframe described in paragraph (c)(1)(i) of this section, the initiating party may then agree or object to the non-initiating party's alternative preferred certified IDR entity by submitting the notice of certified IDR entity selection in the manner specified in paragraph (c)(1)(i)(D) of this section.

(1) If the initiating party agrees to the non-initiating party's alternative preferred certified IDR entity within 3 business days after the date of IDR initiation, the alternative preferred certified IDR entity will be considered jointly selected by the parties.

(2) If the non-initiating party submits the notice of IDR initiation response on the first or second business day after the date of IDR initiation, and the initiating party fails to respond within 3 business days after the date of IDR initiation, the alternative preferred certified IDR entity will be considered jointly selected by the parties.

(3) If the non-initiating party submits the notice of IDR initiation response on the third business day after the date of IDR initiation and the initiating party fails to respond on the same day, selection will proceed pursuant to paragraph (c)(1)(i)(C) of this section.

(C) If a certified IDR entity is not jointly selected under paragraph (c)(1)(i)(A) or (B) of this section, either party may select an alternative preferred certified IDR entity by submitting the notice of certified IDR entity selection in the manner specified in paragraph (c)(1)(i)(D) of this section, until the earlier of the date that the parties agree on the alternative preferred certified IDR entity or the deadline for joint selection, which is 3 business days after the date of IDR initiation. Once a party submits a notice of certified IDR entity selection, it may not submit another notice of certified IDR entity selection until it receives a responding notice of certified IDR entity selection from the other party.

(1) If a party submits a notice of certified IDR entity selection to the other party on the first or second

business day after the date of IDR initiation and the party in receipt of the notice agrees or fails to respond to the alternative preferred certified IDR entity by the third business day after the date of IDR initiation, the alternative preferred certified IDR entity will be considered jointly selected by the parties.

(2) If a party submits a notice of certified IDR entity selection to the other party on the third business day after the date of IDR initiation and the party last in receipt of the notice agrees to the alternative preferred certified IDR entity on the same day, the alternative preferred certified IDR entity will be considered jointly selected by the parties.

(3) If a party submits a notice of certified IDR entity selection to the other party on the third business day after the date of IDR initiation, and the party last in receipt of the notice fails to respond to the alternative preferred certified IDR entity on the same day, the parties will have failed to jointly select a certified IDR entity.

(D) To notify the other party and the Secretary of an agreement or objection to an alternative preferred certified IDR entity as described in paragraph (c)(1)(i)(C) of this section, a party must furnish a notice of certified IDR entity selection, using the standard form developed by the Secretary, to the other party and the Secretary through the Federal IDR portal within 3 business days after the date of IDR initiation. The notice of certified IDR entity selection must include a statement indicating the party's agreement with or objection to the other party's alternative preferred certified IDR entity and, if applicable, an explanation of any conflict of interest with the alternative preferred certified IDR entity, and the name of another alternative preferred certified IDR entity. However, in the event the conditions for failure to jointly select a certified IDR entity apply, selection will proceed in accordance with paragraph (c)(1)(ii) of this section.

(ii) *Failure to jointly select a certified IDR entity.* If the parties fail to jointly select a certified IDR entity within 3 business days after the date of IDR initiation, the Secretary will select a certified IDR entity. The parties will have failed to jointly select a certified IDR entity if, by the end of the third business day after the date of IDR initiation, the party last in receipt of the notice of IDR initiation response or the notice of certified IDR entity selection has received an objection to their preferred or alternative preferred certified IDR entity in the applicable notice. Alternatively, the parties will

have failed to jointly select a certified IDR entity if the notice of IDR initiation response or the notice of certified IDR entity selection is submitted to the other party on the third business day after the date of IDR initiation and the party in receipt of the notice fails to respond to the alternative preferred certified IDR entity on the same day.

(A) In selecting the certified IDR entity, the Secretary will first confirm whether a party submitted the notice of IDR initiation response or the notice of certified IDR entity selection with an alternative preferred certified IDR entity on the third business day after the date of IDR initiation without the other party's agreement to the selection. If either notice was provided on the third business day after the date of IDR initiation without the other party's agreement to the alternative preferred certified IDR entity by the end of the third business day after the date of IDR initiation, the Secretary will provide the party last in receipt of the applicable notice, as of the end of the third business day after the date of IDR initiation, 2 additional business days to agree or object to the other party's alternative preferred certified IDR entity selection.

(1) If the party last in receipt of the applicable notice, as of the end of the third business day after the date of IDR initiation, agrees with the other party's alternative preferred certified IDR entity and notifies the Secretary of the agreement, or fails to respond, in the Federal IDR portal by the fifth business day after the date of IDR initiation, the Secretary will select the final alternative preferred certified IDR entity selected in the applicable notice.

(2) If the party last in receipt of the applicable notice, as of the end of the third business day after the date of IDR initiation, notifies the Secretary of its objection to the alternative preferred certified IDR entity by the fifth business day after the date of IDR initiation, the Secretary will randomly select a certified IDR entity from among the certified IDR entities (other than the preferred certified IDR entity and any alternative preferred certified IDR entity previously selected in such dispute by a party, unless there is no other certified IDR entity available to select) that charge a fee within the allowed range of certified IDR entity fees, not later than the sixth business day after the date of IDR initiation. If there are insufficient certified IDR entities that charge a fee within the allowed range of certified IDR entity fees available to arbitrate the dispute, the Secretary will select a certified IDR entity that has received approval, as described in paragraph

(e)(2)(vii)(A) of this section, to charge a fee outside of the allowed range of certified IDR entity fees. In either case, the Secretary will notify the parties of the preliminary selection of the certified IDR entity not later than 6 business days after the date of IDR initiation.

(B) [Reserved]

(iii) *Date of preliminary selection of the certified IDR entity.* The date of preliminary selection of the certified IDR entity will be:

(A) Three business days after the date of IDR initiation if the parties jointly select a certified IDR entity, as specified in paragraph (c)(1)(i) of this section; or

(B) Six business days after the date of IDR initiation, if the parties fail to jointly select a certified IDR entity as specified in paragraph (c)(1)(ii) of this section.

(iv) *Final selection of the certified IDR entity—*

(A) *Conflict-of-interest review.* The certified IDR entity preliminarily selected for a dispute must review the selection. The selection of the certified IDR entity will be finalized only if the certified IDR entity attests to the Secretary that it meets the following requirements:

(1) The certified IDR entity does not have a conflict of interest as defined in paragraph (a)(2)(iv) of this section;

(2) The certified IDR entity will only assign personnel to a dispute and make decisions regarding hiring, compensation, termination, promotion, or other similar matters related to personnel assigned to the dispute in a manner that is not based upon the likelihood that the assigned personnel will support a particular party to the dispute; and

(3) The certified IDR entity will not assign any personnel to a dispute who would have any conflicts of interest, as defined in paragraph (a)(2)(iv) of this section, regarding any party to the dispute or whose relationship with a party within the 1 year immediately preceding the assignment to the dispute would violate the restrictions on aiding or advising a former employer or principal in a manner similar to the restrictions set forth in 18 U.S.C. 207(b).

(B) *Failure to meet conflict-of-interest requirements.* If the certified IDR entity fails to attest to the Secretary within 3 business days of the date of preliminary selection of the certified IDR entity that it meets the requirements of paragraphs (c)(1)(iv)(A)(1) through (3) of this section, the Secretary will randomly select another certified IDR entity consistent with paragraph (c)(1)(ii) of this section. The Secretary will notify the parties of the new randomly preliminarily selected certified IDR

entity no later than 1 business day after the date of preliminary selection of the certified IDR entity, no later than 1 business day after the end of the 3-business-day period.

(C) *Date of final selection of the certified IDR entity.* If the certified IDR entity that has been preliminarily selected attests within 3 business days that it meets the requirements of paragraph (c)(1)(iv)(A) of this section, the Secretary will notify the parties of the final selection of the certified IDR entity no later than 1 business day after the certified IDR entity attests that it meets the conflict-of-interest requirements. The date of final selection of the certified IDR entity is the date that the Secretary provides this notice to the parties.

(2) *Federal IDR process eligibility review—(i) Federal IDR process eligibility determination by certified IDR entity.* The selected certified IDR entity must review the information in the notice of IDR initiation, notice of IDR initiation response, and any additional information described in paragraph (c)(2)(ii) of this section, and make a final determination as to whether the item or service is a qualified IDR item or service (and in the case of a batched dispute, whether the items or services are qualified IDR items or services), as defined in paragraph (a)(2)(xi) of this section, that is eligible for the Federal IDR process. The certified IDR entity must make such a determination and notify the Secretary and both parties no later than 5 business days after the date of final selection of the certified IDR entity. If the certified IDR entity determines that the item or service is not a qualified IDR item or service that is eligible for the Federal IDR process, the dispute will be closed, and the selected certified IDR entity will not take any further action with respect to the dispute. In the case of a batched dispute, only those items and services determined to be qualified IDR items or services that are eligible for the Federal IDR process and that meet the requirements of paragraph (c)(4)(i) of this section will continue through the Federal IDR process, and the selected certified IDR entity will not take any further action with respect to the other items and services included in the batched dispute.

(ii) *Request for additional information.* The selected certified IDR entity may request additional information from either party to a dispute at any time, including for the purpose of assessing whether a conflict of interest exists, conducting an eligibility determination, or making a payment determination.

(A) Upon request, a party must submit the additional information within 5 business days to the selected certified IDR entity through the Federal IDR portal. Following a request for additional information, the time period for the applicable stage of the Federal IDR process will be tolled until the earlier of the date either all of the requested information is provided or the 5-business-day period expires, and each subsequent timeframe in the Federal IDR process will be determined based on the date of completion of the stage of the Federal IDR process that was tolled for provision of the requested information.

(B) If a party fails to submit the additional information as required, the related determination, including the conflict-of-interest review, eligibility determination, or payment determination, will be made without the requested information unless a good-cause extension of the 5-business-day period, as specified in paragraph (g)(1)(i) of this section, has been provided, and the party subsequently submits the additional information requested within the extended period. If the related determination cannot be made because both parties failed to provide the additional information as required, the dispute will be considered withdrawn, as specified in paragraph (c)(3)(ii) of this section.

(3) *Authority to continue negotiations or withdraw.* (i) *Authority to continue to negotiate.* If the parties to the Federal IDR process agree on an out-of-network rate for a qualified IDR item or service after providing the notice of IDR initiation to the Secretary required under paragraph (b)(2)(ii) of this section, but before the certified IDR entity has made its payment determination, the amount agreed to by the parties for the qualified IDR item or service will be treated as the out-of-network rate for the qualified IDR item or service. To the extent the amount exceeds the initial payment amount and any cost sharing paid or owed by the participant, beneficiary, or enrollee, payment must be made directly by the plan or issuer to the nonparticipating provider, nonparticipating facility, or nonparticipating provider of air ambulance services not later than 30 calendar days after the date the agreement is reached. In no instance may either party seek additional payment from the participant, beneficiary, or enrollee, calculated based on the agreed-upon amount, in instances in which the out-of-network rate exceeds the qualifying payment amount. The initiating party must send a notification for the parties' agreement

to the Secretary and the certified IDR entity (if selected) through the Federal IDR portal as soon as possible, but no later than 3 business days after the date of the agreement. The notification must include the dispute number, a statement of the agreed-on out-of-network rate for the qualified IDR item or service, and signatures from authorized signatories for both parties.

(ii) *Withdrawal of disputes.* A dispute may be withdrawn from the Federal IDR process by the initiating party, the Secretary, or a certified IDR entity before a payment determination is made, if one of the following conditions is met:

(A) The initiating party provides notification through the Federal IDR portal to the Secretary and the certified IDR entity (if selected) that both parties to the dispute agree to withdraw the dispute from the Federal IDR process without agreement on an out-of-network rate. The notification must include the dispute number, a statement about both parties' agreement to withdraw, and signatures from authorized signatories for both parties;

(B) The initiating party provides a standard withdrawal request notice through the Federal IDR portal to the Secretary, the certified IDR entity (if selected), and the non-initiating party of its request to withdraw the dispute from the Federal IDR process, and the non-initiating party notifies the Secretary, certified IDR entity (if selected), and the initiating party through the Federal IDR portal of its agreement to withdraw from the Federal IDR process within 5 business days of the initiating party's request. Provision of the withdrawal request through the Federal IDR portal pauses the Federal IDR process for 5 business days or until the non-initiating party responds, whichever happens first. If the non-initiating party fails to respond within 5 business days of the initiating party's request, the non-initiating party will be considered to have agreed to the withdrawal, and the dispute will be withdrawn;

(C) The certified IDR entity cannot determine eligibility, for example, because both parties to the dispute are nonresponsive to any requests for additional information to determine eligibility as described in paragraph (c)(2)(ii) of this section; or

(D) The certified IDR entity cannot make a payment determination, for example, because both parties to the dispute have failed to submit an offer as described in paragraph (c)(5)(i) of this section.

(4) *Treatment of batched qualified IDR items and services—*

(i) *In general.* For purposes of encouraging efficiencies (including minimizing costs) in the Federal IDR process, a certified IDR entity may consider up to 50 qualified IDR items and services jointly as part of a single payment determination that is subject to the certified IDR entity fee for batched disputes, only if the qualified IDR items and services meet the requirements of this paragraph (c)(4)(i) of this section:

* * * * *

(B) Payment for the qualified IDR items and services is required to be made by the same group health plan or health insurance issuer. For group or individual health insurance coverage, this requirement is satisfied if the same issuer is required to make payment for the qualified IDR items and services, even if the qualified IDR items and services relate to claims from different group health plans or individual market policies. For self-insured group health plans, this requirement is satisfied if the same self-insured group health plan is required to make payment for the qualified IDR items and services, including when the plan makes payments through a third party administrator; the requirement is not satisfied if multiple self-insured group health plans are required to make payments for the qualified IDR items and services, even if those group health plans make payments through the same third party administrator;

(C) The qualified IDR items and services meet any of the following criteria under which multiple qualified IDR items and services relate to the treatment of a similar condition:

(1) The qualified IDR items or services were furnished to a single patient during a single patient encounter. For purposes of this section, a single patient encounter is defined as a patient encounter on one or more consecutive days during which the qualified IDR items or services were furnished to the same patient and billed on the same claim form; or

(2) The qualified IDR items and services were furnished to one or more patients and were billed under the same service code or a comparable code under a different procedural coding system, such as Current Procedural Terminology (CPT) codes with modifiers, if applicable, Healthcare Common Procedure Coding System (HCPCS) codes with modifiers, if applicable, or Diagnosis-Related Group (DRG) codes with modifiers, if applicable; or

(3) For anesthesiology, radiology, pathology, and laboratory qualified IDR items and services, the qualified IDR

items and services were furnished to one or more patients and were billed under service codes belonging to the same Category I CPT code range, as specified in guidance published by the Secretary; and

(D) All the qualified IDR items and services were furnished within the same 30-business-day period following the date on which the first item or service included in the batched dispute was furnished, and the qualified IDR items and services were the subjects of a 30-business-day open negotiation period that ended within 4 business days of IDR initiation, except as provided in paragraph (c)(5)(vii)(B) of this section.

(ii) *Treatment of bundled payment arrangements.* Qualified IDR items and services that meet the definition of a bundled payment arrangement under § 149.30 may be submitted and considered as a single payment determination, and the certified IDR entity must make a single payment determination for the multiple qualified IDR items and services included in the bundled payment arrangement. Bundled payment arrangements as defined in § 149.30 and submitted under this paragraph (c)(4)(ii) are subject to the certified IDR entity fee for single determinations.

(5) *Payment determination for a qualified IDR item or service.*

(i) *Submission of offers.* Not later than 10 business days after the date of final selection of the certified IDR entity as described in paragraph (c)(1)(iv)(C) of this section (or not later than 10 business days after the qualified IDR items and services are determined eligible as described in paragraph (c)(2) of this section, when the Secretary determines that any of the extenuating circumstances described in paragraph (g)(1)(ii) of this section apply), the plan or issuer and the provider, facility, or provider of air ambulance services:

* * * * *

(ii) *Payment determination and notification.* Not later than 30 business days after the date of final selection of the certified IDR entity as described in paragraph (c)(1)(iv)(C) of this section (or not later than 30 business days after the qualified IDR items and services are determined eligible as described in paragraph (c)(2) of this section, when the Secretary determines that any of the extenuating circumstances described in paragraph (g) of this section apply), the certified IDR entity must:

(A) Select as the out-of-network rate for the qualified IDR item or service one of the offers submitted under paragraph (c)(5)(i) of this section, weighing only the considerations specified in

paragraph (c)(5)(iii) of this section (as applied to the information provided by the parties pursuant to 29 CFR 2590.716–8(c)(5)(i). The certified IDR entity must select the offer that the certified IDR entity determines best represents the value of the qualified IDR item or service as the out-of-network rate.

(1) *Prevailing party.* In the case of single determinations, the party whose offer is selected by the certified IDR entity is considered the prevailing party. In the case of batched determinations, the party with the most determinations in its favor is considered the prevailing party.

(2) *Non-prevailing party.* In the case of single determinations, the party whose offer is not selected by the certified IDR entity is considered the non-prevailing party. In the case of batched determinations, the party with the fewest determinations in its favor is considered the non-prevailing party.

(3) *Parties prevailing in equal numbers of determinations.* If each party prevails in an equal number of determinations, neither party will be considered the prevailing party or the non-prevailing party, and the certified IDR entity fee will be split evenly between the parties.

(B) Notify the plan or issuer and the provider or facility, as applicable, of the selection of the offer under paragraph (c)(5)(ii)(A) of this section, and provide the written decision required under (c)(5)(vi) of this section.

(iii) *Considerations in determination.* In determining which offer to select:

(A) The certified IDR entity must consider the qualifying payment amount(s) for the applicable year for the same or similar item or service.

(B) The certified IDR entity must consider information submitted by a party that relates to the following circumstances:

(1) The level of training, experience, and quality and outcomes measurements of the provider or facility that furnished the qualified IDR item or service (such as those endorsed by the consensus-based entity authorized in section 1890 of the Social Security Act).

(2) The market share held by the provider or facility or that of the plan or issuer in the geographic region in which the qualified IDR item or service was provided.

(3) The acuity of the participant, beneficiary, or enrollee receiving the qualified IDR item or service, or the complexity of furnishing the qualified IDR item or service to the participant, beneficiary, or enrollee.

(4) The teaching status, case mix, and scope of services of the facility that

furnished the qualified IDR item or service, if applicable.

(5) Demonstration of good faith efforts (or lack thereof) made by the provider or facility or the plan or issuer to enter into network agreements with each other, and, if applicable, contracted rates between the provider or facility, as applicable, and the plan or issuer, as applicable, during the previous 4 plan years.

(C) The certified IDR entity must also consider information provided by a party in response to a request by the certified IDR entity under paragraph (c)(5)(i)(A)(2) of this section that relates to the offer for the payment amount for the qualified IDR item or service that is the subject of the payment determination and that does not include information on factors described in paragraph (c)(5)(v) of this section.

(D) The certified IDR entity must also consider additional information submitted by a party that relates to the offer for the payment amount for the qualified IDR item or service that is the subject of the payment determination and that does not include information on factors described in paragraph (c)(4)(v) of this section.

(iv) [Reserved]

(v) *Prohibition on consideration of certain factors.* In determining which offer to select, the certified IDR entity must not consider:

(A) Usual and customary charges (including payment or reimbursement rates expressed as a proportion of usual and customary charges);

(B) The amount that would have been billed by the provider or facility for the qualified IDR item or service had the provisions of 45 CFR 149.410 and 149.420 (as applicable) not applied; or

(C) The payment or reimbursement rate for items and services furnished by the provider or facility payable by a public payor, including under the Medicare program under title XVIII of the Social Security Act; the Medicaid program under title XIX of the Social Security Act; the Children's Health Insurance Program under title XXI of the Social Security Act; the TRICARE program under chapter 55 of title 10, United States Code; chapter 17 of title 38, United States Code; or demonstration projects under section 1115 of the Social Security Act.

(vi) *Written decision.*

(A) The certified IDR entity must explain its determination in a written decision submitted to the parties and the Secretary, in a form and manner specified by the Secretary;

(B) The certified IDR entity's written decision must include an explanation of their determination, including what

information the certified IDR entity determined demonstrated that the offer selected as the out-of-network rate is the offer that best represents the value of the qualified IDR item or service, including the weight given to the qualifying payment amount and any additional credible information under paragraphs (c)(5)(iii)(B) through (D) of this section.

(vii) *Effects of determination.*

(A) *Binding.* A determination made by a certified IDR entity under paragraph (c)(5)(ii) of this section:

* * * * *

(B) *Suspension of certain subsequent IDR requests.* In the case of a single determination made by a certified IDR entity under paragraph (c)(5)(ii) of this section, the party that submitted the initial notification under paragraph (b)(2) of this section may not submit a subsequent notification involving the same other party for a claim for the same item or service that was the subject of the initial notification during the 90-calendar-day period following the determination. In the case of a batched determination made by a certified IDR entity under paragraph (c)(5)(ii) of this section, the party that submitted the initial notification under paragraph (b)(2) of this section may not submit a subsequent notification involving the same other party for a claim for the same items or services that were the subject of the initial notification during the 30-business-day period following the determination.

(C) *Subsequent submission of requests permitted.* In the case of a single determination made by a certified IDR entity under paragraph (c)(5)(ii) of this section, if the end of the open negotiation period specified in paragraph (b)(1) of this section occurs during the 90-calendar-day suspension period regarding claims for the same item or service that were the subject of the single determination, either party may initiate the Federal IDR process for those claims by submitting a notification as specified in paragraph (b)(2) of this section during the 30-business-day period beginning on the day after the last day of the 90-calendar-day suspension period. In the case of a batched determination made by a certified IDR entity under paragraph (c)(5)(ii) of this section, if the end of the open negotiation period specified in paragraph (b)(1) of this section is completed in the 30 business days prior to or during the 30-business-day suspension period regarding claims for the same items or services that were the subject of the batched determination, either party may initiate the Federal IDR process for those claims by submitting

a notification as specified in paragraph (b)(2) of this section during the 4-business-day period beginning on the business day after the 30-business-day suspension period as described in paragraph (c)(5)(vii)(B) of this section.

* * * * *

(d) *Costs of IDR process.* (1) *Certified IDR entity fee.* (i) *Timing of payment of certified IDR entity fee.* Each party to a dispute for which there is a final selection of the certified IDR entity and a determination that the dispute is eligible for the Federal IDR process in accordance with paragraph (c)(2) of this section must pay to the certified IDR entity the predetermined certified IDR entity fee charged by the certified IDR entity. The certified IDR entity fee must be paid no later than the date a party submits its offer to the certified IDR entity, in accordance with paragraph (c)(5)(i) of this section.

(ii) *Failure to timely pay certified IDR entity fee.* If a party fails to pay the certified IDR entity fee as specified in paragraph (d)(1)(i) of this section, that party's offer will not be considered received. Such party will continue to be responsible for payment of the certified IDR entity fee.

(iii) *Method of allocation of the certified IDR entity fee after a payment determination.* After making a payment determination, the certified IDR entity will retain the certified IDR entity fee described under paragraph (d)(1)(i) of this section paid by the non-prevailing party as defined in paragraph (c)(5)(ii)(A)(2) of this section. The certified IDR entity must return the fee paid by the prevailing party, as defined in paragraph (c)(5)(ii)(A)(1) of this section, within 30 business days following the date of the certified IDR entity's payment determination. In the event of a batched dispute in which each party prevails in an equal number of determinations, the certified IDR entity fee will be split evenly between the parties. In that case, the certified IDR entity must return half of the fee paid by each party within 30 business days following the date of the certified IDR entity's payment determination.

(iv) *Method of allocation of the certified IDR entity fee upon agreement or withdrawal after an eligibility determination.* For a dispute for which there is a final selection of the certified IDR entity and a determination that the dispute is eligible for the Federal IDR process in accordance with paragraph (c)(2) of this section, unless directed otherwise by both parties, the certified IDR entity is required to return half of each party's certified IDR entity fee within 30 business days of the date both

parties notify the certified IDR entity that they have:

(A) Reached an agreement on an out-of-network rate for qualified IDR items or services before the certified IDR entity has made its payment determination, as described in paragraph (c)(3)(i) of this section; or

(B) Withdrawn the dispute before the certified IDR entity has made its payment determination, as described in paragraph (c)(3)(ii) of this section.

(v) *Method of allocation of the certified IDR entity fee upon agreement or withdrawal before an eligibility determination.* For a dispute for which there is a final selection of the certified IDR entity, but the dispute has been determined ineligible or no eligibility determination has been made for the dispute, in accordance with paragraph (c)(2) of this section (excluding situations as provided in paragraph (c)(3)(ii)(C) of this section where a certified IDR entity cannot determine eligibility), the certified IDR entity is required to return the entirety of each party's certified IDR entity fee within 30 business days of the date both parties notify the certified IDR entity that they have:

(A) Reached an agreement on an out-of-network rate for qualified IDR items or services before the certified IDR entity has made its payment determination, as described in paragraph (c)(3)(i) of this section; or

(B) Withdrawn the dispute before the certified IDR entity has made its payment determination, as described in paragraph (c)(3)(ii) of this section.

(2) * * *

(ii) *Administrative fee amount.* The administrative fee amount will be established through notice and comment rulemaking no more frequently than once per calendar year in a manner such that the total administrative fees paid for a year are estimated to be equal to the amount of expenditures estimated to be made by the Secretaries of the Treasury, Labor, and Health and Human Services for the year in carrying out the Federal IDR process. The administrative fee amount will remain in effect until changed by notice and comment rulemaking.

(A) For disputes initiated on January 22, 2024, through June 10, 2026, the administrative fee amount is \$115 per party per dispute.

(B) For disputes initiated on or after June 11, 2026, the administrative fee amount is \$15 per party per dispute.

(iii) *Failure to pay the administrative fee.* If a party fails to pay the administrative fee as specified in paragraph (d)(2) of this section, that party's offer will not be considered

received. Such party will continue to be responsible for payment of the administrative fee.

(e) * * *

(2) * * *

(ix) Have a procedure in place to retain the certified IDR entity fees described in paragraph (d)(1) of this section paid by both parties in a trust or escrow account and to return the certified IDR entity fee paid by the prevailing party or a portion of each party's certified IDR entity fee in the case of an agreement described in paragraph (c)(3)(i) of this section, a withdrawal described in paragraph (c)(3)(ii) of this section, or a circumstance in which each party prevails in an equal number of determinations, as described in paragraph (d)(1)(iii) of this section, within 30 business days following the date of the determination or the date the certified IDR entity is notified by both parties of an agreement or withdrawal, as applicable;

* * * * *

(g) *Extension of time periods for extenuating circumstances.—(1) In general.* The time periods specified in this section (other than the time for payment, if applicable, under paragraph (c)(5)(ix) of this section) may be extended in extenuating circumstances at the Secretary's discretion. Extenuating circumstances include, but are not limited to, when:

(i) For a specific dispute, the Secretary determines that the parties or certified IDR entity cannot meet applicable timeframes due to matters beyond the control of one or both parties or the certified IDR entity, or for other good cause. The certified IDR entity or either party may also submit a request for an extension due to extenuating circumstances to the Secretary through the Federal IDR portal. The requesting certified IDR entity or party must attest that it will take prompt action to ensure that the certified IDR entity's payment determination under this section may be made as soon as administratively practicable under the circumstances; or

(ii) The Secretary determines that the parties or certified IDR entity cannot meet applicable timeframes due to systematic delays in processing disputes under the Federal IDR process, such as an unforeseen volume of disputes or Federal IDR portal system failures. Extensions provided due to extenuating circumstances caused by an unforeseen volume of disputes will be applied to the timeframe for eligibility determinations under paragraph (c)(2) of this section. Extensions provided due to

extenuating circumstances caused by systems failures within the Federal IDR portal will be applied to the Federal IDR process timeframe(s) determined relevant by the Secretary. The Secretary will post a public notice regarding any extensions of time periods under this paragraph (g)(1)(ii).

(A) *Timeframe following an extension to eligibility determination.* When an extension to the eligibility determination timeframe under paragraph (g)(1)(ii) of this section is in effect, the start date of the subsequent timeframes in the Federal IDR process will be determined based on the date of completion of the eligibility determination by the certified IDR entity.

(1) *Submission of offers.* The parties must submit their offers and certified IDR entity fees to the certified IDR entity not later than 10 business days after the qualified IDR items and services are determined eligible as described in paragraph (c)(2) of this section.

(2) *Payment determination.* The certified IDR entity must make the payment determination and provide notification of the payment determination to the parties not later than 30 business days after the qualified IDR items and services are determined eligible as described in paragraph (c)(2) of this section.

(B) *Timeframe following an extension to other timeframes in the Federal IDR process.* When an extension to any timeframe within the Federal IDR process, other than the eligibility timeframe, is in effect under paragraph (g)(1)(ii) of this section, the start date of each subsequent timeframe in the Federal IDR process will be determined based on the date of completion of the process for which the extension was granted.

(2) [Reserved]

(h) *Applicability date.* (1) Paragraph (a) of this section is applicable for plan years (or in the individual market, policy years) beginning on or after January 1, 2022, except that the provisions regarding IDR entity certification at paragraph (a) of this section are applicable beginning on October 7, 2021, and the revised definition for batched IDR items and services at paragraph (a)(2)(i) of this section is applicable to disputes with open negotiation periods beginning on November 1, 2026.

(2) Paragraph (b) of this section is applicable to disputes with open negotiation periods beginning 90 calendar days after the Departments issue guidance announcing that the functionality supporting these provisions has become available.

(3) Paragraph (c)(1) of this section, regarding the selection of a certified IDR entity, is applicable for plan years (or in the individual market, policy years) beginning on or after January 1, 2022, and the modifications at paragraph (c)(1) of this section are applicable to disputes with open negotiation periods beginning 90 calendar days after the Departments issue guidance announcing that the functionality supporting these provisions has become available.

(4) Paragraph (c)(2) of this section, regarding the Federal IDR process eligibility review, paragraph (c)(3) of this section, regarding the authority to continue negotiations or withdraw, and paragraph (c)(4) of this section, regarding the treatment of batched and bundled qualified IDR items and services, are applicable for plan years (or in the individual market, policy years) beginning on or after January 1, 2022. The modifications at paragraphs (c)(3)(i) and (c)(3)(ii)(C) and (D) of this section are applicable beginning on November 1, 2026. The amendments at paragraphs (c)(2), (c)(3)(ii)(A) and (B), and (c)(4) of this section are applicable to disputes with open negotiation periods beginning 90 calendar days after the Departments issue guidance announcing that the functionality supporting these provisions has become available.

(5) Paragraphs (c)(5)(ii) and (iii) of this section regarding payment determination and notification and considerations in payment determinations, and paragraph (c)(5)(vi)(B) of this section regarding written decisions are applicable for items or services furnished on or after October 25, 2022, are applicable for plan years (or in the individual market policy years) beginning on or after January 1, 2022. Paragraphs (c)(5)(i), (c)(5)(v) through (c)(5)(vi)(A), and (c)(5)(vii) through (ix) of this section regarding submission of offers, prohibition on consideration of certain factors, written decision, effects of determination, recordkeeping requirements, and payment are applicable for plan years (or in the individual market, policy years) beginning on or after January 1, 2022. The modifications at paragraphs (c)(5)(i) and (ii), and (c)(5)(vii)(B) and (C) of this section regarding the deadlines for the submission of offers, payment determination and notification, suspension of certain subsequent IDR requests, and subsequent submission of requests permitted are applicable to disputes with open negotiation periods beginning 90 calendar days after the Departments issue guidance announcing that the functionality supporting these provisions has become available.

(6) Paragraph (d)(1) of this section regarding the certified IDR entity fee is applicable to disputes initiated on or after August 3, 2026. Paragraph (d)(2)(ii) of this section regarding the administrative fee is applicable to disputes initiated on or after June 11, 2026. Paragraph (d)(2)(iii) of this section regarding failure to pay the administrative fee is applicable beginning on August 3, 2026.

(7) Paragraph (e) of this section is applicable for plan years (or in the individual market, policy years) beginning on or after January 1, 2022, except that the provisions regarding IDR entity certification at paragraphs (e)(1), (e)(2)(i) through (vi), (e)(2)(x) and (xi), and (e)(3) through (6) of this section are applicable beginning on October 7, 2021. Paragraph (e)(2)(ix) of this section regarding procedures to retain the certified IDR entity fee is applicable beginning on August 3, 2026.

(8) Paragraph (f) of this section is applicable for plan years (or in the individual market, policy years) beginning on or after January 1, 2022, except that paragraph (f)(1)(v)(F) of this section regarding reporting of information relating to the Federal IDR process is applicable for items or services furnished on or after October 25, 2022, for plan years (or in the individual market policy years) beginning on or after January 1, 2022.

(9) Paragraph (g) of this section regarding the extension of time periods for extenuating circumstances is applicable for plan years (or in the individual market, policy years) beginning on or after January 1, 2022. The modifications at paragraph (g) of this section are applicable beginning on November 1, 2026.

(10) Until the relevant applicability date for the requirements of this section, plans, issuers, providers, facilities, providers of air ambulance services and certified IDR entities are required to continue to comply with the corresponding section of § 149.510 in effect prior to June 4, 2026.

(i) *Severability.* (1) Any provision of this section held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, will be construed so as to continue to give maximum effect to the provision permitted by law, unless such holding is one of utter invalidity or unenforceability, in which event the provision will be severable from this section and will not affect the remainder thereof or the application of the provision to persons not similarly situated or to dissimilar circumstances.

(2) The provisions of paragraphs (b)(1), (c)(2)(ii), (c)(4), (d)(2), and (g)(1)

of this section are intended to be severable from one another, from any grant of forbearance from removal resulting from this subpart, and from any provision referenced in those paragraphs. The provisions in this section are intended to be severable from the provisions in §§ 149.100, 149.140, and 149.530, from any grant of forbearance from removal resulting from this subpart, and from any provision referenced in §§ 149.100, 149.140, and 149.530.

■ 20. Section 149.530 is added to subpart F to read as follows:

§ 149.530 Federal independent dispute resolution registry of group health plans, health insurance issuers, and Federal Employees Health Benefits Program Carriers.

(a) *Establishment of Federal independent dispute resolution registry.* The Secretary, jointly with the Secretary of the Treasury and the Secretary of Labor, will establish a Federal independent dispute resolution (IDR) registry consisting of the information described in paragraph (b)(2) of this section, and will assign a registration number for each self-insured group health plan, self- or fully-insured non-Federal governmental plan, health insurance issuer offering group or individual health insurance coverage, and contract held by a Federal Employees Health Benefits (FEHB) Program carrier. The information contained in the registry will be made available to parties seeking to initiate an open negotiation or a dispute through the Federal IDR portal.

(b) *Federal IDR registration—*

(1) *Registration requirement.* Each self-insured group health plan, each FEHB Program carrier, and each health insurance issuer offering group or individual health insurance coverage subject to the Federal IDR process must register with the Federal IDR registry as specified by the Departments in guidance. Initial registration must be completed by the later of the date that is 90 business days after the Departments issue guidance announcing that the functionality supporting the registry has become available, or the date the plan sponsor or health insurance issuer begins offering a group health plan or health insurance coverage or FEHB Program carrier begins offering an FEHB plan subject to the Federal IDR process.

(2) *Required data elements.* Self-insured group health plans, FEHB Program carriers, and health insurance issuers offering group or individual health insurance coverage subject to the registration requirement must include the following information with their registration:

(i) The legal business name (if any) of the self-insured group health plan, FEHB Program carrier, or issuer and, if applicable, the legal business name of the self-insured group health plan sponsor;

(ii) Whether the registrant is a self-insured group health plan subject to ERISA, an FEHB Program carrier, an issuer offering individual or group market insurance coverage, a self-insured non-Federal governmental plan, or a self-insured church plan;

(iii) For issuers offering individual or group market insurance coverage and for self-insured non-Federal governmental plans, the State(s) in which the plan is offered or the coverage is licensed;

(iv) For self-insured group health plans not otherwise subject to State law, including self-insured church plans and self-insured non-Federal governmental plans, any State(s) in which the group health plan has properly effectuated an election to opt in to a specified State law as defined in § 149.30, or an All-Payer Model Agreement under section 1115A of the Social Security Act, if the terms of that agreement allow a plan not otherwise subject to the agreement to opt in; and for FEHB Program plans that adopt a specified State law or All-Payer Model Agreement under their FEHB Program carrier's contract terms, any State(s) in which they have made such an adoption;

(v) Contact information, including a telephone number and email address, for the appropriate office or person to initiate open negotiation for purposes of determining an amount of payment (including cost sharing) for such item or service; and contact information, including a telephone number and email address, for the appropriate office or person to initiate the Federal IDR process;

(vi) The 5-digit Health Insurance Oversight System (HIOS) identifier, if available; and, for self-insured group health plans, the plan's or the plan sponsor's Employer Identification Number (EIN) and the plan's plan

number (PN), if a PN is available, and for FEHB Program carriers, the applicable contract number(s) and plan code(s);

(vii) Additional information needed to identify the plan or issuer and the applicable Federal and State requirements for determining appropriate out-of-network payment rates for items or services to which the protections against balance billing in this part apply, as specified by the Secretary in guidance, or such additional information needed for FEHB Program carriers as specified by OPM in guidance; and

(viii) Additional information needed for purposes of administrative or certified IDR entity fee collection, as specified by the Secretary in guidance, or such additional information needed for FEHB Program carriers as specified by OPM in guidance.

(3) *Updating disclosures.* A plan or issuer must timely report to the Secretary changes to the information required under this section within 30 calendar days after the information changes. A plan or issuer must confirm the accuracy of its registration annually in the fourth quarter of each calendar year.

(4) *Third party authority.* The requirements of paragraphs (b)(1) through (3) of this section may be performed by a third party administrator or service provider with authority to act on behalf of the self-insured group health plan, health insurance issuer offering group or individual health insurance coverage, or FEHB carrier offering an FEHB plan subject to the Federal IDR process. If the registration requirements are performed by such third party administrator or service provider, the group health plan or health insurance issuer offering group or individual health insurance coverage must require that such third party administrator or service provider clearly delineate each group health plan or health insurance issuer offering group health insurance coverage for which it has authority to act. If such third party administrator or service provider fails to provide the information in compliance with the requirements of paragraphs (b)(1) through (3) of this section, the plan or issuer will be in violation of the requirements of this section.

(c) *Severability.* (1) Any provision of this section held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, will be construed so as to continue to give maximum effect to the provision permitted by law, unless such holding is one of utter invalidity or

unenforceability, in which event the provision will be severable from this section and will not affect the remainder thereof or the application of the provision to persons not similarly situated or to dissimilar circumstances.

(2) The provisions in this section are intended to be severable from the provisions in §§ 149.100, 149.140, and

149.510, from any grant of forbearance from removal resulting from this subpart, and from any provision referenced in §§ 149.100, 149.140, and 149.510.

[FR Doc. 2026-11140 Filed 6-1-26; 5:10 pm]

BILLING CODE 6325-63- 4831-GV-4510-29- 4120-01-4150-28-P



FEDERAL REGISTER

Vol. 91

Thursday,

No. 107

June 4, 2026

Part III

The President

Proclamation 11032—Further Adjusting the Tariff Regimes for Imports of Aluminum, Steel, and Copper Into the United States

Presidential Documents

Title 3—

Proclamation 11032 of June 1, 2026

The President

Further Adjusting the Tariff Regimes for Imports of Aluminum, Steel, and Copper Into the United States

By the President of the United States of America

A Proclamation

1. In Proclamation 9704 of March 8, 2018 (Adjusting Imports of Aluminum Into the United States), as amended; Proclamation 9705 of March 8, 2018 (Adjusting Imports of Steel Into the United States), as amended; and Proclamation 10962 of July 30, 2025 (Adjusting Imports of Copper Into the United States), as amended, I found, under section 232 of the Trade Expansion Act of 1962, as amended, 19 U.S.C. 1862 (section 232), that aluminum, steel, and copper are being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security of the United States and took action under section 232 to adjust imports of aluminum, steel, and copper articles and their derivative articles (collectively, metal products) so that such imports will not threaten to impair the national security. Specifically, to address the national security threats found in Proclamation 9704, Proclamation 9705, and Proclamation 10962, I established tariff regimes, which included imposing additional *ad valorem* duties on certain imports of metal products.

2. In Proclamation 11021 of April 2, 2026 (Strengthening Actions Taken To Adjust Imports of Aluminum, Steel, and Copper Into the United States), I modified the tariff regimes established under section 232 for imports of metal products to more effectively address the national security threats found in Proclamation 9704, Proclamation 9705, and Proclamation 10962. In particular, I imposed an *ad valorem* duty of 50 percent on products made of those metals; an *ad valorem* duty of 25 percent on derivative products that tend to be predominately composed of those metals; and a temporarily-reduced *ad valorem* duty of 15 percent on a subset of derivative products, namely fixed industrial machinery and power equipment.

3. Based on the Secretary of Commerce's (Secretary) monitoring and consultation with other senior officials, among other things, the Secretary has provided me information, opinions, and recommendations regarding the tariff regimes imposed in Proclamation 9704, as amended; Proclamation 9705, as amended; and Proclamation 10962, as amended, and the national security threats found in those proclamations. Among other things, the Secretary has informed me that recent circumstances have affected and are affecting domestic industries that use agricultural equipment, industrial equipment and machinery, and other related products. Many products in these categories are treated as derivative articles of aluminum or steel because they tend to be predominantly composed of aluminum or steel. These products also serve an important role in productive domestic economic activity. For example, American farmers use agricultural equipment to produce the food upon which our Nation relies; construction equipment is essential for the continued reindustrialization of our Nation; and material-handling equipment enables industrial logistics and factory operations.

4. To account for these circumstances, the Secretary recommended that I modify the tariffs imposed on these products pursuant to Proclamation 9704, as amended, and Proclamation 9705, as amended. In particular, the Secretary recommended that I expand the category of derivative products

subject to the temporarily-reduced 15 percent *ad valorem* duty to include agricultural equipment and certain heating, ventilation, and air conditioning (HVAC) systems and components that are predominately for residential use, which are currently treated as aluminum or steel derivative products. The Secretary also recommended that I temporarily modify the tariffs imposed on mobile industrial equipment and machinery to support the American businesses and factories that use these products.

5. In addition, the Secretary has recommended that I include two types of aluminum and steel products (aluminum lithographic plates and steel racks) that are not currently subject to aluminum and steel tariffs within the product coverage of Proclamation 11021, to ensure that they are subject to the appropriate tariffs for aluminum and steel derivative products and to ensure that the purpose of the tariff regimes to address the national security threats found in Proclamation 9704 and Proclamation 9705 are not undermined. The Secretary also recommended that I modify the threshold for imported products to qualify as made “entirely” from American aluminum, steel, or copper, as that term is used in Proclamation 11021.

6. After considering the current information, opinions, and recommendations newly provided by the Secretary; the factors in section 232 (19 U.S.C. 1862(d)); the need to address the national security threats found in Proclamation 9704, Proclamation 9705, and Proclamation 10962; and other relevant factors and information, I determine that it is necessary and appropriate to modify, as further described below, the tariff regimes for metal products imposed in Proclamation 9704, as amended, Proclamation 9705, as amended, and Proclamation 10962, as amended.

7. I determine that agricultural equipment and certain HVAC systems and components that are predominantly for residential use shall be included in the category of derivative products subject to the temporarily-reduced 15 percent *ad valorem* duty under Proclamation 11021. In my judgment, this modification appropriately accounts for these products’ roles in productive economic activity in the United States and accounts for recent circumstances affecting the relevant industries and services that use these products, while also enabling the tariff regimes to continue effectively addressing the national security threats found in Proclamation 9704 and Proclamation 9705.

8. I determine that it is necessary and appropriate to temporarily modify the tariffs imposed on mobile industrial equipment and machinery, as detailed below. In my judgment, this temporary modification appropriately accounts for these products’ roles in productive economic activity in the United States and accounts for recent circumstances affecting the relevant industries and services that use these products, while also allowing the tariff regimes to continue effectively addressing the national security threats found in Proclamation 9704 and Proclamation 9705.

9. I determine that aluminum lithographic plates and steel racks constitute aluminum and steel derivative products that should be subject to the applicable derivative tariff under Proclamation 11021. In my judgment, subjecting these products to the derivative tariff in Proclamation 11021 will ensure that the tariffs on metal products are not circumvented and that the purpose of the actions to address the national security threats found in Proclamation 9704 and Proclamation 9705 is not undermined.

10. I determine that it is appropriate to modify the threshold for imported products to qualify as made “entirely” from American aluminum, steel, or copper, as that term is used in Proclamation 11021. The current threshold of 95 percent shall be modified to 85 percent. In my judgment, this modification will incentivize increased use of American aluminum, steel, and copper in downstream derivative products and further the purpose of the actions to address the national security threats found in Proclamation 9704, Proclamation 9705, and Proclamation 10962.

11. Section 232 authorizes the President to adjust the imports of an article and its derivatives that are being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security of the United States so that such imports will not threaten to impair the national security.

12. Section 604 of the Trade Act of 1974, as amended, 19 U.S.C. 2483 (section 604), 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 section 232, section 604, and section 301 of title 3, United States Code, do hereby proclaim as follows:

(1) Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on June 8, 2026, subchapter III of chapter 99 of the HTSUS is modified as provided in Annex IV to this proclamation and the lists of products provided in Annex I–A, Annex I–B, Annex II, and Annex III of Proclamation 11021 are modified as set forth in the annexes to this proclamation.

(2) Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on June 8, 2026, until 11:59 p.m. eastern standard time on December 31, 2027, the applicable additional *ad valorem* rate of duty imposed pursuant to section 232 under Proclamation 9704, as amended, and Proclamation 9705, as amended, for all aluminum and steel articles listed in Annex I–C to this proclamation shall be:

(a) 25 percent, unless a lower rate of duty applies pursuant to clause (2)(b), (2)(c), or (2)(d) of this proclamation;

(b) For products of Argentina, Ecuador, El Salvador, Guatemala, Japan, the Republic of Korea, Liechtenstein, Switzerland, Taiwan, the United Kingdom, or a member nation of the European Union, the rate of duty shall be determined by the product's current *ad valorem* (or *ad valorem* equivalent) rate of duty under Column 1 of the HTSUS (Column 1 Duty Rate). For products of these jurisdictions with a Column 1 Duty Rate that is less than 15 percent, the sum of the Column 1 Duty Rate and the additional section 232 *ad valorem* rate of duty pursuant to this clause, shall be 15 percent. For products of these jurisdictions with a Column 1 Duty Rate that is at least 15 percent, the additional section 232 *ad valorem* rate of duty imposed pursuant to this clause shall be zero percent;

(c) 10 percent, determined based on the product's current *ad valorem* (or *ad valorem* equivalent) Column 1 Duty Rate in the same manner outlined in clause (2)(b) of this proclamation, for derivative articles the aluminum content of which is composed entirely of aluminum that was smelted and cast in the United States, or the steel content of which is composed entirely of steel that was melted and poured in the United States; and

(d) For products of Canada and Mexico that qualify for preferential tariff treatment under the United States–Mexico–Canada Agreement, a duty of 25 percent shall apply only to the non-U.S. content of the product. For purposes of this clause, “non-U.S. content” means the total value of the product minus the value attributable to parts produced in the United States. Notwithstanding the foregoing, the total effective duty on the imported product assessed under this subclause shall not be less than 15 percent *ad valorem*, as detailed in Annex IV of this proclamation. The Secretary shall issue guidance to U.S. Customs and Border Protection (CBP) regarding the assessment of “U.S. content” for purposes of this clause. If CBP determines that an importer has engaged in fraud or has deliberately misled the United States Government regarding the United States content of an imported product, CBP shall impose penalties to the extent permitted by law.

(3)(a) Effective with respect to goods entered for consumption or withdrawn from warehouse for consumption on or after 12:01 a.m. eastern standard time on January 1, 2028, the applicable additional *ad valorem* rate of duty imposed under Proclamation 9704, as amended; Proclamation 9705, as amended; and Proclamation 10962, as amended, for imports of products listed in Annex I–C to this proclamation shall be the rates set out in clause (3) of Proclamation 11021.

(b) If a product is subject to multiple rates of duty under clause (2) of this proclamation, the lowest applicable rate of duty shall apply.

(4) For purposes of this proclamation and Proclamation 11021, as set forth in Annex IV to this proclamation, a product's metal content shall be deemed composed entirely of aluminum that was smelted and cast in the United States, of steel that was melted and poured in the United States, or of copper that was smelted and cast in the United States, if such aluminum, steel, and copper account for at least 85 percent of weight of the aluminum, steel, and copper of the product.

(5) The Secretary, in consultation with the United States Trade Representative (Trade Representative), the Chair of the International Trade Commission, the Secretary of Homeland Security, and any other senior official the Secretary deems appropriate, shall determine whether any modifications to the HTSUS are necessary to effectuate or implement this proclamation or any actions taken pursuant to this proclamation, and shall make such modifications through notice in the *Federal Register*. The Secretary may also make any technical corrections to any annexes to this proclamation.

(6) The Secretary shall continue to monitor imports of metal products. The Secretary and the Trade Representative shall review the status of imports of metal products with respect to the national security. The Secretary and the Trade Representative shall inform the President of any circumstances that, in their opinion, might indicate the need for further Presidential action under section 232. The Secretary and the Trade Representative shall also inform the President of any circumstance that, in their opinion, might indicate that any of the actions taken under section 232 are no longer necessary.

(7) To the extent consistent with applicable law, the Secretary, the Secretary of Homeland Security, and the Trade Representative are directed and authorized to take all actions that are appropriate to implement and effectuate this proclamation and any actions contemplated by this proclamation—including through temporary suspension or amendment of regulations or through notices in the *Federal Register* and by adopting rules, regulations, or guidance—and to employ all powers granted to the President, including by section 232, as may be appropriate to implement and effectuate this proclamation. The head of each executive department and agency (agency) is authorized to and shall take all appropriate measures within the agency's 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 the authority to take such appropriate measures within the agency.

(8) The Secretary, in consultation with the Trade Representative and any other senior official the Secretary deems appropriate, may issue regulations and guidance consistent with this proclamation, including to address operational necessity.

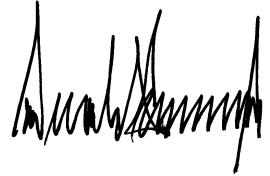
(9) The Secretary of Homeland Security may take any appropriate measures to administer, implement, and enforce this proclamation and the tariffs regimes imposed in Proclamation 9704, as amended; Proclamation 9705, as amended; and Proclamation 10962, as amended.

(10) Any provision of previous proclamations and Executive Orders that is inconsistent with this proclamation is superseded to the extent of such inconsistency.

(11) If any provision of this proclamation or the application of any provision of this proclamation to any individual or circumstance is held to be invalid,

the remainder of this proclamation and the application of its provisions to any other individual or circumstance shall not be affected.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of June, 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 a stylized representation of a name, possibly 'Donald Trump', with a large, sweeping initial 'D' and a series of connected, somewhat repetitive strokes for the rest of the name.

Annex I-A: 50% Section 232 Tariff on Full Value

Note: A 50% *ad valorem* Section 232 tariff shall apply to the full value of the following articles. If a product is identified on multiple lists in this Annex, it will only be subject to a 50% Section 232 tariff, rather than a combined rate.

Steel	Description
7206	Iron and nonalloy steel in ingots or other primary forms (excluding iron of heading 7203)
7207	Semifinished products of iron or nonalloy steel
7208	Flat-rolled iron or nonalloy steel products, 600 mm (23.6 in.) or more wide, hot-rolled, not clad, plated or coated
7209	Flat-rolled iron or nonalloy steel products, 600 mm (23.6 in.) or more wide, cold-rolled, not clad, plated or coated
7210	Flat-rolled iron or nonalloy steel products, 600 mm (23.6 in.) or more wide, clad, plated or coated
7211	Flat-rolled iron or nonalloy steel products, less than 600 mm (23.6 in.) wide, not clad, plated or coated
7212	Flat-rolled iron or nonalloy steel products, less than 600 mm (23.6 in.) wide, clad, plated or coated
7213	Bars and rods of iron or nonalloy steel, hot-rolled, in irregularly wound coils
7214	Bars and rods of iron or nonalloy steel nesoi, not further worked than forged, hot-rolled, hot-drawn or hot-extruded, but including those twisted after rolling
7215	Bars and rods of iron or nonalloy steel nesoi
7216.10.00	Iron or nonalloy steel, U-, I- or H-sections, not further worked than hot-rolled, hot-drawn or extruded, with height under 80 mm
7216.21.00	Iron or nonalloy steel, L-sections, not further worked than hot-rolled, hot-drawn or extruded, with height under 80 mm
7216.22.00	Iron or nonalloy steel, T-sections, not further worked than hot-rolled, hot-drawn or extruded, with height under 80 mm
7216.31.00	Iron or nonalloy steel, U-sections, not further worked than hot-rolled, hot-drawn or extruded, with height of 80 mm or more
7216.32.00	Iron or nonalloy steel, I-sections (standard beams), not further worked than hot-rolled, hot-drawn or extruded, with height of 80 mm or more
7216.33.00	Iron or nonalloy steel, H-sections, not further worked than hot-rolled, hot-drawn or extruded, with height of 80 mm or more
7216.40.00	Iron or nonalloy steel, L- or T-sections, not further worked than hot-rolled, hot-drawn or extruded, with height of 80 mm or more
7216.50.00	Iron or nonalloy steel, angles, shapes and sections nesoi, not further worked than hot-rolled, hot-drawn or extruded
7216.99.00	Iron or nonalloy steel, angles, shapes and sections nesoi, further worked than cold-formed or cold-finished, not from flat-rolled products
7217	Wire of iron or nonalloy steel
7218	Stainless steel in ingots, other primary forms and semifinished products
7219	Flat-rolled stainless steel products, width of 600 mm (23.6 in.) or more

7220	Flat-rolled stainless steel products, less than 600 mm (23.6 in.) wide
7221	Bars and rods of stainless steel, hot-rolled, in irregularly wound coils
7222	Bars and rods of stainless steel nesoi; angles, shapes and sections of stainless steel
7223	Wire of stainless steel
7224	Alloy steel (other than stainless) in ingots, other primary forms and semifinished products
7225	Flat-rolled alloy steel (other than stainless) products, width of 600 mm (23.6 in.) or more
7226	Flat-rolled alloy steel (other than stainless) products, less than 600 mm (23.6 in.) wide
7227	Bars and rods of alloy steel (other than stainless), hot-rolled, in irregularly wound coils
7228	Bars and rods nesoi, angles, shapes and sections of alloy steel (other than stainless); hollow drill bars and rods, of alloy or nonalloy steel
7229	Wire of alloy steel (other than stainless)
7301.10.00	Iron or steel sheet piling, whether or not drilled, punched or made from assembled elements
7302.10	Railway or tramway rails of iron or steel
7302.40.00	Iron or steel, fish plates and sole plates for jointing or fixing rails
7302.90	Railway or tramway track construction material of iron or steel, nesoi
7304	Tubes, pipes and hollow profiles, seamless, of iron (other than cast) or steel
7305	Tubes and pipes nesoi (welded, riveted or similarly closed, etc.), having internal and external cross sections with an external diameter of over 406.4 mm (16 in.), of iron or steel
7306	Tubes, pipes and hollow profiles nesoi (open-seamed or welded, riveted or similarly closed), of iron or steel

Steel Derivatives	Description
7216.91.00.10	Iron or nonalloy steel, angle, shapes and sections nesoi, cold-formed or cold-finished from flat-rolled products, further worked than cold-formed or cold-finished
7301.20.10	Iron or nonalloy steel, angles, shapes and sections, welded
7301.20.50	Alloy steel, angles, shapes and sections of alloy steel, welded
7302.30.00	Iron or steel, switch blades, crossing frogs, point rods and other crossing pieces, for jointing or fixing rails
7307.19.30	Cast ductile iron or steel, fittings for tubes or pipes
7307.19.90	Cast iron or steel, fittings for tubes or pipes, nesoi
7307.21.10	Stainless steel, flanges for tubes or pipes, forged, not machined, not tooled and not otherwise processed after forging
7307.21.50	Stainless steel, not cast, flanges for tubes or pipes, not forged or forged and machined, tooled and otherwise processed after forging

7307.22.10	Stainless steel, not cast, threaded sleeves (couplings) for tubes or pipes
7307.22.50	Stainless steel, not cast, threaded elbow and bends for tubes or pipes
7307.23.00	Stainless steel, not cast, butt welding fittings for tubes or pipes
7307.29.00	Stainless steel, not cast, fittings for tubes or pipes, nesoi
7307.91.10	Iron or nonalloy steel, flanges for tubes or pipes, forged, not machined, not tooled and not otherwise processed after forging
7307.91.30	Alloy steel (other than stainless), not cast, flanges for tubes or pipes, forged, not machined or tooled and not otherwise processed after forging
7307.91.50	Iron or steel (other than stainless), not cast, flanges for tubes or pipes, not forged or forged and machined, tooled and processed after forging
7307.92.30	Iron or steel (other than stainless), not cast, threaded sleeves (couplings) for tubes or pipes
7307.92.90	Iron or steel (other than stainless), not cast, threaded elbow and bends for tubes or pipes
7307.93.30	Iron or nonalloy steel, not cast, butt welding fittings for tubes or pipes, with an inside diameter of less than 360 mm
7307.93.60	Alloy steel (other than stainless), not cast, butt welding fittings for tubes or pipes, with an inside diameter of less than 360 mm
7307.93.90	Iron or alloy steel (other than stainless), not cast, butt welding fittings for tubes or pipes, with an inside diameter of 360 mm or more
7307.99.10	Iron or nonalloy steel, fittings for tubes or pipes, nesoi, forged, not machined, not tooled and not otherwise processed after forging
7307.99.30	Alloy steel (other than stainless), fittings for tubes or pipes, nesoi, forged, not machined or tooled and not otherwise processed after forging
7307.99.50	Iron or steel (other than stainless), not cast, fittings for tubes or pipes, nesoi, not forged or forged and machined, tooled and processed after forging
7308.10.00	Iron or steel, bridges and bridge sections
7308.20.00	Iron or steel, towers and lattice masts
7308.30.10	Stainless steel, doors, windows and their frames, and thresholds for doors
7308.30.50	Iron or steel (other than stainless), doors, windows and their frames, and thresholds for doors
7308.40.00	Iron or steel, props and similar equipment for scaffolding, shuttering, propping or pit-propping
7308.90.30	Iron or steel, not in part alloy steel, columns, pillars, posts, beams and girders
7308.90.60	Iron or steel, columns, pillars, posts, beams and girders, nesoi
7308.90.70	Steel, grating for structures or parts of structures
7308.90.95	Iron or steel, structures (excluding prefab structures of heading 9406) and parts of structures, nesoi
7309.00.00	Iron or steel, reservoirs, tanks, vats, similar containers for any material (other than compressed or liquefied gas), with a capacity exceeding 300

	l, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment
7310.10.00	Iron or steel, tanks, casks, drums, cans, boxes and similar containers for any material (other than compressed or liquefied gas), with a capacity of 50 l or more but not over 300 l
7310.21.00	Iron or steel, cans for any material (other than compressed or liquefied gas), closed by soldering or crimping, with a capacity of less than 50 l
7310.29.00	Iron or steel, cans for any material (other than compressed or liquefied gas), not closed by soldering or crimping, with a capacity of less than 50 l
7311.00.00	Iron or steel, containers for compressed or liquefied gas
7312.10.05	Stainless steel, stranded wire, not electrically insulated, fitted with fittings or made up into articles
7312.10.10	Stainless steel, stranded wire, not electrically insulated, not fitted with fittings or made up into articles
7312.10.20	Iron or steel (other than stainless), stranded wire, not electrically insulated, fitted with fittings or made up into articles
7312.10.30	Iron or steel (other than stainless), stranded wire, not electrically insulated, not fitted with fittings or made up into articles
7312.10.50	Stainless steel, ropes, cables and cordage (other than stranded wire), not electrically insulated, fitted with fittings or made up into articles
7312.10.60	Stainless steel, ropes, cables and cordage (other than stranded wire), not electrically insulated, not fitted with fittings or made up into articles
7312.10.70	Iron or steel (other than stainless), ropes, cables and cordage (other than stranded wire), not electrically insulated, fitted with fittings or made up into articles
7312.10.80	Iron or steel (other than stainless), ropes, cables and cordage, of brass plated wire (other than stranded wire), not electrically insulated, without fittings or articles
7312.10.90	Iron or steel (other than stainless), ropes, cables and cordage, other than of brass plate wire (other than stranded wire), not electrically insulated, without fittings or articles
7312.90.00	Iron or steel (other than stainless), plaited bands, slings and the like, not electrically insulated
7313.00.00	Iron or steel, barbed wire; iron or steel, twisted hoop or single flat wire and loosely twisted double wire, of a kind used for fencing
7314.12.10	Stainless steel, woven cloth endless bands for machinery, with meshes not finer than 12 wires to the lineal cm in warp or filling
7314.12.20	Stainless steel, woven cloth endless bands for machinery, with meshes finer than 12 wires but not finer than 36 wires to the lineal cm in warp or filling
7314.12.30	Stainless steel, Fourdrinier wires for papermaking machines with 94 or more wires to the lineal cm in warp or filling
7314.12.60	Stainless steel, Fourdrinier wires for papermaking machines with 36 to 93 wires to the lineal cm in warp or filling

7314.12.90	Stainless steel, woven cloth endless bands for machinery, nesoi, with meshes finer than 36 wires to the lineal cm in warp or filling
7314.14.10	Stainless steel, woven cloth (other than endless bands for machinery), with meshes not finer than 12 wires to the lineal cm in warp or filling
7314.14.20	Stainless steel, woven cloth (other than endless bands for machinery), with meshes finer than 12 wires but not finer than 36 wires to the lineal cm in warp or filling
7314.14.30	Stainless steel, Fourdrinier wires (other than endless bands) for papermaking machines, with meshes of 94 or more wires to the lineal cm in warp or filling
7314.14.60	Stainless steel, Fourdrinier wires (other than endless bands) for papermaking machines, with meshes of 36 to 93 wires to the lineal cm in warp or filling
7314.14.90	Stainless steel woven cloth (other than endless band for machinery), nesoi, with meshes finer than 36 wires to the lineal cm in warp or filling
7314.19.01	Iron or steel (other than stainless), woven cloth
7314.20.00	Iron or steel, grill, netting and fencing, of wire with a maximum cross-sectional dimension of 3 mm or more, welded at the intersection, with mesh size of 100 cm ² or more
7314.31.10	Iron or steel, fencing, of wire, welded at the intersection, plated or coated with zinc, whether or not covered with plastic material
7314.31.50	Iron or steel, grill and netting, of wire, welded at the intersection, plated or coated with zinc, nesoi
7314.39.00	Iron or steel, grill, netting and fencing, of wire, welded at the intersection, not plated or coated with zinc
7314.41.00	Iron or steel, grill, netting and fencing, of wire, not welded at the intersection, plated or coated with zinc
7314.42.00	Iron or steel, grill, netting and fencing, of wire, not welded at the intersection, coated with plastics
7314.49.30	Iron or steel, grill, netting and fencing, of wire, not welded at the intersection, not cut to shape
7314.49.60	Iron or steel, grill, netting and fencing, of wire, not welded at the intersection, cut to shape
7314.50.00	Iron or steel, expanded metal
7315.11.00	Iron or steel, roller chain
7315.12.00	Iron or steel, articulated link chain (other than roller chain)
7315.19.00	Iron or steel, parts of articulated link chain
7315.20.10	Iron or steel, skid chain, not over 8 mm in diameter
7315.20.50	Iron or steel, skid chain, over 8 mm in diameter
7315.81.00	Iron or steel, stud link chain
7315.82.10	Alloy steel, welded link chain, not over 10 mm in diameter
7315.82.30	Alloy steel, welded link chain, over 10 mm in diameter
7315.82.50	Iron or nonalloy steel, welded link chain, not over 10 mm in diameter
7315.82.70	Iron or nonalloy steel, welded link chain, over 10 mm in diameter

7315.89.10	Iron or steel, chain nesoi, with links of essentially round cross sections, not over 8 mm in diameter
7315.89.30	Iron or steel, chain nesoi, with links of essentially round cross sections, over 8 mm in diameter
7315.89.50	Iron or steel, chain nesoi
7315.90.00	Iron or steel, parts of chain (other than articulated link chain)
7316.00.00	Iron or steel, anchors, grapnels and parts thereof
7317.00.10	Iron or steel, thumb tacks
7317.00.20	Iron or steel, nails, tacks, corrugated nails, staples and similar articles, not threaded, suitable for use in powder-actuated hand tools
7317.00.30	Iron or steel, nails, tacks, corrugated nails, staples and similar articles, threaded, suitable for use in powder-actuated hand tools
7317.00.55	Iron or steel, nails, tacks, corrugated nails, staples and similar articles, of one piece construction, made of round wire, nesoi
7317.00.65	Iron or steel, nails, tacks, corrugated nails, staples and similar articles, of one piece construction, not made of round wire, nesoi
7317.00.75	Iron or steel, nails, tacks, corrugated nails, staples and similar articles, of two or more pieces, nesoi
7318.11.00	Iron or steel, coach screws
7318.12.00	Iron or steel, wood screws (other than coach screws)
7318.13.00	Iron or steel, screw hooks and screw rings
7318.14.10	Iron or steel, self-tapping screws, with shanks or threads less than 6 mm in diameter
7318.14.50	Iron or steel, self-tapping screws, with shanks or threads 6 mm or more in diameter
7318.15.20	Iron or steel, bolts and bolts & their nuts or washers, imported in the same shipment
7318.15.40	Iron or steel, machine screws (other than cap screws), 9.5 mm or more in length and 3.2 mm in diameter
7318.15.50	Iron or steel, threaded studs
7318.15.60	Iron or steel, screws and bolts, nesoi, having shanks or threads less than 6 mm in diameter
7318.15.80	Iron or steel, screws and bolts, nesoi, having shanks or threads 6 mm or more in diameter
7318.16.00	Iron or steel, nuts
7318.19.00	Iron or steel, threaded articles similar to screws, bolts, nuts, coach screws and screw hooks, nesoi
7318.21.00	Iron or steel, spring washers and other lock washers
7318.22.00	Iron or steel, washers (other than spring washers and other lock washers)
7318.23.00	Iron or steel, rivets
7318.24.00	Iron or steel, cotters and cotter pins
7318.29.00	Iron or steel, nonthreaded articles similar to rivets, cotters, cotter pins, washers and spring washers
7319.40.20	Iron or steel, safety pins

7319.40.30	Iron or steel, dressmakers' or common pins
7319.40.50	Iron or steel, pins (other than safety pins, dressmakers' or common pins)
7319.90.10	Iron or steel, sewing, darning or embroidery needles
7319.90.90	Iron or steel, knitting needles, bodkins, crochet hooks, embroidery stilettos and similar articles for use in the hand
7320.10.30	Iron or steel, leaf springs and leaves therefore, to be used in motor vehicles having a G.V.W. not exceeding 4 metric tons
7320.10.60	Iron or steel, leaf springs and leaves therefore, suitable for motor vehicle suspension (other than for motor vehicles with a G.V.W. over 4 metric tons)
7320.10.90	Iron or steel, leaf springs and leaves therefore, not suitable for motor vehicle suspension
7320.20.10	Iron or steel, helical springs, suitable for motor-vehicle suspension
7320.20.50	Iron or steel, helical springs (other than suitable for motor-vehicle suspension)
7320.90.10	Iron or steel, hairsprings
7320.90.50	Iron or steel, springs (other than leaf springs, helical springs or hairsprings)
7325.91.00	Iron or steel, cast grinding balls and similar articles for mills
7325.10.00.10	Manhole covers, rings and frames of nonmalleable cast iron
7325.10.00.20	Nonmalleable cast iron catch basins, grates and frames
7325.10.00.25	Nonmalleable cast iron, cleanout covers and frames
7325.10.00.30	Nonmalleable cast iron, valves and service boxes
7325.10.00.80	Other nonmalleable cast iron, nesoi
7325.99.10	Grinding balls and similar articles for mills, of cast iron
7325.99.50	Steel, cast articles nesoi
7326.11.00	Iron or steel, forged or stamped grinding balls and similar articles for mills
7326.19.00	Iron or steel, articles forged or stamped but not further worked, nesoi
7326.20.00.90	Articles of iron or steel wire, nesoi
7326.90.10	Tinplate, articles nesoi
7326.90.25	Iron or steel, cable or inner wire for caliper and cantilever brakes and casing therefore, whether or not cut to length
7326.90.60	Iron or steel, articles nesoi, coated or plated with precious metal
7326.90.86.05	Rods for electrical grounding, of iron or steel
7326.90.86.10	Laminated goods consisting of two or more flat-rolled sheets of iron or steel held together with adhesive or having a core of nonmetallic material
7326.90.86.30	Hangers and similar supports for tubes and pipes, of iron or steel
7326.90.86.35	Other articles of iron or steel, fence posts with corrugations, knobs, stubs, notches, similar protrusions, with or without anchor plates
7326.90.86.45	Other articles of iron or steel, barbed tape
7326.90.86.88	Articles of iron or steel, nesoi

7614.10.10	Aluminum, stranded wire, cables and the like with steel core, not electrically insulated, not fitted with fittings and not made up into articles

Aluminum	Description
7601	Aluminum, unwrought
7604	Aluminum bars, rods and profiles
7605	Aluminum wire
7606	Aluminum plates, sheets and strip, over 0.2 mm (0.0079 in.) thick
7607	Aluminum foil (whether or not printed or backed with paper or other backing materials), not over 0.2 mm (0.0079 in.) thick (excluding any backing)
7608	Aluminum tubes and pipes
7609	Aluminum tube or pipe fittings (including couplings, elbows, and sleeves)
7616.99.51.60	Aluminum castings
7616.99.51.70	Aluminum forgings

Aluminum Derivatives	Description
7308.20.00.35	Towers and lattice masts of iron or steel, tubular wind turbine towers, whether or not tapered, and sectional components thereof
7610.10.00	Aluminum, doors, windows and their frames and thresholds for doors
7610.90.00	Aluminum, structures and parts of structures, nesoi; aluminum plates, rods, profiles, tubes and the like prepared for use in structures
7612.10.00.00	Aluminum collapsible tubular containers of a capacity not over 300 l
7612.90.10	Aluminum, casks, drums and like containers, for any material (other than compressed or liquefied gas), with a capacity not over 20 l, not fitted with mechanical or thermal equipment
7612.90.50.00	Aluminum containers, nesoi
7613.00.00.00	Aluminum containers for compressed or liquefied gas
7614.10.10	Aluminum, stranded wire, cables and the like with steel core, not electrically insulated, not fitted with fittings and not made up into articles
7614.10.50	Aluminum, stranded wire, cables and the like with steel core, not electrically insulated, fitted with fittings or made up into articles
7614.90.20	Aluminum, electrical conductors of stranded wire, cables and the like (other than with steel core), not electrically insulated, not fitted with fittings or articles
7614.90.40	Aluminum, stranded wire, cables and the like (other than electrical conductors or with steel core), not electrically insulated, not fitted with fittings or articles
7614.90.50	Aluminum, stranded wire, cables and the like (other than with steel core), not electrically insulated, fitted with fittings or made up into articles
7616.10.90.90	Aluminum articles not having shanks, threads or holes over 6 mm in diameter
7616.99.51.20	Laminated goods consisting of two or more flat-rolled sheets of aluminum held together with adhesive or having a core of nonmetallic material

7616.99.51.50	Aluminum hangers and supports for pipes and tubes
7616.99.51.75	Articles of aluminum wire
7616.99.51.90	Articles of aluminum, nesoi

Copper Articles	Description
7406.10.00	Copper, powders of non-lamellar structure
7406.20.00	Copper, powders of lamellar structure; copper flakes
7407.10.15	Refined copper, hollow profiles
7407.10.30	Refined copper, profiles (other than hollow profiles)
7407.10.50	Refined copper, bars and rods
7407.21.15	Copper-zinc base alloys (brass), hollow profiles
7407.21.30	Copper-zinc base alloys (brass), profiles (other than hollow profiles)
7407.21.50	Copper-zinc base alloys (brass), low-fuming brazing rods
7407.21.70	Copper-zinc base alloys (brass), bars and rods nesoi, having a rectangular cross section
7407.21.90	Copper-zinc base alloys (brass), bars and rods nesoi, not having a rectangular cross section
7407.29.16	Copper alloys, hollow profiles
7407.29.34	Copper-nickel base alloys (cupro-nickel) or copper-nickel-zinc base alloys (nickel silver), profiles (other than hollow profiles)
7407.29.38	Copper alloys (other than cupro-nickel or nickel silver), profiles (other than hollow profiles)
7407.29.40	Copper-nickel base alloys (cupro-nickel) or copper-nickel-zinc base alloys (nickel silver), bars and rods
7407.29.50	Copper alloys (other than brass, cupro-nickel or nickel silver), bars and rods
7408.11.30	Refined copper, wire, with maximum cross-sectional dimension over 9.5 mm
7408.11.60	Refined copper, wire, with maximum cross-sectional dimension over 6 mm but not over 9.5 mm
7408.19.00	Refined copper, wire, with maximum cross-sectional dimension of 6 mm or less
7408.21.00	Copper-zinc base alloys (brass), wire
7408.22.10	Copper-nickel base alloys (cupro-nickel) or copper-nickel-zinc base alloys (nickel silver), wire, coated or plated with metal
7408.22.50	Copper-nickel base alloys (cupro-nickel) or copper-nickel-zinc base alloys (nickel silver), wire, not coated or plated with metal
7408.29.10	Copper alloys (other than brass, cupro-nickel or nickel-silver), wire, coated or plated with metal
7408.29.50	Copper alloys (other than brass, cupro-nickel or nickel-silver), wire, not coated or plated with metal
7409.11.10	Refined copper, plates, sheets and strip, in coils, with a thickness of 5 mm or more
7409.11.50	Refined copper, plates, sheets and strip, in coils, with a thickness over 0.15mm but less than 5 mm

7409.19.10	Refined copper, plates, sheets and strip, not in coils, with a thickness of 5 mm or more
7409.19.50	Refined copper, plates, sheets and strip, not in coils, with a thickness of 0.15 mm or more but less than 5 mm and with a width of 500 mm or more
7409.19.90	Refined copper, plates, sheets and strip, not in coils, with a thickness of 0.15 mm or more but less than 5 mm and with a width of less than 500 mm
7409.21.00	Copper-zinc base alloys (brass), plates, sheets and strip, in coils
7409.29.00	Copper-zinc base alloys (brass), plates, sheets and strip, not in coils
7409.31.10	Copper-tin base alloys (bronze), plates, sheets and strip, in coils, with a thickness of 5 mm or more
7409.31.50	Copper-tin base alloys (bronze), plates, sheets and strip, in coils, with a thickness of 0.15 mm or more but less than 5 mm and with a width of 500 mm or more
7409.31.90	Copper-tin base alloys (bronze), plates, sheets and strip, in coils, with a thickness of 0.15 mm or more but less than 5 mm and with a width of less than 500 mm
7409.39.10	Copper-tin base alloys (bronze), plates, sheets and strip, with a thickness of 5 mm or more
7409.39.50	Copper-tin base alloys (bronze), plates, sheets and strip, with a thickness of 0.15 mm or more but less than 5 mm and with a width of 500 mm or more
7409.39.90	Copper-tin base alloys (bronze), plates, sheets and strip, with a thickness of 0.15 mm or more but less than 5 mm and with a width of less than 500 mm
7409.40.00	Copper-nickel base alloys (cupro-nickel) or copper-nickel-zinc base alloys (nickel silver), plates, sheets and strip, with a thickness of 0.15 mm or more
7409.90.10	Copper alloys (other than brass, bronze, cupro-nickel or nickel silver), plates, sheets and strip, with a thickness of 5 mm or more
7409.90.50	Copper alloys (other than brass, bronze, cupro-nickel or nickel silver), plates, sheets and strip, with a thickness of 0.15 mm or more but less than 5 mm and with a width of 500 mm or more
7409.90.90	Copper alloys (other than brass, bronze, cupro-nickel or nickel silver), plates, sheets and strip, with a thickness of 0.15 mm or more but less than 5 mm and with a width of less than 500 mm
7410.11.00	Refined copper, foil, with a thickness of 0.15 mm or less, not backed
7410.12.00	Copper alloys, foil, with a thickness of 0.15 mm or less, not backed
7410.21.30	Refined copper, clad laminates, with a thickness of 0.15 mm or less, backed
7410.21.60	Refined copper, foil, with a thickness of 0.15 mm or less, backed
7410.22.00	Copper alloys, foil, with a thickness of 0.15 mm or less, backed
7411.10.10	Refined copper, tubes and pipes, seamless
7411.10.50	Refined copper, tubes and pipes, other than seamless
7411.21.10	Copper-zinc base alloys (brass), tubes and pipes, seamless
7411.21.50	Copper-zinc base alloys (brass), tubes and pipes, other than seamless
7411.22.00	Copper-nickel base alloys (cupro-nickel) or copper-nickel-zinc base alloys (nickel-silver), tubes and pipes
7411.29.10	Copper alloys (other than brass, cupro-nickel or nickel-silver), pipes and tubes, seamless

7411.29.50	Copper alloys (other than brass, cupro-nickel or nickel-silver), pipes and tubes, other than seamless
7412.10.00	Refined copper, fittings for tubes and pipes
7412.20.00	Copper alloys, fittings for tubes and pipes
7413.00.10	Copper, stranded wire, not electrically insulated, not fitted with fittings and not made up into articles
7413.00.50	Copper, cables, plaited bands and the like, not fitted with fittings and not made up into articles
7413.00.90	Copper, stranded wire, cables, plaited bands and the like, not electrically insulated, fitted with fittings or made up into articles
7415.10.00	Copper, iron or steel with heads of copper, nails and tacks, drawing pins, staples and similar articles
7415.21.00	Copper, washers (including spring washers)
7415.29.00	Copper, rivets, cotters, cotter pins and similar non-threaded articles (other than washers)
7415.33.05	Copper screws for wood
7415.33.10	Muntz or yellow metal copper bolts
7415.33.80	Screws (other than wood screws), bolts (other than Muntz or yellow metal) and nuts, of copper, threaded, nesoi
7415.39.00	Copper, screw hooks and other threaded articles, nesoi
7418.10.00	Copper and copper alloy table, kitchen, household articles and parts; pot scourers, scouring and polishing pads, gloves, etc.
7418.20.10	Copper-zinc base alloys (brass), sanitary ware and parts thereof
7418.20.50	Copper (other than brass), sanitary ware and parts thereof
7419.20.00	Copper, articles nesoi, cast, molded, stamped, or forged but not further worked
7419.80.03	Copper, Fourdrinier wires, for use in papermaking machines, with 94 or more wires to the lineal cm
7419.80.06	Copper cloth, other than Fourdrinier wires, nesoi
7419.80.09	Copper, wire grill and netting; expanded metal of copper
7419.80.15	Copper, containers of a kind normally carried on the person, in the pocket or in the handbag
7419.80.16	Copper, springs
7419.80.17	Copper, chain and parts thereof
7419.80.30	Copper, articles nesoi, coated or plated with precious metal
7419.80.50	Copper, articles nesoi, not coated or plated with precious metal

Annex I-B: 25% Section 232 Tariff on Full Value

Note: A 25% *ad valorem* Section 232 tariff shall apply to the full value of the following articles. If a product is listed multiple times on this Annex, it will only be subject to a 25% *ad valorem* Section 232 tariff once, rather than a combined rate. In addition, any part classifiable in Chapters 84, 85, or 87 of the Harmonized Tariff Schedule of the United States and listed in this Annex to this proclamation shall be subject to the tariff rate outlined in clause (5) of Proclamation 11021 when imported exclusively for use in the manufacturing of mobile industrial equipment listed in Annex I-C to this proclamation, or agricultural equipment or fixed industrial equipment listed in Annex III to this proclamation.

Steel Derivatives	Description
7321.11.10	Iron or steel, portable non-electric domestic cooking appliances and plate warmers, for gas fuel or for both gas and other fuels
7321.11.30	Iron or steel, nonportable non-electric domestic stoves or ranges, for gas fuel or for both gas and other fuels
7321.11.60	Iron or steel, nonportable non-electric domestic cooking appliances (other than stoves or ranges) and plate warmers, for gas fuel or both gas and other fuels
7321.12.00	Iron or steel, non-electric domestic cooking appliances and plate warmers, for liquid fuels
7321.19.00	Iron or steel, non-electric domestic cooking appliances and plate warmers, other than for gas or liquid fuels
7321.81.10	Iron or steel, portable non-electric domestic grates and warming appliances (other than cooking or plate warmers), for gas fuel or both gas and other fuels
7321.81.50	Iron or steel, nonportable non-electric domestic grates and warming appliances (other than cooking or plate warmers), for gas fuel or both gas and other fuels
7321.82.10	Iron or steel, portable non-electric domestic grates and warming appliances (other than cooking or plate warmers), for liquid fuels
7321.82.50	Iron or steel, nonportable non-electric domestic grates and warming appliances (other than cooking or plate warmers), for liquid fuels
7321.89.00	Iron or steel, non-electric domestic grates and warming appliances (other than cooking or plate warmers), other than for gas or liquid fuels
7321.90.10	Iron or steel, cooking chambers for nonportable non-electric domestic stoves or ranges, for gas or for both gas and other fuels
7321.90.20	Iron or steel, top surface panels with or without burners or controls for nonportable non-electric domestic stoves or ranges, for gas or for both gas and other fuels
7321.90.40	Iron or steel, door assemblies with more than one inner panel, outer panel, window or insulation, for non-electric stoves or ranges, for gas or for both gas and other fuels
7321.90.50	Iron or steel, parts of nonportable non-electric domestic stoves or ranges, nesoi, for gas fuel or for both gas and other fuels

7321.90.60	Iron or steel, parts of nonelectric domestic cooking and warming appliances, nesoi
7322.19.00	Iron (other than cast) or steel, non-electrically heated radiators and parts thereof, for central heating
7322.90.00	Iron or steel, non-electrically heated air heaters and hot air distributors with motor-driven fan or blower and parts thereof
7323.10.00	Iron or steel wool; iron or steel pot scourers and scouring or polishing pads, gloves and the like
7323.93.00	Stainless steel, table, kitchen or other household articles and parts thereof
7323.94.00	Iron (other than cast) or steel (other than stainless), table, kitchen or other household articles and parts thereof, enameled
7323.99.10	Iron (other than cast) or steel (other than stainless), table, kitchen or other household articles and parts thereof, not enameled but plated or coated with silver
7323.99.30	Iron (other than cast) or steel (other than stainless), table, kitchen or other household articles and parts thereof, not enameled but plated or coated with precious metal other than silver
7323.99.50	Tinplate, table, kitchen or other household articles and parts thereof, not coated or plated with precious metal, of tinplate
7323.99.70	Iron (other than cast) or steel (other than tinplate or stainless), cookingware, not coated or plated with precious metal
7323.99.90	Iron (other than cast) or steel (other than tinplate or stainless), table, kitchen or other household articles and parts thereof (other than cookingware), not coated or plated with precious metal
7324.10.00	Stainless steel, sinks and wash basins
7324.29.00	Iron (other than cast) or steel, baths (whether or not enameled)
7324.90.00	Iron or steel, sanitary ware (other than baths or stainless steel sinks and wash basins) and parts thereof
7325.10.0035	Meter boxes of nonmalleable cast iron
7326.20.0010	Belts and belting of iron or steel wire
7326.20.0020	Garment wire hangers of iron or steel
7326.20.0030	Sod staples, U staples, irrigation staples, ground staples and ground pins of iron or steel wire (not household articles)
7326.20.0040	Double loop bar ties and double loop wire ties of iron or steel wire (not household articles)
7326.20.0055	Paint roller frames of iron or steel wire
7326.90.35	Containers of a kind normally carried on the person, in the pocket or in the handbag, of iron or steel
7326.90.45	Horse and mule shoes of iron or steel
7326.90.8660	Ladders of iron or steel
7326.90.8675	Paint roller frames of iron or steel, other than of wire
7326.90.8676	Metal handles for brooms, mops, paint applicators and similar products
7326.90.8677	Burial caskets of iron or steel

8202.39.0040	Diamond sawblade cores, of base metal, and parts thereof
8203.40.60	Pipe cutters, bolt cutters, perforating punches and similar tools, nesoi, and base metal parts thereof
8205.59.55	Iron or steel handtools (other than household and other than caulking guns) nesoi, and base metal parts thereof
8205.70.00	Vises, clamps and the like, and base metal parts thereof
8211.10.00	Sets of assorted knives with cutting blades, serrated or not (including pruning knives)
8211.91.10	Table knives with fixed blades and silver-plated handles
8211.91.20	Table knives with fixed blades, with stainless steel handles containing nickel or over 10% by weight of manganese, with an overall length of 25.9 cm or less and valued at less than 25 cents each
8211.91.25	Table knives with fixed blades, with stainless steel handles containing nickel or over 10% by weight of manganese, nesoi
8211.91.30	Table knives with fixed blades, with stainless steel handles, nesoi, not over 25.9 cm in overall length and valued at less than 25 cents each
8211.91.40	Table knives with fixed blades, with stainless steel handles, nesoi
8211.91.50	Table knives with fixed blades, with rubber or plastic handles
8211.91.80	Table knives with fixed blades, with handles other than of silver-plate, stainless steel, rubber or plastics
8211.92.20	Kitchen and butcher knives with fixed blades, with rubber or plastic handles
8211.92.40	Knives with fixed blades (other than table or kitchen and butcher knives), with rubber or plastic handles
8211.92.60	Hunting knives with fixed blades, with wood handles
8211.92.90	Knives with fixed blades (other than table knives, other knives with rubber or plastic handles, or hunting knives with wood handles)
8211.93.00	Knives having other than fixed blades
8211.94.10	Base metal blades for knives having fixed blades
8211.94.50	Base metal blades for knives having other than fixed blades
8211.95.10	Base metal handles for table knives with fixed blades
8211.95.50	Base metal handles for knives (other than table knives) with fixed blades
8211.95.90	Base metal handles for knives having other than fixed blades
8215.10.00	Sets of assorted base metal spoons, forks, ladles, etc. and similar kitchen or tableware, with at least one article plated with precious metal
8215.20.00	Sets of assorted base metal spoons, forks, ladles, etc. and similar kitchen or tableware, with no articles plated with precious metal
8215.91.30	Base metal forks plated with precious metal
8215.91.60	Base metal spoons and ladles plated with precious metal
8215.91.90	Base metal skimmers, cake-servers, fish-knives, etc. and similar kitchen or tableware and parts, plated with precious metal

8215.99.01	Base metal forks, with stainless steel handles containing nickel or over 10% by weight of manganese, with an overall length not over 25.9 cm, valued at under 25 cents each
8215.99.05	Base metal forks, with stainless steel handles containing nickel or over 10% by weight of manganese, nesoi
8215.99.10	Base metal forks, with stainless steel handles, nesoi, valued at under 25 cents each
8215.99.15	Base metal forks, with stainless steel handles, nesoi, valued at 25 cents each or more
8215.99.20	Base metal forks, with rubber or plastic handles
8215.99.22	Base metal forks, without their handles
8215.99.24	Base metal table forks and barbecue forks, with wooden handles
8215.99.26	Base metal forks (other than plated with precious metal or with handles of stainless steel, wood, rubber or plastics), nesoi
8215.99.30	Base metal spoons, with stainless steel handles and valued at under 25 cents each
8215.99.35	Base metal spoons, with stainless steel handles and valued at 25 cents and over, and base metal ladles with stainless steel handles
8215.99.40	Base metal spoons and ladles with handles of base metal (other than stainless steel) or with nonmetal handles
8215.99.45	Base metal spoons and ladles, nesoi
8215.99.50	Base metal skimmers, cake-servers, butter knives, sugar tongs and similar kitchen or tableware, and base metal parts thereof (including parts of forks or spoons)
8302.10.60	Hinges, of base metal, other
8302.41.30	Base metal door closers (except automatic door closers) suitable for buildings, and base metal parts thereof
8302.41.60	Iron, steel, aluminum or zinc mountings, fittings and similar articles, nesoi, suitable for buildings, and base metal parts thereof
8302.42.30	Other mountings, fittings and similar articles, suitable for furniture, of aluminum
8302.49.60	Other mountings, fittings and similar articles, of base metal, other
8305.20.00	Base metal staples in strips (e.g., for offices, upholstery, packaging)
8307.10.60	Iron or steel flexible tubing, without fittings
8309.90.0080	Other stoppers, caps, lids, and other packaging accessories and parts thereof made of steel
8403.10.00	Central heating boilers (other than those of heading 8402)
8406.90.40	Parts of steam turbines, blades, rotating or stationary
8407.90.90	Spark-ignition rotary or reciprocating internal-combustion piston engines, for machinery or equipment, nesoi
8410.90.00	Parts, including regulators, for hydraulic turbines and water wheels
8411.81.80	Gas turbines other than turbojets or turbopropellers, of a power not exceeding 5,000 kW, other than for aircraft
8412.21.00	Hydraulic power engines and motors, linear-acting (cylinders)
8412.29.80	Other hydraulic power engines and motors

8412.90.9070	Wind turbine blades, imported in accordance with statistical note 2 of chapter 84 to the HTSUS
8412.90.9075	Wind turbine hubs
8413.81.00	Pumps
8413.91.9055	Parts of hydraulic fluid power pumps, fluid end blocks
8413.91.9060	Parts of hydraulic fluid power pumps, other than fluid end blocks
8413.91.9096	Parts of pumps, other
8414.30.40	Compressors of a kind used in refrigerating equipment, not exceeding 1/4 horsepower
8414.80.16	Air or gas compressors other than turbochargers and superchargers
8414.90.30	Stators and rotors of air or gas compressors of a kind used in refrigerating equipment
8414.90.41	Parts of fans
8415.10.30	Window- or wall-type air conditioning machines, self-contained
8415.83.00	Other air-conditioning machines, not incorporating a refrigerating unit
8415.90.40	Chassis, chassis bases and outer cabinets of air-conditioning machines
8418.10.00	Combined refrigerator-freezers, fitted with separate external doors
8418.21.00	Refrigerators, household compression-type, electric or other, other than those of subheading 8418.10
8418.29.20	Refrigerators, household type, electric or other, other than those of subheading 8418.10, nesoi
8418.30.00	Freezers of the chest type, not exceeding 800 l capacity
8418.40.00	Freezers of the upright type, not exceeding 900 l capacity
8418.99.40	Door assemblies for refrigerators, freezers and other refrigerating or freezing equipment incorporating more than one inner panel, outer panel, insulation, hinges or handles
8422.11.00	Dishwashing machines of the household type
8425.42.00	Jacks and hoists, hydraulic, not of a built-in type used in garages
8426.20.00	Tower cranes
8426.49.00	Derricks, cranes and other lifting machinery nesoi, self-propelled, not on tires
8426.99.00	Derricks, cranes and other lifting machinery nesoi, not designed for mounting on road vehicles
8431.31.00	Parts suitable for use solely or principally with passenger or freight elevators other than continuous action, skip hoists or escalators
8431.43.40	Parts for offshore oil and natural gas drilling and production platforms
8431.43.80	Parts for boring or sinking machinery of headings 8430.41 or 8430.49, nesoi
8431.49.10	Parts suitable for use solely or principally with the machinery of heading 8426, nesoi
8433.11.00	Mowers for lawns, parks or sports grounds, powered, with the cutting device rotating in a horizontal plane
8433.90.10	Parts of mowers for lawns, parks or sports grounds
8443.16.00	Flexographic printing machinery

8450.11.00	Household- or laundry-type washing machines, each of a dry linen capacity not exceeding 10 kg, fully automatic
8450.20.00	Household- or laundry-type washing machines, each of a dry linen capacity exceeding 10 kg
8451.21.00	Drying machines, each of a dry linen capacity not exceeding 10 kg
8451.29.00	Drying machines for yarns, fabrics or made up textile articles, each of a dry linen capacity exceeding 10 kg
8479.90.45	Parts of trash compactors, frame assemblies incorporating more than one baseplate, side frame, power screw or front plate
8479.90.55	Parts of trash compactors, ram assemblies incorporating a ram wrapper or ram cover
8479.90.65	Parts of trash compactors, container assemblies incorporating more than one container bottom, container wrapper, slide track or container front
8479.90.75	Parts of trash compactors, cabinets or cases
8479.90.85	Parts of trash compactors, nesoi
8482.10.5004	Unground bearings
8482.10.5008	Thrust ball bearings
8482.10.5012	Linear ball bearings
8482.10.5016	Angular contact bearings, wheel hub units, flanged
8482.10.5024	Angular contact bearings, wheel hub units, other than flanged
8482.10.5028	Angular contact ball bearings, nesoi
8482.10.5032	Radial bearings, single row, maximum or full capacity type
8482.10.5036	Radial bearings, single row, having an outside diameter of under 9 mm
8482.10.5052	Radial bearings, single row, having an outside diameter of over 52 mm but not over 100 mm
8482.10.5056	Radial bearings, single row, having an outside diameter of over 100 mm
8482.10.5060	Ball bearings, double row, radial
8482.10.5064	Radial ball bearings, nesoi
8482.10.5068	Ball bearings, nesoi
8482.20.0064	Tapered roller bearings, cup and cone assemblies entered as a set, with cups having an outside diameter exceeding 203 mm but not exceeding 305 mm
8482.20.0067	Tapered roller bearings, cup and cone assemblies entered as a set, exceeding 305 mm
8482.20.0090	Tapered roller bearings, cone assemblies entered separately, exceeding 203 mm
8482.99.05	Inner or outer rings or races for ball bearings
8482.99.15	Inner or outer rings or races for tapered roller bearings
8482.99.25	Inner or outer rings or races for other bearings, nesoi
8482.99.35	Parts of ball bearings (including parts of ball bearings with integral shafts), nesoi
8482.99.45	Parts of tapered roller bearings, nesoi

8482.99.65	Parts of other ball or roller bearings, nesoi
8483.10.1010	Camshafts and crankshafts, of iron or steel, designed for use solely or principally with spark-ignition internal combustion piston engines or rotary engines, for motorcycles
8483.10.1050	Camshafts and crankshafts, of iron or steel, designed for use solely or principally with spark-ignition internal combustion piston engines or rotary engines, other than for motorcycles
8483.10.50	Transmission shafts and cranks, other
8483.20.40	Housed bearings of the flange, take-up, cartridge and hanger unit type (incorporating ball or roller bearings)
8483.20.80	Housed bearings (incorporating ball or roller bearings), nesoi
8483.30.40	Bearing housings, not incorporating ball or roller bearings
8483.30.80	Bearing housings, other
8483.40.10	Gears and gearing, torque converters
8483.40.5020	Gear boxes and speed changers for wind turbines, as described in statistical note 6 to chapter 84 of the HTSUS
8483.40.90	Gears and gearing, other than toothed wheels, chain sprockets and other transmission elements entered separately
8483.50.60	Flywheels
8483.50.90	Pulleys and pulley blocks, nesoi
8483.60.40	Clutches and universal joints
8483.90.30	Parts of bearing housings and plain shaft bearings, nesoi
8483.90.50	Parts of gearing, gear boxes and other speed changers
8483.90.70	Parts of articles of subheading 8483.20
8483.90.80	Parts of transmission shafts (including camshafts and crankshafts) and cranks, ball or roller screws, flywheels and pulleys including pulley blocks, and clutches and shaft couplings (including universal joints), nesoi
8501.53.60	AC motors, multi-phase, of an output of 149.2 kW or more but not exceeding 150 kW
8501.53.80	AC motors nesoi, multi-phase, of an output exceeding 150 kW
8501.64.0110	AC generators (alternators) for wind-powered generating sets classified within heading 8502.31.00
8502.31.00	Electric generating sets, wind-powered
8503.00.35	Stators and rotors for electric motors and generators of heading 8501 that are under 18.65 W
8503.00.65	Stators and rotors for electric motors and generators of heading 8501, nesoi
8503.00.75	Parts of electric motors under 18.65 W, other than commutators, stators or rotors
8503.00.95	Other parts, nesoi, suitable for use solely or principally with the machines in headings 8501 or 8502
8504.21.00	Liquid dielectric transformers having a power-handling capacity not exceeding 650 kVA

8504.22.00	Liquid dielectric transformers having a power-handling capacity exceeding 650 kVA but not exceeding 10,000 kVA
8504.32.00	Electrical transformers other than liquid dielectric, having a power-handling capacity exceeding 1 kVA but not exceeding 16 kVA
8504.33.00	Electrical transformers other than liquid dielectric, having a power-handling capacity exceeding 16 kVA but not exceeding 500 kVA
8504.90.9634	Laminations for incorporation into stacked cores, transformer parts
8504.90.9638	Stacked cores for incorporation into transformers
8504.90.9642	Wound cores for incorporation into transformers
8509.80.20	Electromechanical kitchen waste disposers (disposals), with self-contained electric motor, for domestic uses
8514.20.40	Industrial or laboratory microwave ovens for making hot drinks, or for cooking or heating food
8514.20.60	Industrial or laboratory microwave ovens, nesoi
8516.60.40	Electrothermic cooking stoves, ranges and ovens (excluding microwave ovens), of a kind used for domestic purposes
8516.60.60	Electrothermic cookers, cooking plates, boiling rings, grillers and roasters, nesoi, of a kind used for domestic purposes
8547.90.00	Electrical conduit tubing and joints therefor, of base metal lined with insulating material; insulating fittings for electrical goods nesoi
8601.10.00	Rail locomotives powered from an external source of electricity
8601.20.00	Rail locomotives powered by electric accumulators (batteries)
8602.10.00	Diesel-electric locomotives
8602.90.00	Rail locomotives (other than diesel-electric), non-electric; locomotive tenders
8603.10.00	Self-propelled railway or tramway coaches, vans and trucks (other than those of heading 8604), powered from an external source of electricity
8603.90.00	Self-propelled railway or tramway coaches, vans and trucks (other than those of heading 8604), other than powered from an external source of electricity
8604.00.00	Railway or tramway maintenance or service vehicles, whether or not self-propelled
8605.00.00	Railway or tramway passenger coaches and special-purpose railway or tramway coaches, not self-propelled
8606.10.00	Railway or tramway tank cars, not self-propelled
8607.11.00	Parts of railway or tramway locomotives or rolling stock, truck assemblies for self-propelled vehicles
8607.19.03	Axles for railway or tramway locomotives or rolling stock
8607.19.06	Parts of axles for railway or tramway locomotives or rolling stock
8607.19.12	Wheels, whether or not fitted with axles, for railway or tramway locomotives or rolling stock
8607.19.15	Parts of wheels for railway or tramway locomotives or rolling stock
8607.19.90	Parts of truck assemblies of vehicles other than of heading 8605 or 8606

8607.21.50	Air brakes and parts thereof for vehicles other than of heading 8605 or 8606
8607.30.10	Hooks and other coupling devices, buffers, and parts thereof for vehicles of heading 8605 or 8606
8607.30.50	Parts of railway or tramway locomotives or rolling stock, hooks and other coupling devices, buffers, parts thereof, for stock of headings 8601 to 8605
8607.91.00	Parts, nesoi, of railway or tramway locomotives
8607.99.50	Parts, nesoi, of railway or tramway rolling stock, nesoi
8609.00.00	Containers (including containers for the transport of fluids) specially designed and equipped for carriage by one or more modes of transport
8701.21.0080	Road tractors for semi-trailers, with compression-ignition engine, used
8701.22.0080	Road tractors for semi-trailers, with both compression-ignition engine and electric motor, used
8701.23.0080	Road tractors for semi-trailers, with both spark-ignition engine and electric motor, used
8701.24.0080	Road tractors for semi-trailers, with only electric motor, used
8701.29.0080	Road tractors for semi-trailers, used, nesoi
8702.10.31	Motor vehicles with diesel engine, to transport 16 or more persons, including driver
8702.10.61	Motor vehicles with diesel engine, to transport 10 to 15 persons, including driver
8703.10.10	Motor vehicles specially designed for traveling on snow
8703.10.50	Golf carts and similar motor vehicles
8708.10.30	Bumpers for motor vehicles of headings 8701 to 8705
8708.92.50	Mufflers and exhaust pipes for motor vehicles of headings 8701 to 8705, nesoi
8708.92.75	Parts and accessories of mufflers, nesoi, for motor vehicles of headings 8701 to 8705
8708.99.81	Parts and accessories, nesoi, for motor vehicles of headings 8701 to 8705
8716.10.00	Trailers and semi-trailers, not mechanically propelled, for housing or camping
8716.39.00	Trailers and semi-trailers, not mechanically propelled, nesoi, for the transport of goods
8716.80.50	Vehicles, not mechanically propelled, nesoi
8716.90.30	Castors (other than of heading 8302) for trailers and semi-trailers, and other vehicles, not mechanically propelled
8716.90.50	Parts for trailers and semi-trailers, and other vehicles, not mechanically propelled, nesoi
9403.20.0075	Boltless or press-fit steel shelving units prepackaged for sale as described in statistical note 4 to chapter 94 of the HTSUS
9403.20.0082	Steel racks, other than those described in subheading 9403.20.0075
9403.99.9020	Welded wire-rack decking, whether or not galvanized, plated or coated

9403.99.9040	Metal parts for steel racks of subheading 9403.20.0082, nesoi
9406.20.00	Prefabricated modular building units of steel
9406.90.01	Prefabricated buildings, not of wood or steel, nesoi

Aluminum Derivative	Description
3701.30.00	Other photographic plates and film, with any side exceeding 255 mm in the flat
7615.10.20	Aluminum cooking and kitchen ware, enameled or glazed or containing nonstick interior finishes, cast
7615.10.30	Aluminum cooking and kitchen ware, enameled or glazed or containing nonstick interior finishes, not cast
7615.10.50	Aluminum cooking and kitchen ware, not enameled or glazed and not containing nonstick interior finishes, cast
7615.10.71	Aluminum cooking and kitchen ware, not enameled or glazed and not containing nonstick interior finishes, not cast
7615.10.91	Aluminum table, kitchen or other household articles and parts thereof, nesoi
7615.20.00	Aluminum sanitary ware and parts thereof
7616.99.10	Aluminum luggage frames
7616.99.5130	Aluminum ladders
7616.99.5140	Aluminum Venetian blinds and parts thereof
8302.10.30	Hinges and parts thereof, of iron or steel, aluminum or zinc, designed for motor vehicles
8302.10.60	Hinges, of base metal, of iron or steel, aluminum, or other
8302.20.00	Castors, of base metal
8302.30.30	Other mountings, fittings and similar articles suitable for motor vehicles and parts thereof, of iron or steel, of aluminum or of zinc
8302.41.30	Door closers (except automatic door closers) and parts thereof, of base metal, suitable for buildings
8302.41.60	Mountings, fittings and similar articles, nesoi, suitable for buildings, of iron or steel, aluminum or zinc, and base metal parts thereof
8302.42.30	Mountings, fittings and similar articles, suitable for furniture, of iron or steel, aluminum or zinc
8302.49.60	Other mountings, fittings and similar articles, of iron or steel, aluminum or zinc
8302.50.00	Hat-racks, hat pegs, brackets and similar fixtures, and parts thereof, of base metal
8302.60.30	Automatic door closers, of base metal
8302.60.90	Parts of automatic door closers, of base metal
8305.10.0050	Fittings for looseleaf binders or files, of base metal, other than ring binder mechanisms
8306.30.00	Photograph, picture or similar frames; mirrors; parts thereof, of base metal
8307.90.60	Flexible tubing of base metal other than iron or steel, without fittings
8309.90.0020	Aluminum stoppers, caps and lids for cans of a kind used for the conveyance of beverages as described in statistical note 1 to chapter 83 of the HTSUS
8309.90.0025	Other aluminum stoppers, caps and lids nesoi (not crown corks), capsules for bottles, threaded bungs, bung covers, seals and other packing accessories and parts

8412.90.9070	Wind turbine blades imported in accordance with statistical note 2 to chapter 84 of the HTSUS
8412.90.9075	Wind turbine hubs
8414.59.6590	Fans, axial
8414.80.16	Air compressors other than turbochargers and superchargers
8418.10.00	Combined refrigerator-freezers, fitted with separate external doors
8418.99.8005	Refrigeration condensing units, not exceeding 746 W
8418.99.8050	Parts of combined refrigerator-freezers fitted with separate external doors and parts of household type refrigerators
8418.99.8060	Parts of refrigerators, freezers and other refrigerating or freezing equipment, nesoi
8419.50.10	Heat exchange units
8419.50.50	Heat exchange units, other
8419.90.10	Parts of instantaneous or storage water heaters
8422.90.0640	Parts of dishwashing machines of the household type
8424.90.9080	Parts of mechanical appliances for projecting, dispersing, spraying liquid or powder; spray guns and similar appliances, nesoi
8443.16.00	Flexographic printing machinery
8450.11.00	Household- or laundry-type washing machines, each of a dry linen capacity not exceeding 10 kg, fully automatic
8451.21.00	Drying machines, each of a dry linen capacity not exceeding 10 kg
8467.22.00	Electromechanical saws for working in the hand, with self-contained electric motor
8467.29.00	Electromechanical tools for working in the hand, other than drills or saws, with self-contained electric motor
8467.81.00	Chain saws for working in the hand, hydraulic or with self-contained nonelectric motor
8467.89.50	Other tools for working in the hand, hydraulic or with self-contained nonelectric motor, other than suitable for metal working, nesoi
8479.90.85	Parts of trash compactors, nesoi
8481.90.9060	Valve bodies of hand-operated and check appliances, nesoi
8481.90.9085	Parts of taps, cocks, valves and similar appliances, nesoi
8483.40.5020	Gear boxes and speed changers for wind turbines as described in statistical note 6 to chapter 84 of the HTSUS
8483.90.5020	Parts of gear boxes and speed changers for wind turbines
8487.90.0080	Machinery parts not containing electrical features, and not specified or included elsewhere in chapter 84 of the HTSUS, except ships' propellers
8501.64.0110	AC generators (alternators), of an output exceeding 750 kVa for wind-powered generating sets classified within heading 8502.31.00
8502.20.00	Electric generating sets with spark-ignition internal-combustion piston engines
8502.31.00	Electric generating sets, wind-powered
8503.00.9520	Electric motor parts, nesoi

8503.00.9546	Generator parts for AC generators (alternators) classified within subheading 8501.64.0110
8503.00.9570	Parts of wind-powered generating sets classified in subheading 8502.31.00
8504.31.20	Transformers, electric, having a power-handling capacity not exceeding 1 kVA, unrated
8504.31.40	Transformers, electric, having a power-handling capacity of less than 1 kVA
8504.31.60	Transformers, electric, having a power-handling capacity of 1 kVA
8504.33.00	Transformers, electric, having a power-handling capacity exceeding 16 kVA but not exceeding 500 kVA
8504.90.41	Parts of power supplies (other than printed circuit assemblies) for automatic data-processing machines or units thereof of heading 8471
8508.70.00	Vacuum cleaner parts
8513.90.20	Flashlight parts
8515.90.20	Welding machine parts and parts of apparatus
8516.90.50	Microwave oven parts of subheading 8516.50, nesoi
8516.90.8050	Parts for electric cooking stoves, ranges and ovens of subheading 8516.60.40, nesoi
8517.71.00	Aerials and aerial reflectors and parts thereof
8529.90.73	Printed circuit assembly parts, including face plates and lock latches, of radar, radio navigational aid or radio remote control apparatus, nesoi
8536.90.8585	Electrical apparatus for switching or protecting electrical circuits, or for making connection with electrical circuits, for a voltage not exceeding 1,000 V, nesoi
8538.10.00	Boards, panels, consoles, desks, cabinets and other bases for the goods of heading 8537, not equipped with their apparatus
8543.90.8885	Parts of electrical machines and apparatus, having individual functions, not specified or included elsewhere in chapter 85, nesoi
8544.19.00	Insulated (including enameled or anodized) winding wire, other than of copper
8544.42.90	Insulated electric conductors nesoi, for a voltage not exceeding 1,000 V, fitted with connectors, nesoi
8544.49.20	Insulated electric conductors for a voltage not exceeding 80 V, not fitted with connectors, of a kind not used for telecommunications
8544.49.90	Insulated electric conductors for a voltage not exceeding 1,000 V, nesoi
8544.60.20	Insulated electric conductors fitted with connectors, for a voltage exceeding 1,000 V
8544.60.60	Insulated electric conductors for a voltage exceeding 1,000 V, nesoi
8547.90.0020	Electrical conduit tubing lined with insulation
8547.90.0030	Electrical conduit joints lined with insulation, threaded
8547.90.0040	Electrical conduit joints lined with insulation, nesoi
8708.10.30	Bumpers for motor vehicles of headings 8701 to 8705
8708.10.60	Parts of bumpers for motor vehicles of headings 8701 to 8705
8708.29.5160	Other parts and accessories, nesoi, of bodies (including cabs) of headings 8701 to 8705

8708.80.6590	Suspension system parts other than beam hanger brackets, of motor vehicles, nesoi, of headings 8701 to 8705
8708.99.6890	Parts of motor vehicles, nesoi, of headings 8701 to 8705, for power trains
8716.10.00	Trailers and semi-trailers, not mechanically propelled, for housing or camping
8716.39.00	Trailers and semi-trailers, not mechanically propelled, nesoi, for the transport of goods
8716.80.5010	Industrial hand trucks
8716.90.50	Parts for trailers and semi-trailers, and other vehicles, not mechanically propelled, nesoi

Copper Articles	Description
8544.42.10	Insulated electric conductors nesoi, for a voltage not exceeding 1,000 V, fitted with modular telephone connectors
8544.42.20	Insulated electric conductors nesoi, of a kind used for telecommunications, for a voltage not exceeding 1,000 V, fitted with connectors
8544.42.90	Insulated electric conductors nesoi, for a voltage not exceeding 1,000 V, fitted with connectors, nesoi
8544.49.10	Insulated electric conductors of a kind used for telecommunications, for a voltage not exceeding 80 V, not fitted with connectors

Annex I-C: Section 232 Tariff on Full Value

Note: An *ad valorem* Section 232 tariff shall apply to the full value of the following articles as outlined in clause (2) of this Proclamation, until December 31, 2027. If a product is listed multiple times on this Annex, it will only be subject to the applicable *ad valorem* Section 232 tariff once, rather than a combined rate.

Steel Derivatives	Description
8427.10.40	Self-propelled rider-type counterbalanced fork-lift trucks powered by an electric motor
8427.10.80	Self-propelled works trucks powered by an electric motor, fitted with lifting and handling equipment, nesoi
8427.20.40	Self-propelled rider-type counterbalanced fork-lift trucks not powered by an electric motor
8427.20.80	Self-propelled works trucks not powered by an electric motor, fitted with lifting and handling equipment, nesoi
8427.90.00	Trucks, fitted with lifting or handling equipment, nesoi
8429.11.00	Self-propelled bulldozers and angledozers, for track laying
8429.19.00	Self-propelled bulldozers and angledozers, other than for track laying
8429.20.00	Self-propelled graders and levelers
8429.30.00	Self-propelled scrapers
8429.40.00	Self-propelled tamping machines and road rollers
8429.51.10	Self-propelled front-end shovel loaders, wheel-type
8429.51.50	Self-propelled front-end shovel loaders, other than wheel-type
8429.52.10	Self-propelled backhoes, shovels, clamshells and draglines with a 360-degree revolving superstructure
8429.52.50	Self-propelled machinery with a 360-degree revolving superstructure, other than backhoes, shovels, clamshells and draglines
8429.59.10	Self-propelled backhoes, shovels, clamshells and draglines not with a 360-degree revolving superstructure
8429.59.50	Self-propelled machinery not with a 360-degree revolving superstructure, other than backhoes, shovels, clamshells and draglines

8431.20.00	Parts suitable for use solely or principally with the machinery of heading 8427
8431.42.00	Bulldozer or angledozer blades suitable for use solely or principally with the machinery of headings 8426, 8429 or 8430
8431.49.90	Parts suitable for use solely or principally with the machinery of headings 8429 or 8430, nesoi
8701.10.01	Single-axle tractors, other than tractors of heading 8709
8701.30.50	Track-laying tractors, not suitable for agricultural use
8701.91.50	Other tractors of engine power not exceeding 18 kW, not for agricultural use
8701.92.50	Other tractors of engine power exceeding 18 kW but not exceeding 37 kW, not for agricultural use
8701.93.50	Other tractors of engine power exceeding 37 kW but not exceeding 75 kW, not for agricultural use
8701.94.50	Other tractors of engine power exceeding 75 kW but not exceeding 130 kW, not for agricultural use
8701.95.50	Other tractors of engine power exceeding 130 kW, not for agricultural use
8705.10.00	Mobile cranes
8705.20.00	Mobile drilling derricks

Annex II: Removed from Scope of Section 232 Steel and Aluminum Derivatives

Note: The following articles will not be subject to Section 232 aluminum, steel or copper tariffs. In addition, any motorcycle part classifiable in chapters 84, 85 or 87 of the Harmonized Tariff Schedule of the United States and listed in Annex 1-B to this proclamation shall not be subject to Section 232 aluminum, steel or copper tariffs when imported exclusively for use in the manufacturing of motorcycles.

Steel Derivatives	Description
0402.99.68	Milk and cream (except condensed milk), concentrated in non-solid forms, sweetened, subject to general note 15 of the HTSUS
0402.99.70	Milk and cream (except condensed milk), concentrated in non-solid forms, sweetened, subject to additional U.S. note 10 to chapter 4 of the HTSUS
0402.99.90	Milk and cream (except condensed milk), concentrated in non-solid forms, sweetened, not described in general note 15 or additional U.S. note 10 to chapter 4 of the HTSUS
2106.90.9998	Food preparations nesoi, not canned or frozen
2710.19.3050	Steam cylinder oils
2711.12.0020	Propane, liquefied, other than with a minimum purity of 90 liquid volume percent
2804.29.0010	Helium
2804.40.0000	Oxygen
2901.22.0000	Propene (Propylene)
2903.42.1000	Difluoromethane (HFC-32)
2903.43.10	Fluoromethane (HFC-41), 1,2-difluoroethane (HFC-152) and 1,1-difluoroethane (HFC-152a)
2903.44.10	Pentafluoroethane (HFC-125), 1,1,1-trifluoroethane (HFC-143a) and 1,1,2-trifluoroethane (HFC-143)
2903.45.10	1,1,1,2-Tetrafluoroethane (HFC-134a) and 1,1,2,2-tetrafluoroethane (HFC-134)
2903.49.00	Other saturated fluorinated derivatives of acyclic hydrocarbons, nesoi
2903.51.10	2,3,3,3-Tetrafluoropropene (HFO-1234yf), 1,3,3,3-tetrafluoropropene (HFO-1234ze) and (Z)-1,1,1,4,4,4-hexafluoro-2-butene (HFO-1336mzz)
2903.59.90	Other unsaturated fluorinated derivatives of acyclic hydrocarbons
2903.71.01	Chlorodifluoromethane (HCFC-22)
3004.90.9251	Dermatological agents and local anesthetics other than those containing lidocaine or its salts, put up in measured doses or in forms or packings for retail sale
3208.10.00	Paints and varnishes (including enamels and lacquers) based on polyesters in a nonaqueous medium
3208.20.00	Paints and varnishes (including enamels and lacquers) based on acrylic or vinyl polymers in a nonaqueous medium
3208.90.00	Paints and varnishes based on synthetic polymers or chemically modified natural polymers nesoi, in a nonaqueous medium
3209.10.00	Paints and varnishes (including enamels and lacquers) based on acrylic or vinyl polymers in an aqueous medium

3209.90.00	Paints and varnishes based on synthetic polymers or chemically modified natural polymers nesoi, in an aqueous medium
3213.90.00	Artists', students' or signboard painters' colors, modifying tints, amusement colors and the like, in tablets, tubes, jars, bottles, pans or in similar packings, nesoi
3214.10.00	Glazier's putty, grafting putty, resin cements, caulking compounds and other mastics; painters' fillings
3303.00.10	Perfumes and toilet waters, not containing alcohol, floral or flower waters
3303.00.20	Perfumes and toilet waters, not containing alcohol, nesoi
3303.00.30	Perfumes and toilet waters, containing alcohol
3304.30.00	Manicure or pedicure preparations
3304.99.50	Beauty or make-up preparations and preparations for the care of the skin, excluding medicaments but including sunscreen or sun tan preparations, nesoi
3305.10.00	Shampoos
3305.30.00	Hair lacquers
3305.90.00	Preparations for use on the hair, nesoi
3306.90.00	Preparations for oral or dental hygiene, including denture fixative pastes and powders, excluding dentifrices, nesoi
3307.10.10	Pre-shave, shaving or after-shave preparations, not containing alcohol
3307.10.20	Pre-shave, shaving or after-shave preparations, containing alcohol
3307.20.00	Personal deodorants and antiperspirants
3307.49.00	Preparations for perfuming or deodorizing rooms, including odoriferous preparations used during religious rites, nesoi
3307.90.00	Depilatories and other perfumery, cosmetic or toilet preparations, nesoi
3401.30.10	Organic surface-active products and preparations for washing the skin, in liquid or cream form, put up for retail sale, whether or not containing soap, containing any aromatic or modified aromatic surface-active agent
3401.30.50	Organic surface-active products and preparations for washing the skin, in liquid or cream form, put up for retail sale, whether or not containing soap, nesoi
3402.31.90	Linear alkylbenzene sulfonic acids and their salts, other than aromatic or modified aromatic
3402.49.90	Other organic surface-active agents, not aromatic or modified aromatic, nesoi
3402.50.11	Preparations of organic surface-active agents, put up for retail sale, containing any aromatic or modified aromatic surface-active agent
3402.50.51	Preparations of organic surface-active agents, put up for retail sale, not containing any aromatic or modified aromatic surface-active agent
3402.90.10	Synthetic detergents put up for retail sale
3402.90.30	Surface-active, washing, and cleaning preparations containing any aromatic or modified aromatic surface-active agent, put up for retail sale
3402.90.50	Surface-active, washing, and cleaning preparations nesoi, put up for retail sale

3403.19.10	Lubricating preparations containing 50 percent or more but less than 70 percent by weight of petroleum oils or of oils obtained from bituminous minerals
3403.19.50	Lubricating preparations containing less than 50% by weight of petroleum oils or of oils from bituminous minerals
3403.99.00	Lubricating preparations (including lubricant-based preparations), nesoi
3405.10.00	Polishes, creams and similar preparations for footwear or leather
3405.20.00	Polishes, creams and similar preparations for the maintenance of wooden furniture, floors or other woodwork
3405.40.00	Scouring pastes and powders and other scouring preparations
3405.90.00	Polishes, creams and similar preparations for glass or metal
3506.10.50	Products suitable for use as glues or adhesives, nesoi, not exceeding a net weight of 1 kg, put up for retail sale
3506.91.10	Adhesive preparations based on rubber or plastics (including artificial resins), optically clear, for flat panel and touchscreen displays
3506.91.50	Other adhesive preparations based on rubber or plastics (including artificial resins)
3506.99.00	Prepared glues and other prepared adhesives, excluding adhesives based on rubber or plastics, nesoi
3808.59.10	Pesticides containing any aromatic or modified aromatic specified in note 1 to chapter 38 of the HTSUS
3808.59.40	Disinfectants specified in note 1 to chapter 38 of the HTSUS
3808.61.10	Pesticides containing any aromatic or modified aromatic, in packings of a net weight content not exceeding 300 g, specified in note 2 to chapter 38 of the HTSUS
3808.61.50	Pesticides, nesoi, in packings of a net weight content not exceeding 300 g, specified in note 2 to chapter 38 of the HTSUS
3808.62.10	Pesticides containing any aromatic or modified aromatic, in packings of a net weight content exceeding 300 g but not exceeding 7.5 kg, specified in note 2 to chapter 38 of the HTSUS
3808.62.50	Pesticides, nesoi, in packings of a net weight content exceeding 300 g but not exceeding 7.5 kg, specified in note 2 to chapter 38 of the HTSUS
3808.69.10	Pesticides containing any aromatic or modified aromatic, in packings of a net weight content exceeding 7.5 kg, specified in note 2 to chapter 38 of the HTSUS
3808.69.50	Pesticides, nesoi, in packings of a net weight content exceeding 7.5 kg, specified in note 2 to chapter 38 of the HTSUS
3808.91.15	Mixtures of N-[[[4-chlorophenyl]amino]-carbonyl]-2,6-difluorobenzamide and inert substances
3808.91.25	Insecticides containing any aromatic or modified aromatic insecticide, nesoi
3808.91.30	Insecticides, nesoi, containing an inorganic substance, put up for retail sale
3808.91.50	Insecticides, nesoi, for retail sale or as preparations or articles
3808.94.10	Disinfectants, containing any aromatic or modified aromatic disinfectant
3808.94.50	Disinfectants not subject to subheading note 1 to chapter 38 of the HTSUS, nesoi

3809.91.00	Finishing agents, dye carriers and like products, nesoi, of a kind used in the textile or like industries
3810.10.00	Pickling preparations for metal surfaces; soldering, brazing or welding powders and pastes consisting of metal and other materials
3811.19.00	Antiknock preparations based on other than lead compounds
3811.21.00	Additives for lubricating oils containing petroleum oils or oils obtained from bituminous minerals
3814.00.10	Organic composite solvents and thinners containing 5 to 25 percent by weight of one or more aromatic substances
3814.00.20	Organic composite solvents and thinners containing more than 25 percent by weight of one or more aromatic substances
3814.00.50	Organic composite solvents and thinners, nesoi; prepared paint or varnish removers, nesoi
3820.00.00	Antifreezing preparations and prepared de-icing fluids
3824.99.9397	Chemical products and preparations and residual products of the chemical or allied industries, nesoi
3827.61.00	Mixtures containing 15 percent or more by mass of 1,1,1-trifluoroethane (HFC-143a)
3827.62.00	Mixtures containing 55 percent or more by mass of pentafluoroethane (HFC-125) but not containing unsaturated fluorinated derivatives of acyclic hydrocarbons (HFOs), nesoi
3827.63.00	Mixtures containing 40 percent or more by mass of pentafluoroethane (HFC-125), nesoi
3827.64.00	Mixtures containing 30 percent or more by mass of 1,1,1,2-tetrafluoroethane (HFC-134a) but not containing unsaturated fluorinated derivatives of acyclic hydrocarbons (HFOs), nesoi
3827.65.00	Mixtures containing 20 percent or more by mass of difluoromethane (HFC-32) and 20 percent or more by mass of pentafluoroethane (HFC-125), nesoi
3925.20.00	Doors, windows, and their frames and thresholds for doors, of plastics
3926.90.10	Buckets and pails, of plastics, nesoi
7323.91.5020	Bakeware (cookware not suitable for stovetop use), of cast iron, not enameled
7323.91.5040	Table, kitchen or other household articles nesoi, of cast iron, not enameled, and parts thereof
7323.92.0020	Bakeware (cookware not suitable for stovetop use) articles nesoi, of cast iron, enameled
7323.92.0040	Table, kitchen or other household articles nesoi, of cast iron, enameled, and parts thereof
8407.21.00	Marine propulsion spark-ignition reciprocating or rotary internal-combustion piston engines for outboard motors
8408.20.10	Compression-ignition internal-combustion piston engines to be installed in tractors suitable for agricultural use
8408.20.90	Compression-ignition internal-combustion piston engines used for propulsion of vehicles of chapter 87 of the HTSUS, nesoi

8409.91.50	Parts nesoi, used solely or principally with spark-ignition internal-combustion piston engines for vehicles of headings 8701.2 and 8702 to 8704
8409.91.92	Parts nesoi, used solely or principally with spark-ignition internal-combustion piston engines for marine propulsion
8409.91.99	Parts nesoi, used solely or principally with spark-ignition internal-combustion piston engines of heading 8407, nesoi
8409.99.91	Parts nesoi, used solely or principally with the engines of heading 8408, or for vehicles of headings 8701.2, 8702, 8703 or 8704
8409.99.92	Parts nesoi, used solely or principally with compression-ignition internal-combustion piston engines for marine propulsion
8409.99.99	Parts nesoi, used solely or principally with compression-ignition internal-combustion piston engines of headings 8407 or 8408, nesoi
8424.10.00	Fire extinguishers, whether charged or not charged
8501.53.40	AC motors, multi-phase, exceeding 75 kW but under 149.2 kW, for use in civil aircraft
8503.00.45	Stators and rotors for electric generators suitable for use on aircraft
8503.00.90	Parts suitable for use solely or principally with electric motors or generators suitable for use on aircraft
8705.90.0010	Mobile radiological units
8705.90.0020	Mobile medical clinics
8710.00.00	Tanks and other armored fighting vehicles, motorized, whether or not fitted with weapons, and parts of such vehicles
8711.30.00	Motorcycles (including mopeds) and cycles, fitted with reciprocating internal-combustion piston engine of a cylinder capacity exceeding 250 cc but not exceeding 500 cc
8711.50.00	Motorcycles (including mopeds) and cycles, fitted with reciprocating internal-combustion piston engine of a cylinder capacity exceeding 800 cc
8711.60.00	Motorcycles (including mopeds) and cycles, with electric motor for propulsion
8714.10.00	Parts and accessories for motorcycles (including mopeds)
9401.71.00	Seats nesoi, with metal frames (other than of heading 9402), upholstered
9401.79.00	Seats nesoi, with metal frames (other than of heading 9402), not upholstered
9403.10.00	Furniture (other than seats) of metal nesoi, of a kind used in offices
9403.20.0011	Floor-standing metal-top ironing boards, household
9403.20.0016	Cribs of metal, household
9403.20.0017	Toddler beds, bassinets, cradles, play yards and other enclosures for confining children of metal, household
9403.20.0035	Mechanically adjustable bed or mattress base of metal, not foldable, having the characteristics of a bed or bed frame, of a width exceeding 91.44 cm, of a length exceeding 184.15 cm and of a depth exceeding 8.89 cm, household
9403.20.0040	Mattress bases with legs of metal, not foldable, having the characteristics of a stationary bed frame, of a width exceeding 91.44 cm, of a length exceeding 184.15 cm and of a depth exceeding 8.89 cm, household
9403.20.0046	Foldable mattress foundations with legs, having the characteristics of a bed or bed frame, mechanically adjustable, of metal, household

9403.20.0048	Foldable mattress foundations with legs, having the characteristics of a bed or bed frame, stationary, of metal, household
9403.20.0050	Furniture (other than seats) of metal, household, nesoi
9403.20.0078	Storage lockers of metal, other than exchange lockers as described in statistical note 5 to chapter 94 of the HTSUS, other than of a kind used in offices or households
9403.20.0086	Counters, lockers, racks, display cases, shelves, partitions and similar fixtures nesoi of metal, other than of a kind used in offices or households
9403.20.0090	Furniture (other than seats) of metal nesoi, other than of a kind used in offices or households
9403.99.10	Parts of furniture (other than seats), for furniture of a kind used for motor vehicles
9403.99.9010	Parts for cribs, toddler beds, bassinets and cradles, nesoi
9403.99.9015	Parts for play yards and other enclosures for confining children, nesoi
9403.99.9045	Furniture parts of metal, nesoi
9403.99.9051	Furniture parts of cotton, cut to shape, nesoi
9403.99.9061	Furniture parts, nesoi
9405.99.20	Parts of lamps, lighting fixtures, illuminated signs and the like, of brass
9405.99.40	Parts of lamps, lighting fixtures, illuminated signs and the like, not of glass, plastics or brass
9506.91.00	Articles and equipment for general physical exercise, gymnastics or athletics; parts and accessories thereof

Aluminum Derivatives	Description
0402.99.68	Milk and cream (except condensed milk), concentrated in non-solid forms, sweetened, subject to general note 15 of the HTSUS
0402.99.70	Milk and cream (except condensed milk), concentrated in non-solid forms, sweetened, subject to additional U.S. note 10 to chapter 4 of the HTSUS
0402.99.90	Milk and cream (except condensed milk), concentrated in non-solid forms, sweetened, not described in general note 15 or additional U.S. note 10 to chapter 4 of the HTSUS
2106.90.9998	Food preparations nesoi, not canned or frozen
2203.00.00	Beer made from malt
2710.19.3050	Steam cylinder oils
2903.43.10	Fluoromethane (HFC-41), 1,2-difluoroethane (HFC-152) and 1,1-difluoroethane (HFC-152a)
2903.45.10	1,1,1,2-Tetrafluoroethane (HFC-134a) and 1,1,2,2-tetrafluoroethane (HFC-134)
2903.49.00	Other saturated fluorinated derivatives of acyclic hydrocarbons, nesoi
2903.51.10	2,3,3,3-Tetrafluoropropene (HFO-1234yf), 1,3,3,3-tetrafluoropropene (HFO-1234ze) and (Z)-1,1,1,4,4,4-hexafluoro-2-butene (HFO-1336mzz)
2903.59.90	Other unsaturated fluorinated derivatives of acyclic hydrocarbons
3004.90.9251	Dermatological agents and local anesthetics put up in measured doses or in forms or packings for retail sale, nesoi
3208.10.00	Paints and varnishes (including enamels and lacquers) based on polyesters in a nonaqueous medium
3208.20.00	Paints and varnishes (including enamels and lacquers) based on acrylic or vinyl polymers in a nonaqueous medium
3208.90.00	Paints and varnishes based on synthetic polymers or chemically modified natural polymers nesoi, in a nonaqueous medium
3209.10.00	Paints and varnishes (including enamels and lacquers) based on acrylic or vinyl polymers in an aqueous medium
3209.90.00	Paints and varnishes based on synthetic polymers or chemically modified natural polymers nesoi, in an aqueous medium
3213.90.00	Artists', students' or signboard painters' colors, in tablets, tubes, jars, bottles, pans or in similar packings, not in sets
3214.10.00	Glazier's putty, grafting putty, resin cements, caulking compounds and other mastics; painters' fillings
3303.00.10	Floral or flower waters, not containing alcohol
3303.00.20	Perfumes and toilet waters, other than floral or flower waters, not containing alcohol
3303.00.30	Perfumes and toilet waters, containing alcohol
3304.30.00	Manicure or pedicure preparations
3304.99.50	Beauty or make-up preparations and preparations for the care of the skin, excluding medicaments but including sunscreen or sun tan preparations, nesoi

3305.10.00	Shampoos
3305.30.00	Hair lacquers
3305.90.00	Preparations for use on the hair, nesoi
3306.90.00	Preparations for oral or dental hygiene, including denture fixative pastes and powders, excluding dentifrices
3307.10.10	Pre-shave, shaving or after-shave preparations, not containing alcohol
3307.10.20	Pre-shave, shaving or after-shave preparations, containing alcohol
3307.20.00	Personal deodorants and antiperspirants
3307.49.00	Preparations for perfuming or deodorizing rooms, including odoriferous preparations used during religious rites, nesoi
3307.90.00	Depilatories and other perfumery, cosmetic or toilet preparations. nesoi
3401.30.10	Organic surface-active products for washing the skin, in liquid or cream, containing any aromatic or modified aromatic surface-active agent, put up for retail
3401.30.50	Organic surface-active products and preparations for washing the skin, in liquid or cream form, put up for retail sale, nesoi
3402.31.90	Linear alkylbenzene sulfonic acids and their salts, other than aromatic or modified aromatic
3402.49.90	Other organic surface-active agents, other than aromatic or modified aromatic, other than anionic, cationic or non-ionic
3402.50.11	Preparations of organic surface-active agents, put up for retail sale, containing any aromatic or modified aromatic surface-active agent
3402.50.51	Preparations of organic surface-active agents, put up for retail sale, not containing any aromatic or modified aromatic surface-active agent
3402.90.10	Synthetic detergents put up for retail sale
3402.90.30	Surface-active, washing, and cleaning preparations containing any aromatic or modified aromatic surface-active agent, put up for retail sale
3402.90.50	Surface-active, washing, and cleaning preparations nesoi, put up for retail sale
3403.19.10	Lubricating preparations containing 50 percent but less than 70 percent by weight of petroleum oils or of oils obtained from bituminous minerals
3403.19.50	Lubricating preparations containing less than 50 percent by weight of petroleum oils or of oils from bituminous minerals
3403.99.00	Lubricating preparations (including lubricant-based preparations), nesoi
3405.10.00	Polishes, creams and similar preparations for footwear or leather
3405.20.00	Polishes, creams and similar preparations for the maintenance of wooden furniture, floors or other woodwork
3405.40.00	Scouring pastes and powders and other scouring preparations
3405.90.00	Polishes, creams and similar preparations for glass or metal
3506.10.50	Products suitable for use as glues or adhesives, nesoi, not exceeding a net weight of 1 kg, put up for retail sale
3506.91.10	Adhesive preparations based on rubber or plastics (including artificial resins), optically clear, for flat panel and touchscreen displays
3506.91.50	Other adhesive preparations based on rubber or plastics (including artificial resins)

3506.99.00	Prepared glues and other prepared adhesives, excluding adhesives based on rubber or plastics, nesoi
3808.59.10	Pesticides containing any aromatic or modified aromatic specified in note 1 to chapter 38 of the HTSUS
3808.59.40	Disinfectants specified in note 1 to chapter 38 of the HTSUS
3808.61.10	Pesticides containing any aromatic or modified aromatic, in packings of a net weight content not exceeding 300 g, specified in note 2 to chapter 38 of the HTSUS
3808.61.50	Pesticides, nesoi, in packings of a net weight content not exceeding 300 g, specified in note 2 to chapter 38 of the HTSUS
3808.62.10	Pesticides containing any aromatic or modified aromatic, in packings of a net weight content exceeding 300 g but not exceeding 7.5 kg, specified in note 2 to chapter 38 of the HTSUS
3808.62.50	Pesticides, nesoi, in packings of a net weight content exceeding 300 g but not exceeding 7.5 kg, specified in note 2 to chapter 38 of the HTSUS
3808.69.10	Pesticides containing any aromatic or modified aromatic, in packings of a net weight content exceeding 7.5 kg, specified in note 2 to chapter 38 of the HTSUS
3808.69.50	Pesticides, nesoi, in packings of a net weight content exceeding 7.5 kg, specified in note 2 to chapter 38 of the HTSUS
3808.91.15	Mixtures of N-[[[4-chlorophenyl]amino]-carbonyl]-2,6-difluorobenzamide and inert substances
3808.91.25	Insecticides containing any aromatic or modified aromatic insecticide, nesoi
3808.91.30	Insecticides, nesoi, containing an inorganic substance, put up for retail sale
3808.91.50	Insecticides, nesoi, for retail sale or as preparations or articles
3808.94.10	Disinfectants, containing any aromatic or modified aromatic disinfectant
3808.94.50	Disinfectants not subject to subheading note 1 of chapter 38 of the HTSUS, nesoi
3809.91.00	Finishing agents, dye carriers and like products, nesoi, of a kind used in the textile or like industries
3810.10.00	Pickling preparations for metal surfaces; soldering, brazing or welding powders and pastes consisting of metal and other materials
3811.19.00	Antiknock preparations based on other than lead compounds
3811.21.00	Additives for lubricating oils containing petroleum oils or oils obtained from bituminous minerals
3814.00.10	Organic composite solvents and thinners containing 5 to 25 percent by weight of one or more aromatic substances
3814.00.20	Organic composite solvents and thinners containing more than 25 percent by weight of one or more aromatic substances
3814.00.50	Organic composite solvents and thinners, nesoi; prepared paint or varnish removers, nesoi
3820.00.00	Antifreezing preparations and prepared de-icing fluids
3824.99.9397	Chemical products and preparations and residual products of the chemical or allied industries, nesoi
6603.90.81	Parts, trimmings and accessories of headings 6601 or 6602, nesoi

8473.30.20	Parts and accessories of printed circuit assemblies of the machines of heading 8471, including face plates and lock latches, not incorporating a cathode ray tube
8473.30.51	Parts and accessories of the machines of heading 8471, nesoi
8486.90.00	Machines used for the lifting, handling, loading or unloading of boules, wafers, semiconductor devices, electronic integrated circuits or flat panel displays; parts and accessories
8517.79.00	Parts of telephone sets or other apparatus for the transmission or reception of voice, images or other data
8529.90.9760	Radio remote-control apparatus parts, nesoi
8541.90.00	Diode, transistor and similar semiconductor device parts
8807.30.0060	Other parts of airplanes or helicopters for use in military aircraft (excluding propellers, rotors, undercarriages, and parts thereof)
9031.90.9195	Parts and accessories for measuring or checking instruments, appliances and machines of chapter 90 of the HTSUS, nesoi
9401.79.00	Seats nesoi, with metal frames (other than of heading 9402), not upholstered
9401.99.9081	Seat parts, nesoi
9403.10.00	Furniture (other than seats) of metal nesoi, of a kind used in offices
9403.20.00	Furniture (other than seats) of metal nesoi, other than of a kind used in offices
9403.99.1040	Parts of furniture of a kind used for motor vehicles of metal
9403.99.9010	Parts for cribs, toddler beds, bassinets and cradles, nesoi
9403.99.9015	Parts for play yards and other enclosures for confining children, nesoi
9403.99.9020	Welded wire rack decking, whether or not galvanized, plated or coated
9403.99.9040	Metal parts for steel racks of subheading 9403.20.0082, nesoi
9403.99.9045	Furniture parts of metal, nesoi
9405.99.4020	Lampposts and bases for lampposts, of aluminum
9506.11.4080	Snow-skis, nesoi
9506.51.40	Lawn-tennis rackets, not strung
9506.51.60	Parts and accessories for lawn-tennis rackets
9506.59.4040	Badminton rackets and racket frames
9506.70.2090	Roller skates, nesoi, and parts and accessories thereof
9506.91.0010	Exercise cycles
9506.91.0020	Exercise rowing machines
9506.91.0030	Gymnasium or other exercise articles and equipment, parts and accessories thereof, nesoi
9506.99.0510	Bows and bow parts
9506.99.0520	Arrows and arrow parts
9506.99.0530	Archery articles and equipment, and parts and accessories thereof, nesoi
9506.99.15	Baseball articles and equipment, except balls, and parts and accessories thereof
9506.99.20	Football, soccer and polo articles and equipment, except balls, and parts and accessories thereof

9506.99.2580	Ice-hockey and field-hockey articles and equipment, except balls, skates and ice-hockey sticks, including parts and accessories, nesoi
9506.99.28	Lacrosse sticks
9506.99.55	Swimming pools and wading pools, and parts and accessories thereof
9506.99.6080	Articles and equipment for gymnastics, athletics, other sports or outdoor games, nesoi
9507.30.20	Fishing reels valued not over \$2.70 each
9507.30.40	Fishing reels valued over \$2.70 each but not over \$8.45 each
9507.30.60	Fishing reels valued over \$8.45 each
9507.30.80	Fishing reels parts and accessories
9507.90.60	Fish landing nets, butterfly nets and similar nets
9603.90.8050	Brooms, brushes, squeegees, etc., nesoi

Annex III: Temporary Reduction List for Section 232 Steel and Aluminum Derivatives

Note: The 25% Section 232 tariff on steel and aluminum derivative articles shall be reduced for products listed in this Annex, as outlined in clause (5) of Proclamation 11021, until December 31, 2027. If a product is identified on both lists in this Annex, it will only be subject to a Section 232 tariff once, rather than a combined rate.

Steel Derivatives	Description
8207.20.0070	Parts of dies for drawing or extruding metal
8207.30.6062	Metal-forming dies, including thread-rolling dies
8207.30.6095	Parts of tools for pressing, stamping or punching, not suitable for cutting metal
8401.40.00	Parts of nuclear reactors
8407.90.10	Spark-ignition rotary or reciprocating internal-combustion piston engines nesoi, to be installed in agricultural or horticultural machinery or equipment
8415.10.60	Air-conditioning machines, window- or wall-types, incorporating a refrigerating unit and a valve for reversal of the cooling/heating cycle
8415.10.90	Air-conditioning machines, window- or wall-types, other
8415.81.01	Other air-conditioning machines, incorporating a refrigerating unit and a valve for reversal of the cooling/heat cycle
8415.82.01	Other air-conditioning machines, incorporating a refrigerating unit
8415.90.80	Parts of air-conditioning machines
8417.90.00	Parts of industrial or laboratory furnaces and ovens, including incinerators, nonelectric
8419.81.50	Cooking stoves, ranges and ovens for making hot drinks or for cooking or heating food
8421.29.00	Filtering or purifying machinery and apparatus for liquids, nesoi
8424.89.90	Other mechanical appliances for projecting, dispersing or spraying liquids or powders, nesoi
8428.32.00	Bucket-type continuous-action elevators and conveyors, for goods or materials
8428.33.00	Belt-type continuous-action elevators and conveyors, for goods or materials
8428.39.00	Continuous-action elevators and conveyors, for goods or materials, nesoi
8428.60.00	Teleferics, chair lifts, ski draglines; traction mechanisms for funiculars
8428.70.00	Industrial robots
8428.90.03	Machinery for lifting, handling, loading or unloading, nesoi
8431.39.00	Parts suitable for use solely or principally with the machinery of heading 8428, nesoi
8431.41.00	Buckets, shovels, grabs and grips suitable for use solely or principally with the machinery of headings 8426, 8429 or 8430
8432.10.00	Plows for soil preparation or cultivation
8432.90.00	Parts of agricultural, horticultural or forestry machinery for soil preparation or cultivation; parts of lawn or sports ground rollers
8433.20.00	Mowers nesoi, including cutter bars for tractor mounting

8433.51.00	Combine harvester-threshers
8433.59.00	Harvesting machinery or threshing machinery, nesoi
8433.90.50	Parts for machinery of heading 8433, nesoi
8454.20.0010	Ingot molds for steel ingots
8454.20.0060	Ingot molds except for steel ingots
8455.30.00	Rolls for metal-rolling mills
8455.90.40	Castings or weldments, individually weighing less than 90 tons, for the machines of heading 8455
8455.90.80	Parts for metal-rolling mills and rolls therefor, nesoi
8457.10.00	Machining centers for working metal
8474.90.00	Parts for the machinery of heading 8474
8477.10.30	Injection-molding machines for manufacturing shoes of rubber or plastics
8477.10.40	Injection-molding machines for use in the manufacture of video laser discs
8477.10.90	Injection-molding machines of a type used for working or manufacturing products from rubber or plastics, nesoi
8477.90.25	Base, bed, platen and specified parts of machinery for working rubber or plastics or for the manufacture of products from these materials, nesoi
8477.90.8601	Parts of injection-molding machines
8479.89.55	Trash compactors with self-contained electric motor
8479.89.65	Electromechanical appliances with self-contained electric motor, other
8479.90.95	Parts of machines and mechanical appliances having individual functions, nesoi in chapter 84 of the HTSUS
8480.49.0010	Molds for centrifugal casting of ductile iron pipe
8480.71.8045	Injection-type molds for rubber or plastics, nesoi
8480.71.8060	Compression-type molds for rubber or plastics, nesoi
8480.79.9010	Blow molds for rubber or plastics
8483.60.80	Shaft couplings (other than universal joints)
8483.90.20	Parts of flange, take-up, cartridge and hanger units
8504.23.00	Liquid dielectric transformers having a power-handling capacity exceeding 10,000 kVa
8516.29.00	Electric space heating apparatus and electric soil heating apparatus, other than storage heating radiators
8701.30.10	Track-laying tractors, suitable for agricultural use
8701.91.10	Other tractors of engine power not exceeding 18 kW, for agricultural use
8701.92.10	Other tractors of engine power exceeding 18 kW but not exceeding 37 kW, for agricultural use
8701.93.10	Other tractors of engine power exceeding 37 kW but not exceeding 75 kW, for agricultural use
8701.94.10	Other tractors of engine power exceeding 75 kW but not exceeding 130 kW, for agricultural use
8701.95.10	Other tractors of engine power exceeding 130 kW, for agricultural use
8703.21.01	Motor vehicles to transport persons, with only spark-ignition internal-combustion piston engines, of a cylinder capacity not exceeding 1,000 cc
8706.00.30	Chassis fitted with engines, for tractors suitable for agricultural use

8708.29.21.20	Body stampings for tractors suitable for agricultural use, of steel
8708.40.30	Gear boxes for tractors suitable for agricultural use
8708.40.60	Parts of gear boxes for tractors suitable for agricultural use
8708.92.10	Mufflers and exhaust pipes for tractors suitable for agricultural use
8708.92.60	Parts of mufflers and exhaust pipes for tractors suitable for agricultural use
8708.93.15	Clutches for tractors suitable for agricultural use
8708.93.30	Parts of clutches for tractors suitable for agricultural use
8708.99.23	Parts and accessories, nesoi, of tractors suitable for agricultural use
8716.80.10	Farm wagons and carts, not mechanically propelled
8716.90.10	Parts of farm wagons and carts

Aluminum Derivatives	Description
8415.90.8010	Air-conditioning evaporator coils, of copper or copper alloys
8415.90.8020	Air-conditioning evaporator coils, other
8415.90.8045	Parts of automotive air-conditioning machines
8415.90.8085	Parts of heat pumps for air-conditioning machines
8424.89.90	Other mechanical appliances for projecting, dispersing or spraying liquids or powders, nesoi
8479.89.9599	Other machines and mechanical appliances having individual functions, nesoi in chapter 84 of the HTSUS; parts thereof
8479.90.9596	Other parts of machines and mechanical appliances having individual functions, nesoi in chapter 84 of the HTSUS; nesoi
8504.34.00	Electrical transformers other than liquid dielectric, having a power-handling capacity exceeding 500 kVa
8504.90.20	Printed circuit assemblies of power supplies for automatic data-processing machines or units thereof of heading 8471
8504.90.65	Printed circuit assemblies of the goods of subheadings 8504.40 or 8504.50 for telecommunication apparatus
8504.90.75	Printed circuit assemblies of electrical transformers, static converters and inductors, nesoi
8504.90.9610	Ferrites for electrical transformers
8504.90.9630	Ferrites for static converters and inductors
8504.90.9646	Parts for electrical transformers, nesoi (excluding laminations and cores)
8504.90.9650	Parts for static converters, nesoi
8504.90.9690	Parts for inductors, nesoi
8708.29.21.30	Body stampings for tractors suitable for agricultural use, of aluminum
9013.90.80	Parts and accessories for liquid crystal devices, nesoi

Annex IV

A. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on June 8, 2026, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified as follows:

1. Subdivision (c) of U.S. note 16 is modified by:

a. inserting in subdivision (vi) the following subheading in numerical order:

3701.30.00;

b. deleting from subdivision (vi) the following subheading:

8708.29.21;

c. deleting the following provisions from subdivision (vi) and inserting the same provisions in subdivision (ix) in numerical order:

8415.90.8010	8415.90.8020	8415.90.8045	8415.90.8085;

d. inserting in subdivision (vii) the following subheadings in numerical order:

9403.20.0075	9403.20.0082	9403.99.9040;

e. deleting the following subheadings from subdivision (vii) and inserting the same subheadings in subdivision (x) in numerical order:

8407.90.10	8415.10.60	8415.10.90	8415.81.01
8415.82.01	8415.90.80	8419.81.50	8432.10.00
8432.90.00	8433.20.00	8433.51.00	8433.59.00
8433.90.50	8479.89.55	8479.89.65	8516.29.00
8701.30.10	8701.91.10	8701.92.10	8701.93.10
8701.94.10	8701.95.10	8703.21.01	8706.00.30
8708.40.30	8708.40.60	8708.92.10	8708.92.60
8708.93.15	8708.93.30	8708.99.23	8716.80.10
8716.90.10			

f. deleting the following subheadings from subdivision (vii):

8427.10.40	8427.10.80	8427.20.40	8427.20.80
8427.90.00	8429.11.00	8429.19.00	8429.20.00
8429.30.00	8429.40.00	8429.51.10	8429.51.50
8429.52.10	8429.52.50	8429.59.10	8429.59.50
8431.20.00	8431.42.00	8431.49.90	8701.10.01

8701.30.50	8701.91.50	8701.92.50	8701.93.50
8701.94.50	8701.95.50	8705.10.00	8705.20.00
8708.29.21;			

g. inserting in subdivision (ix) the following subheading in numerical order:

8708.29.2130;

h. inserting in subdivision (x) the following subheading in numerical order:

8708.29.2120; and

i. inserting new subdivision (xi) in numerical order:

“(xi) Derivative steel articles:

8427.10.40	8427.10.80	8427.20.40	8427.20.80
8427.90.00	8429.11.00	8429.19.00	8429.20.00
8429.30.00	8429.40.00	8429.51.10	8429.51.50
8429.52.10	8429.52.50	8429.59.10	8429.59.50
8431.20.00	8431.42.00	8431.49.90	8701.10.01
8701.30.50	8701.91.50	8701.92.50	8701.93.50
8701.94.50	8701.95.50	8705.10.00	8705.20.00”.

2. Subdivision (e) of U.S. note 16 is modified by:

- a. deleting “95 percent” in each place it appears and inserting “85 percent” in lieu thereof;
- b. deleting “and 9903.82.15” and inserting “, 9903.82.15, 9903.82.23 and 9903.82.24” in lieu thereof;
- c. deleting “in subdivisions (c)(iv), (vii) and (x)” and inserting “in subdivisions (c)(iv), (vii), (x) and (xi)” in lieu thereof; and
- d. deleting “For articles for which the applicable column 1 duty rate is less than 10 percent, the sum of the column 1 duty rate and the additional ad valorem rate of duty pursuant to heading 9903.82.07 will be 10 percent. For articles for which the applicable column 1 duty rate is 10 percent or higher, heading 9903.82.08 applies and no additional duty is due pursuant to heading 9903.82.07.” and inserting “Headings 9903.82.23 and 9903.82.24 apply to articles meeting the requirements of subdivision (k) of this note. For articles for which the applicable column 1 duty rate is less than 10 percent, heading 9903.82.07 or 9903.82.23 applies and the sum of the column 1 duty rate and the additional *ad valorem* rate of duty will total 10

percent. For articles for which the applicable column 1 duty rate is 10 percent or higher, heading 9903.82.08 or 9903.82.24 applies.” in lieu thereof.

3. Subdivision (f) of U.S. note 16 is modified by deleting the existing text and inserting the following in lieu thereof:

“Except as provided for in headings 9903.82.12 and 9903.82.17, headings 9903.82.10 and 9903.82.11 apply to articles provided for in subdivisions (c)(ix)–(x) of this note that do not meet the requirements described in subdivision (e) of this note. Headings 9903.82.25 and 9903.82.26 apply to articles that meet the requirements of subdivision (k) of this note but do not meet the requirements described in subdivision (e) of this note. For articles for which the applicable column 1 duty rate is less than 15 percent, heading 9903.82.10 or 9903.82.25 applies and the sum of the column 1 duty rate and the additional *ad valorem* rate of duty is 15 percent *ad valorem*. For articles for which the applicable column 1 duty rate is 15 percent or higher, heading 9903.82.11 or 9903.82.26 applies.”

4. New subdivision (j) to U.S. note 16 is inserted in alphabetical order:

“(j) Headings 9903.82.20 and 9903.82.21 apply to derivative steel articles provided for in subdivision (c)(xi) of this note that are eligible for special tariff treatment under the United States-Mexico-Canada Agreement. Heading 9903.82.20 applies to the non-U.S. content of such derivative steel articles and to U.S. content that exceeds 40 percent of the value of such derivative steel articles. Heading 9903.82.21 applies to the U.S. content that does not exceed 40 percent of the value of such derivative steel articles. For the purposes of this note, U.S. content refers to the value of the article attributable to parts produced in the United States. Importers of such derivative steel articles shall identify the amount of U.S. content in each article imported into the United States. The non-U.S. content of the article shall be calculated by subtracting the value of the U.S. content in the article from the total value of the article.

Any importer entering an article covered by this subdivision shall provide any information that may be required, and in such form, as is deemed necessary by CBP in order to permit the administration of this heading.”

5. New subdivision (k) to U.S. note 16 is inserted in alphabetical order:

“(k) Except as provided in heading 9903.85.68, headings 9903.82.23–9903.82.26 apply to parts classifiable in the provisions of subdivision (c)(vi)–(viii) of this note that are in chapters 84, 85, or 87 of the HTSUS that will be used exclusively in the manufacturing of agricultural equipment or fixed industrial equipment provided for in subdivision (c)(ix)–(x) of this note or mobile industrial equipment provided for in subdivision (c)(xi) of this note. Headings 9903.82.23–9903.82.26 do not apply to products of any country identified in general note 3(b).”

6. The following new headings are inserted in numerical sequence, with the material in each new heading inserted in the columns of the HTSUS labeled “Heading/Subheading”, “Article Description”, “Rates of Duty 1-General”, “Rates of Duty 1-Special” and “Rates of Duty 2”, respectively:

Heading / Subheading	Article Description	Rates of Duty		
		1		2
		General	Special	
“9903.82.20	Derivative steel articles as provided in subdivision (j) of U.S. note 16 to this subchapter.....	The duty provided in the applicable subheading + a duty of 25%	The duty provided in the applicable subheading + a duty of 25%	No change
9903.82.21	Derivative steel articles as provided in subdivision (j) of U.S. note 16 to this subchapter.....	No change	No change	No change
9903.82.22	Derivative steel articles the product of Argentina, Ecuador, El Salvador, Guatemala, Japan, the Republic of Korea, Liechtenstein, Switzerland, Taiwan, the United Kingdom, or a member nation of the European Union, as provided for in subdivision (c)(xi) of U.S. note 16 to this subchapter.....	15%	15%	No change
9903.82.23	Articles of copper and derivative aluminum and steel articles with an <i>ad valorem</i> (or <i>ad valorem</i> equivalent) rate of duty under column 1 less than 10 percent, as provided for in subdivisions (e) and (k) of U.S. note 16 to this subchapter.....	10%	10%	No change

9903.82.24	Articles of copper and derivative aluminum and steel articles with an <i>ad valorem</i> (or <i>ad valorem</i> equivalent) rate of duty under column 1 equal to or greater than 10 percent, as provided for in subdivisions (e) and (k) of U.S. note 16 to this subchapter.....	No change	No change	No change
9903.82.25	Articles of copper and derivative aluminum and steel articles with an <i>ad valorem</i> (or <i>ad valorem</i> equivalent) rate of duty under column 1 less than 15 percent, as provided for in subdivisions (f) and (k) of U.S. note 16 to this subchapter.....	15%	15%	No change
9903.82.26	Articles of copper and derivative aluminum and steel articles with an <i>ad valorem</i> (or <i>ad valorem</i> equivalent) rate of duty under column 1 equal to or greater than 15 percent, as provided for in subdivisions (f) and (k) of U.S. note 16 to this subchapter.....	No change	No change	No change”

7. Subdivision (aa)(v)(1) of U.S. note 2 is modified by deleting “9903.82.04–9903.82.19” and inserting “9903.82.04–9903.82.26” in lieu thereof.
8. U.S. note 16 is modified:
 - a. in subdivision (a), by deleting “9903.82.02–9903.82.19” and inserting “9903.82.02–9903.82.26” in lieu thereof;
 - b. in subdivision (b), by deleting “9903.82.02–9903.82.19” and inserting “9903.82.02–9903.82.26” in lieu thereof;

- c. in subdivision (c):
 - 1. by deleting “9903.82.02–9903.82.19” and inserting “9903.82.02–9903.82.26” in lieu thereof;
 - 2. by deleting “9903.82.02 and 9903.82.04–9903.82.17” and inserting “9903.82.02, 9903.82.04–9903.82.17 and 9903.82.20–9903.82.26” in lieu thereof; and
 - d. in subdivision (g), by deleting “(c)(vi)–(viii)” and inserting “(c)(vi)–(viii) and (xi)” in lieu thereof.
- 9. U.S. note 33 is modified by deleting “9903.82.04–9903.82.19” in each place it appears and inserting “9903.82.04–9903.82.26” in lieu thereof.
 - 10. U.S. note 38 is modified by deleting “9903.82.04–9903.82.19” in each place it appears and inserting “9903.82.04–9903.82.26” in lieu thereof.
 - 11. Subdivision (a)(5) of U.S. note 39 is modified by deleting “9903.82.04–9903.82.19” and inserting “9903.82.04–9903.82.26” in lieu thereof.
 - 12. Heading 9903.82.06 is modified by deleting “(viii) and (e)” from the article description and inserting “(viii), (xi) and (e)” in lieu thereof.
 - 13. Heading 9903.82.09 is modified by deleting the article description and inserting the following in lieu thereof:

“Except as provided for in headings 9903.82.16, 9903.82.20–9903.82.26 and 9903.85.68, articles of copper and derivative aluminum and steel articles, as provided for in subdivisions (c)(vi)–(viii) and (xi) of U.S. note 16 to this subchapter”.
 - 14. Heading 9903.82.15 is modified by deleting “(viii)” from the article description and inserting “(viii), (xi)” in lieu thereof.
 - 15. Heading 9903.82.16 is modified by deleting “(viii)” from the article description and inserting “(viii) and (xi)” in lieu thereof.
- B. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern time on January 1, 2028, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified as follows:
- 1. Subdivision (aa)(v)(1) of U.S. note 2 is modified by deleting “9903.82.04–9903.82.26” and inserting “9903.82.04–9903.82.19” in lieu thereof.
 - 2. U.S. note 16 is modified:

- a. in subdivision (a), by deleting “9903.82.02–9903.82.26” and inserting “9903.82.02–9903.82.19” in lieu thereof;
- b. in subdivision (b), by deleting “9903.82.02–9903.82.26” and inserting “9903.82.02–9903.82.19” in lieu thereof;
- c. in subdivision (c):
 - 1. by deleting “9903.82.02–9903.82.26” and inserting “9903.82.02–9903.82.19” in lieu thereof; and
 - 2. by deleting “9903.82.02, 9903.82.04–9903.82.17 and 9903.82.20–9903.82.26” and inserting “9903.82.02 and 9903.82.04–9903.82.17” in lieu thereof;
- d. by inserting in numerical order the provisions enumerated in subdivision (c)(xi) into the list of provisions of subdivision (c)(vii);
- e. by deleting subdivision (c)(xi);
- f. in subdivision (e), by deleting “For derivative articles provided for in subdivisions (c)(ii), (vi), and (ix), at least 85 percent of the aluminum content of the article must be composed of aluminum that was smelted and cast in the United States. For derivative articles provided for in subdivisions (c)(iv), (vii), (x) and (xi)” and inserting “For derivative articles provided for in subdivisions (c)(ii) and (vi), at least 85 percent of the aluminum content of the article must be composed of aluminum that was smelted and cast in the United States. For derivative articles provided for in subdivisions (c)(iv) and (vii)” in lieu thereof;
- g. in subdivision (e), by deleting “Headings 9903.82.23 and 9903.82.24 apply to articles meeting the requirements of subdivision (k). For articles for which the applicable column 1 duty rate is less than 10 percent, heading 9903.82.07 or 9903.82.23 applies and the sum of the column 1 duty rate and the additional *ad valorem* rate of duty will be 10 percent. For articles for which the applicable column 1 duty rate is 10 percent or higher, heading 9903.82.08 or 9903.82.24 applies.” and inserting “For articles for which the applicable column 1 duty rate is less than 10 percent, the sum of the column 1 duty rate and the additional *ad valorem* rate of duty pursuant to heading 9903.82.07 will be 10 percent. For articles for which the applicable column 1 duty rate is 10 percent or higher, heading 9903.82.08 applies and no additional duty is due pursuant to heading 9903.82.07.” in lieu thereof;
- h. in subdivision (f), by deleting the existing text and inserting the following in lieu thereof:

“Except as provided for in headings 9903.82.12 and 9903.82.17, headings 9903.82.10 and 9903.82.11 apply to articles provided for in subdivisions (c)(ix)–(x) of this note that do not meet the requirements described in subdivision (e) of this note. For articles for which the applicable column 1 duty rate is less than 15 percent, the sum of the column 1 duty rate and the additional *ad valorem* rate of duty pursuant to heading 9903.82.10 will total 15 percent *ad valorem*. For articles for which the applicable column 1 duty rate is 15 percent or higher, heading 9903.82.11 applies and no additional duty is due pursuant to heading 9903.82.10.”

- i. in subdivision (g), by deleting “ and (xi)”;
 - j. deleting subdivision (j); and
 - k. deleting subdivision (k).
3. U.S. note 33 is modified by deleting “9903.82.04–9903.82.26” in each place it appears and inserting “9903.82.04–9903.82.19” in lieu thereof.
 4. U.S. note 38 is modified by deleting “9903.82.04–9903.82.26” in each place it appears and inserting “9903.82.04–9903.82.19” in lieu thereof.
 5. Subdivision (a) of U.S. note 39 is modified by deleting “9903.82.04–9903.82.26” and inserting “9903.82.04–9903.82.19” in lieu thereof.
 6. Heading 9903.82.06 is modified by deleting “(viii), (xi) and (e)” from the article description and inserting “(viii) and (e)” in lieu thereof.
 7. Heading 9903.82.09 is modified by deleting “, 9903.82.20–9903.82.26” and “ and (xi)” from the article description.
 8. Heading 9903.82.15 is modified by deleting “, (xi)”.
 9. Heading 9903.82.16 is modified by deleting “ and (xi)”.
 10. Headings 9903.82.20–9903.82.26 are terminated and deleted from the HTSUS.

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